

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

In re: Peabody Black Mesa)	NPDES Appeal Nos. 10-15, 10-16
)	
)	
NPDES Permit No. NN 0022179)	Administrative Record

A.1 2010 FINAL PERMIT

Pages 001-084

Subject	Type	Date	From	To	File	Ref Pg
Final Permit	Permit	9/18/10	---	----	A.1	001-022
Fact Sheet	Permit	9/18/10	----	----	A.1	023-038
Issuance Letter	Letter	9/18/10	---	----	A.1	039-042
Comment Response Document	Document	9/18/10			A.1	042-084

A.2 2010 PROPOSAL

Pages 085-122

Subject	Type	Date	From	To	File	Ref Pg
Public Notice	Notice	1/20/10	---	----	A.2	085
Proposed Permit	Permit	1/10	---	----	A.2	086-106
Draft Fact Sheet	Report	1/10	----	----	A.2	107- 122

A.3. 2010 HEARINGS

Pages 123-245

Subject	Type	Date	From	To	File	Ref Pg
Public Notice					A.3	123-124
Extension					A.3	125-126
Hearing Materials					A.3	127-245

A.4 2010 COMMENT/CORRESPONDENCES RECEIVED DURING COMMENT PERIOD Pages 246-581

Commenter	Representing	File	Pages
Michael Boyd	Californians for Renewable Energy	A.4	246-247
Confirmation of receipt of Admin Record from Brad Bartlett		A.4	248
Correspond - CARE		A.4	249-255
Brad Bartlett	Energy Minerals Law Center	A.4	256-257
Vernon Masayesva	Black Mesa Trust	A.4	258-265
Ben Nuvamsa	KIVA Institute	A.4	266-267
Andy Bessler	Sierra Club	A.4	268-269
Rob Smith	Sierra Club	A.4	270-271
Charles Pace		A.4	272-273
Anna Frazier		A.4	274-275
Correspond - PWCC		A.4	276-277
Vernon Masayesva	Black Mesa Trust	A.4	278-281
Tyler Tawahongva		A.4	282-283
Vincent Yazzie		A.4	284-287
Correspond- Brad Bartlett		A.4	288-289
John Cochran	PWCC	A.4	290-293
Marcie Lane	Protect Sacred Sites	A.4	294-295
John Cochran	PWCC	A.4	296-297
Vernon Masayesva	Black Mesa Trust	A.4	298-299
William Cody		A.4	300-301
Elsie Benally		A.4	302-303
Brad Bartlett	Energy Minerals Law Center	A.4	304-320 Comments 321-539 Attachments
Norman Benally		A.4	540-549
Vincent Yazzie		A.4	550-557
Michael Boyd	CARE	A.4	558-561
FOIA & Correspondences	Center for Biological Diversity	A.4	562-577
Hopi Correspondence		A.4	578-579
Navajo Correspondence		A.4	580-581

A.5 CODED COMMENTS**Pages 581-704**

Subject	Type	Date	From	To	File	Ref Pg
EPA Coded Comments	-	-	-	-	A.5	58-704

B. WITHDRAWAL OF AUGUST 2009 PERMIT**Pages 705-884**

Subject	Type	Date	From	To	File	Ref Pg
Petition for Review and motion for extension of time to file supplemental brief		9/4/09	Brad Bartlett, Energy Minerals Law Center	EAB	B	705-715
Order Granting Extension of Time		9/29/09	EAB		B	716-720
EPA letter re: non-opposition of motion of extension of time		9/22/09	Julia Jackson, EPA	Brad Bartlett, Energy Mineral Law Center; Amy Atwood, Center for Biological Diversity	B	721
Unopposed Motion to Include All Commenters as Appellants		10/22/09	Amy Atwood, Center for Biological Diversity	EAB	B	722-725
Applicants Supplemental Brief		10/22/09	Brad Bartlett, Energy Minerals Law	EAB	B	726-766

			Center783-789			
			Exhibit A- AZ WQS790-871		B	767-782
			Exhibit B – Comments to EP872-874A on NPDES permit		B	783-789
			Exh875-877ibit C - Comments to OSM including Biological Assessment		B	790-871
Notice of Withdrawal of permit		12/01/09	EPA	EAB	B	872-874
Order Dismissing Petition for Review with Prejudice		12/3/09	EAB	Petitioner	B	875-877
Press: EPA withdraws discharge permit for Ariz mine	AP	12/4/09			B	878-879
Press: Tutuveni Freelance Report	Article	1/10			B	880-882
Press: Pollution Conflict Triggers added tribal hearings	Today	1/4/10			B	883-884

C. PERMIT ISSUANCE MATERIALS : AUGUST 2009 Pages 885-943

Subject	Type	Date	From	To	File	Ref Pg
August 09 Permit	Permit	8/5/09	----	----	C	885-915
August 09 Fact Sheet	Report	8/09	----	----	C	916-928
August 09 Issuance Letter	Letter	8/5/09	Doug Eberhardt, EPA	Gary Wendt, PWCC	C	929-930
Response to Comments Document	Report	8/3/09	----	----	C	931-943

D. PROPOSED PERMIT MATERIALS: FEBRUARY 2009 Pages 944-1033

Subject	Type	Date	From	To	File	Ref Pg
Proposed Permit	Permit	Draft 1/20/09	---	----	D	944-961
Draft Fact Sheet	Report	Draft 1/20/09	----	----	D	962-973
NPDES permit application Form 1 & 2C & Cover letter	application	8/3/05	Gary Wendt, PWCC	John Tinger, EPA	D	974-1030
Outfall Subcategorization	Notes	10/15/08	John Tinger	---	D	1031-1033

