

NOTICE OF PUBLIC HEARINGS

by the

U.S. Environmental Protection Agency
Region 9, WTR-5
75 Hawthorne Street
San Francisco, CA 94105-3901

Public Notice #: AZ-10-W-001A
Public Notice Date: January 20, 2010
Comment Period Closes: March 1, 2010

The U.S. Environmental Protection Agency, Region IX (USEPA) is issuing a notice of proposed action under the Clean Water Act (CWA). The USEPA is proposing to reissue National Pollutant Discharge Elimination System (NPDES) permit NN0022179 to:

Peabody Western Coal Co, Black Mesa Complex, P.O. Box 650, Kayenta, AZ 86004.

The Black Mesa/Kayenta mine has operated since the early 1970s southwest of Kayenta, Arizona. The complex is located on approximately 65,000 acres of land leased within the boundaries of the Hopi and Navajo Indian Reservations. The permit allows for the discharge of treated stormwater generated from areas of the mine site to receiving waters Coal Mine Wash, Moenkopi Wash, Dinnebito Wash, Yellow Water Canyon and their tributaries.

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 has decided to withdraw the permit reissuance and re-open the public comment period. EPA will hold two public hearings on the permit conditions at the following locations:

- Kayenta, Arizona, February 23, 2009. 6:00 pm to 9:00 pm, at the Kayenta Chapter House, Highway 163.
- Kykotsmovi, Arizona, February 24, 2009. 6:00 pm to 9:00 pm, at the Veterans Memorial Center.

At the public hearing a court reporter will be present and any person may submit oral or written statements and data concerning the draft permit for inclusion in the public record. A Hopi translator will be present at the hearing in Kykotsmovi, AZ and a Navajo translator will be present at the hearing in Kayenta, AZ. Reasonable limits may be set upon the time allowed for oral statements. Persons seeking reasonable accommodations should contact the person listed below.

EPA is soliciting comments on the proposal. EPA will consider all comments received during comment period before taking final action. To submit comments, or to obtain additional information including the proposed permit and administrative record, please contact:

Contact: John Tinger. (415) 972-3518 or Tinger.John@EPA.gov
Website: <http://www.epa.gov/region09/water/npdes/pubnotices.html>

EPA announces Public Hearings for Black Mesa Mine Wastewater Permit

Dennis Winterringer, Rick Pruszka, Clark, Paul PClark,
panto41815, Ronnie Ben ronnieben, John Mason Hopi Tribe,
"Tanya Lee", "Brad Bartlett" brad.bartlett, Amy Atwood
atwood, KIVA Institute, LLC ben, 'Michael Boyd',
John Tinger to: Karilee.Ramaley, Imm, brad.bartlett, stills, wmorris, 01/20/2010 04:02 PM
abneymaturin, fcornejo, mickharrisesq, 'Lynne Brown',
'Martin Homec', 'Sean Gnant', 'William Havens', wolfv,
dragood, jpallen, kuuyi, AWronski, rob, Lynn_Gibson,
tanyahayeslee, ffonseca
Cc: DavidW Smith, Erica Maharg, Laura Bose, Gary Sheth

Please share with all who may be interested in attending the hearings or who may wish to submit comments on the proposal.

EPA is announcing two public hearings to solicit comments on EPA's proposed wastewater discharge permit for the Peabody Black Mesa/Kayenta Mine located on Navajo and Hopi lands in northeastern Arizona. The proposed permit will allow the continued discharge of treated stormwater related to mining activities. The proposed permit will establish effluent limitations and standards based on national effluent limitation guidelines and to ensure that Navajo Nation and Hopi water quality standards are met. In addition, the renewed permit proposes to incorporate new regulatory requirements for reclaimed mine areas and proposes to require the implementation of plans to control sediment and seepage from stormwater treatment impoundments.

EPA will host public hearings at the following locations to receive comments from all interested parties:

- Kayenta, Arizona, February 23, 2009. 6:00 pm to 9:00 pm, at the Kayenta Chapter House, Highway 163.
- Kykotsmovi, Arizona, February 24, 2009. 6:00 pm to 9:00 pm, at the Veterans Memorial Center.

Please find attached EPA's public notice for additional information. The comment period will close on March 1, 2010.



Public Notice Black Mesa Hearings.pdf

For more information, including copies of the proposed permit and fact sheet, see <http://www.epa.gov/region09/water/npdes/pubnotices.html>

Please feel free to contact me for additional information or questions,
John

John Tinger
U.S. EPA Region IX
NPDES Permits Branch
(415) 972-3518

NOTICE TO EXTEND COMMENT PERIOD

by the

U.S. Environmental Protection Agency
Region 9, WTR-5
75 Hawthorne Street
San Francisco, CA 94105-3901

Public Notice #: AZ-10-W-002A
Public Notice Date: February 17, 2010
Comment Period Closes: March 31, 2010

The U.S. Environmental Protection Agency, Region IX (USEPA) is issuing a notice of proposed action under the Clean Water Act (CWA). The USEPA is proposing to reissue National Pollutant Discharge Elimination System (NPDES) permit NN0022179 to:

Peabody Western Coal Co, Black Mesa Complex, P.O. Box 650, Kayenta, AZ 86004.

