

In Re: Deseret Power Electric Cooperative,
Bonanza Power Plant,

Permit # V-UO-000004-2019.00

ATTACHMENT 3



UTE INDIAN TRIBE
P. O. Box 190
Fort Duchesne, Utah 84026
Phone (435) 722-5141 • Fax (435) 722-5072

October 14, 2020

Via Certified Mail

Carl Daly
Acting Director
Air and Radiation Division of EPA
1595 Wynkoop Street
Denver, CO 80202

**Re: Request for Hearing and Objections to Renewed Title V Permit for the
Deseret Generation and Transmission Cooperative, Bonanza Power Plant**

Dear Director Daly:

On behalf of the Ute Indian Tribe Business Committee, I am writing to request a hearing on the EPA's proposed renewal of the Title V Operating Permit for the Bonanza Power Plant.

For over 20 years, the Bonanza Power Plant, owned and operated by Deseret Power Electric Cooperative, has operated on tribal lands within the Uintah and Ouray Reservation, spewing high levels of coal pollution into the air at the expense of the health, safety, and well-being tribal members and communities. Deseret had been operating this Plant in plain violation of the Clean Air Act until 2015, when a settlement agreement between EPA Region 8, the Sierra Club, WildEarth Guardians, and Deseret Power resulted in a Title V Federal Operating Permit ("Operating Permit") for the Bonanza Plant.

In spite of the conditions set forth in the Operating Permit intended to curtail the environmental impacts of the Bonanza Plant, the Tribe and its members continue to experience serious health issues attributable to poor air quality on the Reservation. Further, Deseret's operation of the Bonanza Plant has had deleterious impacts on vegetation and wildlife on tribal lands in the surrounding area.

Federal law requires the EPA to protect the Ute Indian Tribe from having to shoulder a disproportionate share of the adverse environmental impacts caused by the Bonanza Plant. As you are aware, the EPA has a trust responsibility to the Ute Indian Tribe and its members. The EPA

must use its delegated federal authority to mitigate and prevent harmful impacts on the human and natural environment on the Uintah and Ouray Reservation, in accordance with the “exacting fiduciary standards,” incumbent upon the EPA as a federal trustee. *Seminole Nation v. United States*, 316 U.S. 286, 296 (1942). In 1994, President Clinton issued Executive Order No. 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, directing all federal agencies to identify and address “disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States.” The EPA’s procedures to renew Deseret’s Operating Permit for the Bonanza Plant fall squarely under the purview of Executive Order 12898 and the EPA’s fiduciary obligations toward the Tribe and its members.

Furthermore, neither EPA nor Deseret have redressed the decades of past harms incurred by tribal members resulting from Deseret’s violations of the Clean Air Act. In its comments on the EPA’s proposed Settlement Agreement with Deseret dated November 24, 2015, the Tribe recommended establishing a trust fund to promote cleaner air and help fund mitigation measures to improve environmental conditions. To date, no such trust fund has been established.

The Tribe’s request for a hearing in relation to the proposed renewal of Deseret’s Operating Permit shall in no way replace or diminish the EPA’s ongoing obligation to engage in government-to-government consultation with the Ute Indian Tribe. Pursuant to Executive Order No. 13175 and EPA’s “Policy on Consultation and Coordination with Indian Tribes,” the EPA must consult with the Tribe on a government-to-government basis throughout this renewal process.

Sincerely,



Luke Duncan, Chairman
Ute Indian Tribe Business Committee