

Exhibit 11



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

In reply, refer to WTR-5

SEP 16 2010

Mr. Gary Wendt
Manager, Environmental Affairs
Peabody Western Coal Company
P.O. Box 605
Navajo Route 41
Kayenta, AZ 86033

Re: Re-issuance of NPDES Permit NN0022179: Black Mesa Complex

Dear Mr. Wendt:

Please find enclosed the final National Pollutant Discharge Elimination System (NPDES) permit renewal for the Black Mesa Complex, along with the final Fact Sheet and Comment Response Document. EPA first proposed the permit on February 19, 2009 with a 30 day comment period. On August 5, 2009, EPA issued the final permit which was subsequently appealed. Among other issues, the appellants argued that EPA did not address the concerns of the community by not holding a public hearing on the proposed permit. Therefore, EPA decided to withdraw the permit reissuance and re-open the comment period to hold public hearings. EPA re-noticed the permit on January 20th, 2010 and extended the public comment period thru April 30th, 2010, during which time EPA hosted two public hearings on the proposal. EPA received approximately 20 written comments and approximately 30 comments in oral testimony on the permit.

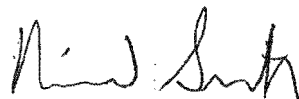
Within 33 days of this notice, any person who filed comments on the proposed permit conditions may petition the Environmental Appeals Board (EAB) to review the conditions of the permit. The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues being raised were raised during the public comment period and a showing that the condition in question is based on: (1) a finding of fact or conclusion of law which is clearly erroneous, or (2) an exercise of discretion or an important policy consideration which the EAB should, in its discretion, review. See 40 C.F.R. § § 124.19(a) and 124.20(d).

40 C.F.R. § 124.60 (b)(1) states that, as provided in 40 C.F.R. § 124.16 (a), if an appeal of an initial permit decision is filed under Section 124.19 of this Part, the force and effect of the contested conditions of the final permit shall be stayed until final agency action under 40 C.F.R. § 124.19 (f). In accordance with 40 C.F.R. § 124.16 (a)(1), "[i]f the permit involves a . . . new source, new discharger or a recommencing discharger, the applicant shall be without a permit for

the proposed new . . . source or discharger pending final agency action." Please review 40 C.F.R. § 124 and the revisions at 65 Fed. Reg. 30886 for a complete description of the requirements regarding appeal of NPDES permits.

If you have any questions regarding the procedures outlined above, or if you would like to review or request any documents from the Administrative Record, please contact me at (415) 972- 3464 or contact John Tinger of my staff at (415) 972-3518 or e-mail at Tinger.John@epa.gov.

Sincerely,



David W. Smith, Manager
NPDES Permits Office

Enclosures (3):

Final Permit
Final Fact Sheet
Comment Response Document

CC: w/attachments
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Mr. Patrick Antonio
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Window Rock, AZ 86515

The Hopi Tribe
Water Resources Office
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Mr. Brad A. Bartlett
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CC: w/o attachments via email and or/hardcopy:
Attached Mailing list

All materials available at <http://www.epa.gov/region09/water/npdes/permits.html>

Black Mesa Mailing List

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