EPA provided public notice for the proposal on January 20, 2010. EPA has received requests for additional time to consider the proposal. EPA is therefore announcing it will extend the public comment period by 30 days. The comment period will now close on March 31, 2010.

As indicated in the January 20, 2010 notice, EPA will hold two public hearings on the permit conditions at the following locations:

- Kayenta, Arizona, February 23, 2010. 6:00 pm to 9:00 pm, at the Kayenta Chapter House, Highway 163.
- Kykotsmovi, Arizona, February 24, 2010. 6:00 pm to 9:00 pm, at the Veterans Memorial Center.

At the public hearing a court reporter will be present and any person may submit oral or written statements and data concerning the draft permit for inclusion in the public record. A Hopi translator will be present at the hearing in Kykotsmovi, AZ and a Navajo translator will be present at the hearing in Kayenta, AZ. Reasonable limits may be set upon the time allowed for oral statements. Persons seeking reasonable accommodations should contact the person listed below.

EPA is soliciting comments on the proposal. EPA will consider all comments received during comment period before taking final action. To submit comments, or to obtain additional information including the proposed permit and administrative record, please contact:

Contact: John Tinger. (415) 972-3518 or Tinger.John@EPA.gov
Website: <http://www.epa.gov/region09/water/npdes/pubnotices.html>

EPA extends comment period; Black Mesa Mine Wastewater Permit

martinhomec, sgnant, wmhavens, wolfv, dragood, jpallen,
kuuyi, AWronski, rob, Lynn_Gibson, tanyahayeslee,
ffonseca, DWinterringer, RPruska, PClark, panto41815,
John Tinger to: ronnieben, jpmason60, tanyahayeslee, brad.bartlett, atwood, 02/17/2010 09:21 AM
ben, michaelboyd, Karilee.Ramaley, lmm, brad.bartlett, stills,
wmorris, abneymaturin, fcornejo, mickharrisonesq,
I_brown369, LPuhuyesva, Erica Maharg, DavidW Smith

Please share with all who may be interested in attending the hearings or who may wish to submit comments on the proposal.

EPA is announcing an extension to the comment period for the proposed wastewater discharge permit for the Peabody Black Mesa/Kayenta Mine located in northeastern Arizona. The comment period will be extended by 30 days, and will now close on March 31, 2010.

As a reminder, EPA will hold two public hearings next week to solicit comments on the proposal at the following locations:

- Kayenta, Arizona, February 23, 2010. 6:00 pm to 9:00 pm, at the Kayenta Chapter House, Highway 163.
- Kykotsmovi, Arizona, February 24, 2010. 6:00 pm to 9:00 pm, at the Veterans Memorial Center.

Comments may be submitted to EPA orally at the hearings, or may be sent by email or by writing to the contact below.

The proposed permit will allow the continued discharge of treated stormwater related to mining activities. The proposed permit will establish effluent limitations and standards based on national effluent limitation guidelines and to ensure that Navajo Nation and Hopi water quality standards are met. In addition, the renewed permit proposes to incorporate new regulatory requirements for reclaimed mine areas and proposes to require the implementation of plans to control sediment and seepage from stormwater treatment impoundments.

Please find attached EPA's public notice for additional information, or feel free to contact me with any questions.

John Tinger
U.S. EPA Region 9
75 Hawthorne St, (wtr-5)
San Francisco, CA 94105

Tinger.John@EPA.gov
(415) 972-3518



Public Notice Black Mesa time extension.pdf

Proposed Permit:

<http://www.epa.gov/region09/water/npdes/pdf/navajo/PeabodyBlackMesaDraftPermit.pdf>

Proposed Fact Sheet:

<http://www.epa.gov/region09/water/npdes/pdf/navajo/PeabodyBlackMesaFactSheetJan2010.pdf>



EPA PUBLIC HEARING

6:00- 9:00 pm

**Proposed Wastewater Permit for
Peabody Western Coal Company
Black Mesa/Kayenta Mine**



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

Informational Sheet
Public Hearings February 2010

Proposed NPDES Permit for Peabody Western Coal Company – Black Mesa/Kayenta Mine

Background: The Black Mesa/Kayenta mine has operated since the early 1970s southwest of Kayenta, Arizona. The complex is located on approximately 64,858 acres of land leased within the boundaries of the Hopi and Navajo Indian Reservations primarily located in Navajo County, Arizona. About 25,000 acres of the lease area mineral rights are owned exclusively by the Navajo Nation, and 40,000 are owned jointly by the Navajo Nation and Hopi Tribe.

NPDES Background: The Clean Water Act requires that a National Pollutant Discharge Elimination System (NPDES) Permit be obtained for the discharge of any pollutant to a surface water of the U.S. through a point source.

Purpose of Public Hearing: EPA is soliciting comments on the proposed NPDES permit. Comments may be submitted orally or may be submitted in writing. Persons wishing to submit oral comments should complete the "Speaker Form" and provide to the EPA Hearing Officer. Persons wishing to submit written comments should complete the "Comment Form" provided and either place in comment box or submit to the EPA Hearing Officer. A reasonable time limit may be placed on oral presenters to ensure that all interested persons have the opportunity to provide comments.