E. PUBLIC NOTICE: FEBRUARY 2009 Pages 1034-1040

Subject	Type	Date	From	To	File	Ref Pg
Letter of proposed Permit	Letter	2/12/09	Doug Eberhardt, EPA	Gary Wendt, PWCC CC: interested parties	E	1034-1035
Public Notice	Notice	2/19/09	--	--	E	1036-1037
Affidavit of publication	Notice	2/19/09	--	--	E	1038-1040

F. SEEP MANAGEMENT PLAN REVIEW Pages 1041-1138

Subject	Type	Date	From	To	Pages	File	Ref Pg
Interim Final Report on Seep Management Plan & cover letter	Doc	4/1/08	Gary Wendt, PWCC	John Tinger, EPA	Ltr: 2 Report: 37	F	1041-1079
Supplemental Information - Interim Final Report on Seep	Doc	5/8/08	Gary Wendt, PWCC	John Tinger, EPA	Ltr:2 Info: 50	F	1080-1131

mgmt & Cover letter							
Preliminary Draft Proposal for Seep Management Report	email	9/7/07	John Tinger	Gary Wendt, PWCC		F	1132-1134
Black Mesa Complex Seepage Management Plan	doc	10/10/97	Brian Dunfee, PWCC	Terry Oda, EPA		F	1135-1138

G. WESTERN ALKALINE SUBCATEGORY Pages 1139-1296

Subject	Type	Date	From	To	Pages	File	Ref Pg
MOU – Process for obtaining a NPDES permit under Subpart H- Western Alkaline Mine Drainage	Memo	12/19/03	EPA & Office of Surface Mining Reclamation & Enforcement	--		G	1139-1141
Sediment Control Plan & Cover Letter	Report	9/24/08	Gary Wendt, PWCC	John Tinger, EPA	Ltr: 2	G	1142-1264
Technical Evaluation of Permit Revision & Cover Letter	Report	1/28/09	Dennis Winterring, OSMRE	Gary Wendt, PWCC	Letter: 2 Report: 4	G	1165-1270
Technical Evaluation of Permit Revision & Cover Letter	Report	6/16/09	Dennis Winterring, OSMRE	Gary Wendt, PWCC	Letter: 2 Report: 6	G	1271-1278
Sediment Control Plan & Cover	Report	4/24/09	Gary Wendt, PWCC	Bob Postle, OSMR	Letter: 2 Report: 16 Appendices	G	1279-1295

Letter				E	identical to 9/24/08 and not repeated in record		
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G.1 MAPS (Attachments to Sediment Control Plan) Pages 1296-1299

Subject	Type	Date	From	To	File	Ref Pg
MAPS: Attachments to Sediment Control Plan J16e-f ponds removal J7 ponds removal J21 ponds removal N6 ponds removal						1296-1299

H. 401 CERTIFICATIONS Pages 1300-1307

Subject	Type	Date	From	To	File	Ref Pg
Hopi Tribe 401 Certification	Letter	6/12/09	Sharon Masek Lopez, Hopi	John Tinger, EPA	H	1300-1302
Request for 401 Cert – Navajo	Letter	12/30/08	Doug Eberhardt, EPA	Patrick Antonio, Navajo	H	1303-1304
Request for 401 Cert – Hopi	Letter	2/19/09	Doug Eberhardt, EPA	Sharon Masek Lopez, Hopi	H	1305-1306
Navajo Nation 401 Certification	Letter	2/25/09	S. Deb Misa, Navajo	Doug Eberhardt, EPA	H	1307

I – ENDANGERED SPECIES Pages 1308-1320

Subject	Type	Date	From	To	Pages	File	Ref Pg
Fact Sheet for Peabody Western Coal Company NPDES permit Issued December 29, 2000	Fact Sheet	12/29/00	--	--		I	1308-1312
Concurrence letter re: Black Mesa Project	Letter	12/12/08	Steve Spangle, U.S. Fish & Wildlife Service	Richard Holbrook, Office of Surface Mining Reclamation & Enforcement		I	1313-1317
Species List from Black Mesa Project Final Biological Assessment, U.S. Dept of Interior Office of Surface Mining Reclamation and Enforcement	Document	11/12/08			Pages: 1-4 to 1-5 are reproduced for record	I	1318-1320

J. COMMENTS RECEIVED Pages 1321-1330

Subject	Type	Date	From	To	Pages	File	Ref Pg
Energy Minerals Law Center	letter	4/3/09	Brad Bartlett	John Tinger, EPA		J	1321-1327
Peabody Western Coal Co.	letter	3/17/09	John Cochran,	John Tinger, EPA		J	1328-1330

K. REFERENCE MATERIALS Pages 1331-1347

Title	Date	Pages	File	Ref Pg
Navajo Nation Water Quality Standards	November 9, 1999	Cover page -	K	1331
Hopi Tribe Water Quality Standards	August 29, 1997	Cover page –	K	1332
Black Mesa Project Final Biological Assessment, U.S. Dept of Interior Office of Surface Mining Reclamation and Enforcement	November, 2008	Cover page –	K	1330
Permit for Peabody Western Coal Company NPDES permit	<i>Issued December 29, 2000</i>		K	1334-1346
Significant Permit Revision Record of Decision, U.S. Dept of Interior Office of Surface Mining Reclamation and Enforcement	<i>December 2008</i>	Cover page - 1	K	1347
OSM Decision Vacated Docket No DV 2009-4-PR	<i>January 5, 2009</i>	Cover page – 1	K	1348-1349