



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

OCT 05 2018

VIA ELECTRONIC FILING, EMAIL, AND REGULAR MAIL

Eurika Durr  
Clerk of the Board  
U.S. Environmental Protection Agency  
Environmental Appeals Board  
1200 Pennsylvania Avenue, NW  
Mail Code 1103M  
Washington, DC 20460-0001

Jeffrey Jenkins  
Plant Manager  
Four Corners Steam Electric Station  
PO Box 355, MS 4900  
Fruitland, New Mexico 87416-0355

RE: Four Corners Power Plant, NPDES Permit No. (NN0000019) EAB Appeal No. 18-02.  
Notice of Partial Withdrawal and Revised Notice of Stayed Provisions

Dear Ms. Durr and Mr. Jenkins:

Pursuant to 40 C.F.R. § 124.19(j), Region 9 of the U.S. Environmental Protection Agency (EPA) is hereby withdrawing certain provisions of National Pollutant Discharge Elimination System (NPDES) Permit No. NN0000019 ("Permit") issued to the Arizona Public Service Company (APS) for the Four Corners Power Plant (FCPP) on June 12, 2018. In addition, pursuant to 40 C.F.R. §§ 124.16 and 124.60, EPA is providing a revised notice of stayed permit provisions.

Five entities timely filed a joint petition ("Petition") with the EPA Environmental Appeals Board (EAB) requesting a review of the Permit: Dine' Citizens Against Ruining the Environment, San Juan Citizens Alliance, Amigos Bravos, Center for Biological Diversity, and Sierra Club (collectively, "Petitioners"). The Petition raises nine issues for review by the EAB.

## Partial Withdrawal of Permit

Under regulations governing the EAB appeal process, at any time prior to thirty (30) days after filing the response to a petition, EPA may withdraw some or all of a permit and prepare a new draft permit addressing the portions so withdrawn. *See* 40 C.F.R. § 124.19(j). EPA's initial review of the Petition suggests that one or more revisions to the Permit may be appropriate. In particular, EPA is withdrawing Section I.A.5 (addressing effluent limitations for Internal Outfall 01E) and Section I.B.3 (addressing cooling water intake requirements) ("Partial Withdrawal"). EPA will modify these provisions, as appropriate, and conduct public notice and comment consistent with 40 C.F.R. § 124.19(j). In the interim, the limitations described in the previous permit at Section I.A.3 will apply to Internal Outfall 01E. The previous permit does not have requirements addressing Section I.B.3.

## Revised Notice of Stay

In a letter to Ms. Durr and Mr. Jenkins dated August 28, 2018, EPA provided notice of a decision to stay the entire Permit pursuant to 40 C.F.R. § 124.16 ("Notice of Stay"). Upon further evaluation of the Petition, EPA is revising the Notice of Stay because the Region finds that the Petition does not contest any specific conditions of the Permit. Instead, the Petition challenges the validity of the Permit as a whole or requests additional terms. As such, EPA has determined that the specific conditions of the Permit are uncontested and will become fully effective as set forth below.

Thus, the Permit and stay are modified as noted below:

- (1) Permit Sections I.A.5 and I.B.3 are withdrawn and are no longer part of the Permit (pursuant to the Partial Withdrawal);
- (2) The remaining Permit terms are no longer stayed because EPA has determined that these Permit terms are uncontested pursuant to 40 C.F.R. §§ 124.16 and 124.60; and
- (3) The remaining Permit terms will become effective thirty (30) days from the date of this notice pursuant to 40 C.F.R. § 124.16(a)(2).

If you have any questions regarding this notification, please contact Tom Hagler, Assistant Regional Counsel at (415) 972-3945.

Sincerely,



Tomás Torres  
Director, Water Division

October 5, 2018

cc: Kerry McGrath, Attorney for APS  
Jeffrey Allmon, Attorney for APS  
John Barth, Attorney for Petitioners