Next Steps: EPA will retain and consider all comments or objections received through the public hearing in the formulation of the final permit decision. No decisions will be made at the hearing.

Project Summary: The discharge from the Black Mesa/Kayenta Complex includes stormwater runoff from active mine areas, coal preparation plant areas, and reclamation areas. The permit authorizes discharge from 112 outfalls, which is treated in stormwater ponds prior to discharge. In 2009, the facility discharged one time (9 acre-feet); in 2008 the facility discharged 9 times (a total of 373 acre-feet).

The Black Mesa/Kayenta Complex discharges to receiving waters located on the Navajo Nation and Hopi Tribe Reservations. The receiving waters are two principal drainages within the Black Mesa/Kayenta Complex, the Moenkopi Wash and Dinnebito Wash. Both are ephemeral washes with short intermittent reaches that drain southwest to the Little Colorado River system. Five large washes are tributaries to the Moenkopi Wash – the Coal Mine, Yellow Water Canyon, Yucca Flat, Red Peak Valley, and Reed Valley Washes. Both the Navajo Nation Surface Water Quality Standards (NNSWQS) and the Hopi Surface Water Quality Standards apply to the receiving waters previously mentioned, and thus, the proposed permit incorporates limits and standards for the protection of receiving waters in accordance with those standards.

For More Information: <http://www.epa.gov/region09/water/npdes/pubnotices.html>

CLASSIFIEDS

Legal Notices

NOTICE OF PUBLIC HEARINGS

by the
U.S. Environmental
Protection Agency
Region 9, WTR-5
75 Hawthorne Street
San Francisco, CA 94105-3901
Public Notice #: AZ-10-W-03
Public Notice Date: February 4,
2010.
Comment Period Closes: March
1, 2010.

The U.S. Environmental Protec-
tion Agency, Region IX (USEPA) is
issuing a notice of proposed action
under the Clean Water Act (CWA).
The USEPA is proposing to reissue
National Pollutant Discharge Elim-
ination System (NPDES) permit
NN0022179 to:

Peabody Western Coal Co.
Black Mesa Complex, P.O. Box
650, Kayenta, AZ 86004.
The Black Mesa/Kayenta mine
has operated since the early 1970s
southwest of Kayenta, Arizona.
The complex is located on ap-
proximately 65,000 acres of land
leased within the boundaries of the
Hopi and Navajo Indian Reserva-
tions. The permit allows for the
discharge of treated stormwater
generated from areas of the mine
site to receiving waters Coal Mine
Wash, Moenkopi Wash, Dinnebito
Wash, Yellow Water Canyon and

their tributaries.
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
has decided to withdraw the permit
resistance and re-open the public
comment period. EPA will hold two
public hearings on the permit condi-
tions at the following locations:

Kayenta, Arizona, February
23, 2010, 6:00 pm to 9:00 pm,
at the Kayenta Chapter House,
Highway 163.
Kykotsmvi, Arizona, February
24, 2010, 6:00 pm to 9:00 pm, at the
Veterans Memorial Center.

At the public hearing a court
reporter will be present and any
person may submit oral or written
statements and data concerning
the draft permit for inclusion in
the public record. A Hopi transla-
tor will be present at the hearing
in Kykotsmvi, AZ and a Navajo
translator will be present at the
hearing in Kayenta, AZ. Reason-
able limits may be set upon the
time allowed for oral statements.
Persons seeking reasonable ac-
commodations should contact the
person listed below.
EPA is soliciting comments on
the proposal. EPA will consider all

comments received during com-
ment periods before taking final
action. To submit comments, or
to obtain additional information
including the proposed permit
and administrative record, please
contact:
Contact: John Tinger, (415)
972-3518 or Tinger.John@EPA.
gov Website: <http://www.epa.gov/region9/water/npdes/pbnotices.html>
To be Published in The NAVAJO
TIMES February 4, 2010.

RE-ADVERTISEMENT LEGAL ADVERTISEMENT Fort Defiance, Apache County Arizona NAVAJO TRIBAL UTILITY AUTHORITY REQUEST FOR PROPOSAL PV+Wind Hybrid Power System with Refrigeration Program

The Navajo Tribal Utility Au-
thority (NTUA) is hereby seeking
qualified Renewable Energy &/or
Appliance vendor to provide 1) a
photovoltaic and wind hybrid power
system solution for off-grid use
in customers home; the solution
should include an off-grid refrigera-
tion solution; and 2) a stand-alone
refrigeration solution which will be
deployed for current off-grid power
customers.
Inquiries regarding this RFP may
be obtained from Mr. Terry Battist,
Renewable Energy Specialist, HQ-
Engineering & Technical Services
at (928) 729-6263, or email terryb@ntua.com
Instructions and Scope of work
can be obtained from Avis Jimm,
Purchasing Agent, HQ-Purchasing
Department at (928) 729-6243 or
email avisj@ntua.com, or the NTUA
Purchasing Department, North
Route 12, Fort Defiance, Arizona

