

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

**IN THE MATTER OF:**

**DESERT ROCK ENERGY COMPANY, LLC**

**PSD PERMIT NO. AZP 04-01**

**PSD APPEAL NOS. 08-03 and 08-04**

ENVIRONMENTAL APPEALS BOARD

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ENERGY

**MOTION TO INTERVENE OR FILE NON PARTY BRIEF**

Pursuant to 40 CFR Part 22.11(b), the Navajo Nation requests leave to either Intervene or file a Non Party Brief in the above captioned proceeding. The Navajo Nation maintains a government to government relationship with the United States pursuant to the Treaty of 1868, 15 Stat. 667, and is a federally recognized Indian tribe to receive funding and services from the various federal agencies.

The Navajo Nation has an interest in this proceeding because the permit at issue in this matter relates to a coal-fired power plant on land held by the United States Government in trust for the benefit of the Navajo people as a Nation. The Navajo Nation Council pursuant to Resolution CN-87-85 and CJA-2-96, codified at 21 Navajo Nation Code (NNC) § 201, *et seq.*, established Diné Power Authority (“Diné Power”) as a wholly owned enterprise of the Navajo Nation to participate in the development of a major coal-fired, mine mouth steam electric generating station. Diné Power is an instrumentality of the Navajo Nation, subject to the control of oversight authorities delegated by the Navajo Nation Council.

The Desert Rock Energy Project is an economic development project of the Navajo Nation, which is intended to utilize coal, water, lands and labor of the Navajo Nation. The Navajo Nation, Diné Power, along with the Navajo people who may receive jobs, income and other benefits from the project, are the ultimate beneficiary of the Desert Rock Energy Project.

Any decision or final order may as a practical matter impair the Navajo Nation's ability to protect those interests.

The relevance of the brief will address the concerns of the Navajo Nation as a sovereign Nation who bears the responsibility of ensuring the greatest benefits are derived from development of the Navajo people's natural resources and provide economic opportunities to all people within the Navajo Nation.

The Navajo Nation asserts that its interest as a sovereign Nation is not adequately represented by the existing parties. Pursuant to Title 2 of the Navajo Nation Code, only the Navajo Nation Council and the President are authorized to represent the position or interest of the Navajo Nation government.

The Navajo Nation, respectfully requests, that it be allowed either to Intervene or to file a Non Party Brief.

DATED this 8th day of January, 2009.

**NAVAJO NATION**  
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I hereby certify that I served the foregoing MOTION TO INTERVENE OR FILE NON PARTY BRIEF on the following:

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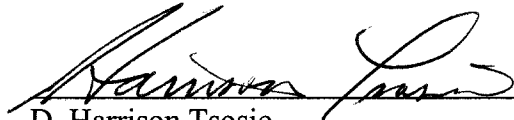
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by  mailing;  hand delivery;  facsimile a true and correct copy thereof to said parties on the date stated below.

DATED this 8th day of January, 2009



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