

BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

In the Matter of:)
Four Corners Power Plant)
NPDES Permit No. NM0000019) NPDES Appeal No. 01-06
_____)

**ORDER GRANTING MOTION OF ARIZONA PUBLIC SERVICE COMPANY FOR LEAVE
TO WITHDRAW ITS PETITION FOR REVIEW**

In a petition dated January 24, 2001, the Arizona Public Service Company ("APS") sought review of a National Pollutant Discharge Elimination System ("NPDES") permit decision made by U.S. EPA Region IX ("Region IX") on December 22, 2000. See Petition for Review (January 24, 2001).

By motion dated February 14, 2001, the Navajo Nation requested that it be permitted to intervene, or in the alternative, participate as *amicus curiae* in the above-captioned matter, because the basis for APS's petition is that certain permit provisions are predicated on the erroneous conclusion that the Navajo Nation has the authority to regulate water quality at the Four Corners Power Plant. See Motion to Intervene (February 14, 2001). On February 20, 2001, the Board issued an order

granting the Navajo Nation's motion. See Order Granting Navajo Nation's Motion to Intervene (February 20, 2001).

In addition, by motion dated February 27, 2001, Region IX, APS, and the Navajo Nation requested that the briefing schedule in this matter be extended. See Joint Motion to Extend Briefing Schedule (February 27, 2001). Specifically, the parties requested that the deadline for Region IX and the Navajo Nation to file their responses to APS's petition for review be extended for the parties to determine whether the matter could be resolved without further use of the resources of the Board. *Id.* The Board granted the parties' joint motion. See Order Granting Joint Motion to Extend Briefing Schedule (March 1, 2001).

On April 6, 2001, APS filed a motion with the Board seeking leave to withdraw its petition for review. See Motion of Petitioner Arizona Public Service Company For Leave to Withdraw its Petition For Review (April 6, 2001). According to APS, the Region issued a modified NPDES permit for the Four Corners Power Plant on April 4, 2001, and the revisions in that modified permit and fact sheet "satisfactorily resolve all of the issues" raised in the petition for review and, accordingly, "the petition for review is now moot." *Id.* at 1.

Accordingly, this motion is hereby GRANTED.

So ordered.

ENVIRONMENTAL APPEALS BOARD

By: _____/s/_____
Edward E. Reich
Environmental Appeals Judge

Dated: 04/12/01

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing Order Granting Motion of Arizona Public Service Company For Leave to Withdraw its Petition For Review in the matter of the Four Corners Power Plant, NPDES Appeal No. 01-06, were sent to the following persons in the manner indicated:

By First Class Mail
Postage Prepaid:

Alexis Strauss
Linh Tran
Water Division
U.S. EPA Region IX
75 Hawthorne Street
San Francisco, CA 94105

Karen L. Peterson
Office of Regional Counsel
U.S. EPA Region IX
75 Hawthorne Street
San Francisco, CA 94105

Karilee Ramaley
Senior Attorney
Law Department
Pinnacle West Capitol Corporation
P.O. Box 53999 MS-8695
Phoenix, AZ 85072-3999

Thomas Sayre Llewellyn
Law Offices of Thomas Sayre
Llewellyn
815 15th Street, N.W.
Suite 925
Washington, D.C. 20005

Levon B. Henry, Attorney General
Britt E. Clapham II, Deputy
Attorney General
Navajo Nation Department of Justice
P.O. Drawer 2010
Window Rock, Navajo Nation
Arizona 86515

Jill E. Grant
Nordhaus Haltom Taylor Taradash &
Bladh, LLP
816 Connecticut Avenue, NW
Suite 300
Washington, D.C. 20006

Dated: 04/13/01

_____/s/
Annette Duncan
Secretary