Proposals shall be submitted in
a sealed envelope clearly marked
"DO NOT OPEN - PV+WIND
HYBRID POWER SYSTEM WITH
REFRIGERATION PROGRAM"
and received by Friday, February
19, 2010, at 4:30 PM, MST at the
following destination:
PHYSICAL ADDRESS:
Navajo Tribal Utility Authority,
ATTN: Avis Jimm, Purchasing De-
partment, North Navajo Route 12,
Fort Defiance, Arizona 86504.
Preference will be given to Na-
vajo and other Indian-owned firms
that qualify for preference pursuant
to the Navajo Nation Business Op-
portunity Act (5 N.N.C. § 201, et
seq.) and the Navajo Preference in
Employment Act (15 N.N.C. § 601,
et seq.).
Firms mailing their pre-qualified
tion proposals shall allow sufficient
time for mail delivery to ensure
receipt by the due date and time.
Facsimiled or electronic mailed
proposals will not be accepted.
To be Published in The NAVAJO
TIMES February 4, 2010.

LEGAL ADVERTISEMENT Fort Defiance, Apache County Arizona Navajo Tribal Utility Authority REQUEST FOR PROPOSALS Hardware and Software (BI Blade Server)

The Navajo Tribal Utility Author-
ity (NTUA) is hereby executing to
a Supplier for the hardware to
populate our IBM H series Blade
Center.
Inquiries may be obtained from
Ronald Stuckey, IT System Super-
visor, Information Technology Division
at (928) 729-5721, extension 6108
or via email RonaldS@ntua.com
Summary of work shall be ob-
tained from Ms. Natasha Hanley,
Purchasing Agent at (928) 729-
5721, extension 6246, or via email
nhanley@ntua.com, NTUA Pur-
chasing Department, North Navajo
Route 12, Fort Defiance, Arizona
86504.
Price Proposal shall be submit-
ted as described in the RFP in a
sealed envelope marked "DO NOT
OPEN - Hardware & Software
(BI Blade Server)" and must be
received by February 12, 2010
@ 4:30 PM, DST at the following
destination:
Federal Express or United Par-
cel Service:
Navajo Tribal Utility Authority,
ATTN: Ms. Natasha Hanley, Pur-
chasing Agent, Post Office Box 170,
Fort Defiance, Arizona 86504.
Or Hand-Delivered or delivered
in person to:
Navajo Tribal Utility Authority,
ATTN: Ms. Natasha Hanley, Pur-
chasing Agent, North Navajo Route
12, Fort Defiance, Arizona 86504.
Firms mailing their proposals
shall allow sufficient time for mail
delivery to ensure receipt by the
due date and time. Late, facsimiled
or electronic mailed proposals will
not be accepted.
Award Preference will be given
to Navajo and other Indian-owned
firms that qualify for preference
pursuant to Navajo Nation Business
Opportunity Act (5 N.N.C. § 201, et
seq.) and the Navajo Preference
in Employment Act (15 N.N.C. §
601, et seq.). Firms shall submit
evidence of their preference priority
certification with their proposal.
NTUA reserves the right to reject
any and all bids. The Navajo Busi-
ness Preference Laws on bidding
and contracting shall apply. Bidders
claiming Navajo Preference shall
provide certification documents
from the Navajo Business Regula-
tory Department (NBHD) with their
bids.
To be Published in The NAVAJO
TIMES February 4, 2010.

NAVAJO PREPARATORY SCHOOL

ASSISTANT SOFTBALL COACH
TEMPORARY FULL-TIME MAINTENANCE
WORKER

All Positions require background investigation
and clearance as required by law.

LICENSED & CERTIFIED POSITIONS

- PHYSICAL THERAPIST
 - OCCUPATIONAL THERAPIST
 - FACILITY MANAGER
 - RESIDENTIAL SERVICE PROVIDER
- Navajo reservation school and home for Navajo individuals
with disabilities is seeking potential candidates in the
above listed positions. Experience with pediatric and
developmentally delayed population is a plus. A High School
Diploma or GED is the minimum requirement in all the
classified positions. Possessing excellent interpersonal skills

ST. MICHAELS ASSOCIATION FOR
SPECIAL EDUCATION
POST OFFICE DRAWER 100
ST. MICHAELS, ARIZONA 86511
(928) 871-2800

86504.

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Facsimiled or electronic mailed
proposals will not be accepted.
To be Published in The NAVAJO
TIMES February 4, 2010.

Proposals shall be submitted as
described in the RFP in a sealed
envelope marked "DO NOT OPEN
- Hardware (Router Deployment
Project)" and must be received by
February 12, 2010 @ 4:30 PM, DST
at the following destination:
Federal Express or United Par-
cel Service:
Navajo Tribal Utility Authority,
ATTN: Ms. Natasha Hanley, Pur-
chasing Agent, Post Office Box 170,
Fort Defiance, Arizona 86504.
Or Hand-Delivered or delivered
in person to:
Navajo Tribal Utility Authority,
ATTN: Ms. Natasha Hanley, Pur-
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12, Fort Defiance, Arizona 86504.
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To be Published in The NAVAJO
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LEGAL ADVERTISEMENT Fort Defiance, Apache County Arizona Navajo Tribal Utility Authority REQUEST FOR PROPOSALS Hardware and Software (BI Blade Server)

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Inquiries may be obtained from
Ronald Stuckey, IT System Super-
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at (928) 729-5721, extension 6108
or via email RonaldS@ntua.com
Summary of work shall be ob-
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February 12, 2010 @ 4:30 PM, DST
at the following destination:
Federal Express or United Par-
cel Service:
Navajo Tribal Utility Authority,
ATTN: Ms. Natasha Hanley, Pur-
chasing Agent, Post Office Box 170,
Fort Defiance, Arizona 86504.
Or Hand-Delivered or delivered
in person to:
Navajo Tribal Utility Authority,
ATTN: Ms. Natasha Hanley, Pur-
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12, Fort Defiance, Arizona 86504.
Firms mailing their proposals
shall allow sufficient time for mail
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due date and time. Late, facsimiled
or electronic mailed proposals will
not be accepted.
Award Preference will be given
to Navajo and other Indian-owned
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pursuant to Navajo Nation Business
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LEGAL ADVERTISEMENT Fort Defiance, Apache County Arizona Navajo Tribal Utility Authority REQUEST FOR PROPOSALS Hardware and Software (BI Blade Server)

The Navajo Tribal Utility Author-
ity (NTUA) is hereby executing to
a Supplier for the hardware to
populate our IBM H series Blade
Center.
Inquiries may be obtained from
Ronald Stuckey, IT System Super-
visor, Information Technology Division
at (928) 729-5721, extension 6108
or via email RonaldS@ntua.com
Summary of work shall be ob-
tained from Ms. Natasha Hanley,
Purchasing Agent at (928) 729-
5721, extension 6246, or via email
nhanley@ntua.com, NTUA Pur-
chasing Department, North Navajo
Route 12, Fort Defiance, Arizona
86504.
Price Proposal shall be submit-
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OPENING STATEMENT

David Smith, Presiding Officer

EPA Public Workshop and Hearing
Proposed National Pollutant Discharge Elimination System Permit for
Peabody Western Coal Company Black Mesa/Kayenta Mine

Feb 23, 2010 : Kayenta, AZ
Feb 24, 2010 : Kykotsmovi, AZ

Introduction

Welcome and good evening. Thank you for coming tonight. My name is David Smith. I am the manager of the NPDES Permits Office for the U.S. Environmental Protection Agency in San Francisco. NPDES stands for National Pollutant Discharge Elimination System, the main Clean Water Act mechanism for permitting discharges to our waters. With me tonight are John Tinger, a member of my staff, and Erica Maharg, an attorney from our office.

We would like to do two things tonight. First, we will have an informal workshop in which we will describe the proposed Clean Water Act permit for Black Mesa/Kayenta Mine Complex and answer your questions about the proposed permit. We plan to complete the workshop in about an hour. Second, we will hold a formal hearing to accept public comments on the proposed permit. We have planned about 2 hours for the hearing but we will be happy to hear your comments for as long as it takes to give everybody a chance to be heard. Those

renewal of their NPDES permit for the discharge of treated wastewater. U.S. EPA retains the authority to issue this permit on Tribal lands.

Based on the information contained in the permit application and supplementary information, EPA has prepared a proposed NPDES permit for the Mine site. In addition to the proposed permit, EPA has prepared a fact sheet which contains a summary of the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the proposed permit.

EPA is now soliciting public comments on the proposed permit. The public comment period closes March 31. The public hearing, which will follow these introductory presentations, is for the purpose of obtaining comments from the public on the proposed permit.

EPA will consider all comments received during the public comment period and decide whether and how to proceed with issuance of the proposed permit.

[Presentation by John on proposed permit.]

Question and Answer Period

We would now be happy to answer your questions. Please raise your hands and we will call on you. You do not need to use a speaker card to ask questions. Please remember that this part of the meeting is for questions about the proposed permit. You will have plenty of time during the hearing to provide

to John or Erica. Also, if you would like to be placed on the EPA mailing list for the Black Mesa/Kayenta permit, please complete the "mailing list card" at the registration table.

You may also submit written comments for the Administrative Record. Written comments and oral comments will receive equal consideration. Written comments must be received by the EPA by March 31. There is a box at the registration table for written comments. If you would like to write comments while you are here this evening, a form for that purpose is available at the registration table. If you have submitted written comments, it is not necessary for you to give oral comments as well.

The oral comments received at this hearing and all written comments received by the end of today will be considered by EPA in the preparation of the final permit. EPA decisions on NPDES permits are typically made with the participation of a number of people within the organization. John and I cannot commit EPA on any specific decision related to the proposed permit today, and we will not be engaging in a dialogue on the merits of the issues themselves. Rather, EPA will prepare a written summary of the comments and EPA's responses. EPA will not make a decision on the proposed permit until all comments have been considered. The purpose of this hearing is to hear your comments.

copy to me at the conclusion of your remarks, so it can be included with the transcript of the hearing.

In order to give everyone who wishes to speak a chance to do so at a reasonable hour, I ask everyone to please make your oral comments brief.

To assist in this effort, I would ask that each speaker limit their comments to _____ minutes. If you have lengthier comments, I would ask that you submit them in writing, or that you suspend your comments after _____ minutes until everyone has had a chance to speak, at which time I will give you an opportunity to extend your comments. We will hold up this sign (show 1 minute sign) when you have 1 minute left in your allotted time to give you an indication that it's about time to wrap up. As I said, we will be happy to hear additional comments from you if necessary after everybody has had a chance to speak once.

I now call the first speaker.

[public comments]

Is there anybody who did not get a chance to speak who would like to speak now?

Are there any speakers who previously spoke but would like to provide additional comments now?

This hearing is now closed. Thank you very much for your participation and interest in this permit. Please be safe on your journey home. Good night.

Public Hearing
February, 2010
Proposed
National Pollutant Discharge Elimination
System (NPDES) Permit

Peabody Western Coal Company
Black Mesa/Kayenta Mine

Schedule

- ◆ Public Notice January 20, 2010
 - Public Hearing September 23, Kayenta
 - Public Hearing February 24, Kykotsmovi

- ◆ Comment Period Extended to:
 - March 31, 2010

Clean Water Act

- ◆ All facilities that discharge a pollutant through a point source to a Water of the U.S. must obtain NPDES permit.

- ◆ Peabody Western Coal Co. has applied for a renewal of their existing NPDES permit.

- ◆ First permit issued in 1970's.

Authority of Clean Water Act

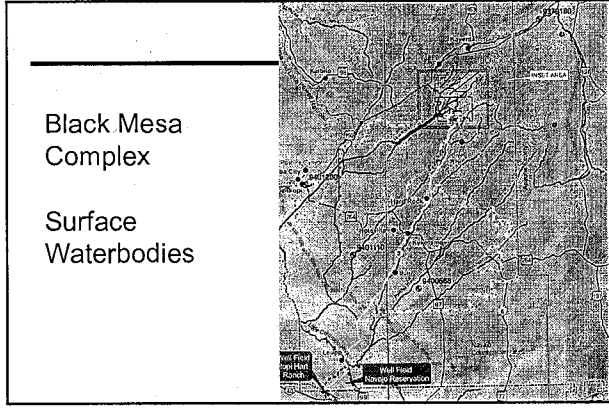
- ◆ Protects Water Quality

- ◆ Does not convey any "property rights of any sort, or any exclusive privilege".
- ◆ Does not regulate Water Rights
- ◆ Does not regulate Groundwater or Aquifer
- ◆ Does not regulate facility operations.
- ◆ Does not permit mining

Proposed NPDES permit

- ◆ Authorizes the discharge of stormwater from:
 - Active Mine Areas
 - Coal Preparation Areas
 - Reclamation Areas

- ◆ Stormwater is treated in surface impoundments, then discharged through 112 Outfalls to surface waters on Navajo and Hopi



New Regulatory Requirements

- ◆ Western Alkaline Reclamation Subcategory

Requires

- Sediment Control Plan
- Best Management Practices to control sediment
- Reclamation
- Remove Impoundments to re-establish natural water flows and sediment conditions



Additional Requirements

- ◆ Seep Monitoring and Management Plan
 - 230 impoundments have been monitored
 - at 9 to 16 impoundments, seeps have been identified where impounded stormwater seeping through dam structure
 - Must monitor
 - Must reclaim impoundments
 - Must install passive treatment
 - Must continue monitoring



Other Requirements

- ◆ Must submit quarterly reports to U.S. EPA
- ◆ Must conduct monitoring, including flow, volume of discharge, date and time of discharge, and level of precipitation
- ◆ Must re-apply for permit in 5 years



Questions ?

- ◆ Comment Period Extended to March 31, 2010

- ◆ For Further Information Contact:

David Smith, Manager

(415) 972-3464

Smith.DavidW@EPA.gov

John Tinger, Permit Writer

(415) 972-3518

Tinger.John@EPA.gov



Sóchidaoz ydii bawá'te' baa' náádaale go énda tó da na
yá'g' be' ~~gabuhii~~ dichu'ídgi naaltsoos be' b'ik'eh addeest'sí

OPENING STATEMENT

David Smith, Presiding Officer

Ba'at'e' bu'
holóda'g'í

EPA Public Workshop and Hearing

b'ik'eh addeest'sí
g'e

Proposed National Pollutant Discharge Elimination System Permit for

Peabody Western Coal Company Black Mesa/Kayenta Mine

Feb 23, 2010 : Kayenta, AZ

Feb 24, 2010 : Kykotsmovi, AZ

Introduction

Welcome and good evening. Thank you for coming tonight. My name is

David Smith. I am the manager of the NPDES Permits Office for the U.S.

Environmental Protection Agency in San Francisco. NPDES stands for National

NP permit

ná'haest'á'e

do

Pollutant Discharge Elimination System, the main Clean Water Act mechanism for

to bi bé'ho'aa'ni

permitting discharges to our waters. With me tonight are John Tinger, a member of

my staff, and Erica Maharg, an attorney from our office.

We would like to do two things tonight. First, we will have an informal workshop in which we will describe the proposed Clean Water Act permit for Black Mesa/Kayenta Mine Complex and answer your questions about the proposed permit. We plan to complete the workshop in about an hour. Second, we will hold a formal hearing to accept public comments on the proposed permit. We have planned about 2 hours for the hearing but we will be happy to hear your comments for as long as it takes to give everybody a chance to be heard. Those of you who want to speak during the public hearing should complete one of these speaker cards, which are in the back of the room, and give it to John or Erica.

I would also like to introduce Joanna A manygoats, who will be translating our

proceedings between Hopi/Navajo language and English. To make ^{her} his job easier,

please pause periodically to give ^{her} him time to translate. We will be asking ^{Dried - Process over} him/her

to translate our presentation as well as your questions and comments. Can people

who want to be near the translator please raise your hands, and gather near him on this side of the room? Thank you.

Workshop

To get us started, we on the hearing panel would like to provide you with some introductory information. First, I will describe the NPDES permitting process and how today's hearing fits into that process. Then, John Tinger, an environmental engineer on my staff, will briefly describe the proposed permit for the Black Mesa/Kayenta Mine Complex. After these presentations, we will take questions from you to help clarify the proposed permit.

Permit Process

In accordance with the federal Clean Water Act, all facilities that discharge pollutants from a point source to waters of the United States are required to obtain an NPDES permit. A point source is basically a discharge from a pipe. *like mine,*

Peabody Western Coal Company has submitted an application for the renewal of their NPDES permit for the discharge of treated wastewater. U.S. EPA retains the authority to issue this permit on Tribal lands. *renewal → mine*

Based on the information contained in the permit application and supplementary information, EPA has prepared a proposed NPDES permit for the Mine site. In addition to the proposed permit, EPA has prepared a fact sheet which contains a summary of the principal facts and the significant factual, legal, (methodological), and policy questions considered in preparing the proposed permit.

EPA is now soliciting public comments on the proposed permit. The public comment period closes March 31. The public hearing, which will follow these introductory presentations, is for the purpose of obtaining comments from the public on the proposed permit. *mine → operator's permit effect*

H₂O Quality → problem w/ H₂O

EPA will consider all comments received during the public comment period

and decide whether and how to proceed with issuance of the proposed permit.

[Presentation by John on proposed permit.]

Question and Answer Period * Pentam, Ash - Outp 7 Relative
OK

We would now be happy to answer your questions. Please raise your hands
- microphone -
and we will call on you. You do not need to use a speaker card to ask questions.

Please remember that this part of the meeting is for questions about the proposed
permit. You will have plenty of time during the hearing to provide your comments *Conce*
about the draft permit for our formal record, so please hold off on those comments
until we start the public hearing. We will not be recording this portion of the
meeting. *Thank you - helpful NNEPA.*

(10 min. break)

Hearing

Now we will turn to the formal public hearing. This public hearing is now open. My name is David Smith. I am the Presiding Officer for today's hearing.

With me on the hearing panel are John Tinger and Erica Maharg. ^{nm hr} John and I are here as representatives of the Water Division, and Erica is a representative of legal council at EPA Region 9 in San Francisco.

The purpose of this hearing is to accept public comment on EPA's proposed National Pollutant Discharge Elimination System (or NPDES) permit for the Black Mesa/Kayenta Mine complex.

*So kaah a níl eedgo ne lahye' tó
da na yit' go lee yi' kóní dol nekji.*

This hearing is being recorded for inclusion in the federal record. If you present oral comments at today's hearing, please speak clearly and slowly so the the recorder may record your comments accurately. We may take short breaks during the hearing to reset the recorder.

Jenifrago

At the back of the hearing room, there is a registration table. It is not necessary for you to register to attend this hearing. However, if you would like to present oral comments, you should fill out a "speaking request card" and hand it to John or Erica. Also, if you would like to be placed on the EPA mailing list for the Black Mesa/Kayenta permit, please complete the "mailing list card" at the registration table.

You may also submit written comments for the Administrative Record. Written comments and oral comments will receive equal consideration. Written comments must be received by the EPA by March 31. There is a ^{*file*} box at the registration table for written comments. If you would like to write comments while you are here this evening, a form for that purpose is available at the registration table. If you have submitted written comments, it is not necessary for you to give oral comments as well.

Spleen Liver

The oral comments received at this hearing and all written comments received by the end of today will be considered by EPA in the preparation of the final permit.

EPA decisions on NPDES permits are typically made with the participation of a number of people within the organization. John and I cannot commit EPA on any specific decision related to the proposed permit today, and we will not be engaging

in a dialogue on the merits of the issues ^{*raised - listen*} themselves. Rather, EPA will prepare a written summary of the comments and EPA's responses. EPA will not make a decision on the proposed permit until all comments have been considered. The purpose of this hearing is to hear your comments.

The final permit will become effective 33 days following issuance by EPA.

Pursuant to 40 CFR Part 124, a petition may be filed with the Environmental

Appeals Board to review any condition of the federal permit decision. If a request

for review is filed, only those conditions ^{*those*} ~~which~~ are uncontested will go into effect

pending disposition of the request for review. Request for review of the federal permit must meet the requirements of 40 CFR 124.19. Persons filing a request for review must have filed comment on the proposed permit, or participated in this public hearing. Otherwise, requests for review may be filed only to the extent of changes from the proposed to the final federal permit decision.

A recording of today's hearing will be available for the public record.

In a minute, I will begin calling on speakers. ¹² First, I will call on any elected officials or representatives of public agencies who would like to comment. Then I ^{EO rep} ^{Publ} ^{Ag} will call on members of the public. Members of the public will be called on in approximately the order in which they turned in speaker cards. Please forgive me if I mispronounce your name.

When I announce that it is your turn to speak, please come up to the microphone, state your name, and, if you are appearing on behalf of someone or

on behalf of an organization, please tell us who you are representing. If you brought a written version of your comments to the hearing today, please give a copy to me at the conclusion of your remarks, so it can be included with the transcript of the hearing.

In order to give everyone who wishes to speak a chance to do so at a reasonable hour, I ask everyone to please make your oral comments brief.

To assist in this effort, I would ask that each speaker limit their comments to 5 minutes. If you have lengthier comments, I would ask that you submit them in writing, or that you suspend your comments after _____ minutes until everyone has had a chance to speak, at which time I will give you an opportunity to extend your comments. *Stay a listen. (time)* We will hold up this sign (show 1 minute sign) when you have 1 minute left in your allotted time to give you an indication that it's about time to wrap

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I now call the first speaker.

Wend

[public comments]

Is there anybody who did not get a chance to speak who would like to speak now?

Are there any speakers who previously spoke but would like to provide additional comments now?

Kayenta Joannexalt

This hearing is now closed. Thank you very much for your participation and interest in this permit. Please be safe on your journey home. Good night.

end 11:15 pm

Questions ⇒

Opening statement.
By David Smith
Kayenta Chapter Hse
2/23/2010

question procedure - equal decision
why air per - not cover. issue peaked
Air / mercury pollutant - splitting the permit

2 sep permit CAA - Air sep.
both - by EPA sep - legal

fy - ? op. ? How sediment ^{used high} _{newer eps} downstream
of regulated clean - downstream

overflow reg - 2. sep → guideline
regulate? Test? from eq. working
facility - reg? go to pond. Annual

sep ^{regulate} after monit - get 4 mon
pollut al, sel, nitrate, sulfate, iron

* eq. work H₂O reg. poll permit plan
all - oil / grease eq. collected
dishg. sediment 4 ft m.
emp. daily monitor.
overflow - emp - @ embank reg. flow after, sedi PH 0/8.

Don't reissue / and issued.
port entry permit - CA / discharge - permit. need
permit tighter standard seepage of new
permit stronger terms. imp of H₂O source
element / seep plan. don't authorize with H₂O
USA waters - could it mine.

m no vajo - way bk - 60's that time; promise made
impact - know people - encounter respiratory
diseases - ~~1. study show cause of illness / dis~~
encounter. 2. ~~What guarantee do you have - monitor~~
say you monitor. (more to say)

Clarify - emp - don't everybody, with H₂O
Coal Co. A study health resp. problem of
emp to us - not aware / health effect. PK
guarant sup to do. term 30 K P / day. under
discharge criteria partially prevention / self action

Simon creek; Kayala mine - close km - know
aware - H₂O - issue; ~~notice before~~ - flow water.
soil good - seep yes - flow - use H₂O to stretch
restore it - not - imp - coal pile (Kams) use H₂O
to hold down - a dome cover - water into dome
wet down - imp nearby (3-4) emp
Hopi - downstream need water - due to
flow H₂O - into wash. imp fenced - no
daily around. reduce waste
water where

aware - eg. washes) flow into work. Wa
which as well

fenced - overflow. Stone to correct the sep
Water - use all of livestock & food - cooling cycle
health effect - along belt - conveyor belt
new installation - want H₂O to home, done,
useage. many eq. to use. clean out sediment
dent (Comments) How does tiled h.c.

desdrg here - clean out eq. - (tinet imp(in)
use of vehicle washed - water into washes.
tr'd sed sep. H₂O: sits sediment still to po
higher discharge because. pallout in sedi

sw score H₂O then water. why H₂O us
often choose H₂O. score (useage) previous. slope
govt take land - dry it up. lowe word. cost
money lots of H₂O for transport, Peabody → N. ca
metal - ? people use. land pallout 200+ imp
contaminant + monitoring. Peabody monitor
pallout. erry. pond blow.

aus. Govt why mine may other do. desdrg was
water. monitor every time deschg. Peabody/
fine - inf. meet req.

Blk Mess. Dam full containment; gold held in yr
to dam - ok play in water? Contact w/ H₂O.

question - by blk man 4/3/ Kayata
 20 permit - talk about. monitor man
 how closely monitor busy to monitor
 for rpts avail - read out on site renewal
 rpt. there about water used - just on
 road (chem) oil in it / dust down -
 vehicle rust / paint. How control monitor
 rpt on site - review it - day to day
 mine site - navel (da)?

no cont / monitor dust, monitor cond,
 on permit 1/4 - daily / visible 1/4 rpt
 public available.

her question what or you contain resd
 al question right how monitor water used
 control dust - (mine)
 contain - ground water. ~~to~~ dust control / act dis
 charge - comment. permit

of 9 see grass - don - gen. blk di.
 question permit - renewal coal @.
 420 flow - clean - H₂O renewal / not
 1500 1000 1000 1000 1000

John writing Present ? (1)

Public Hearing
February, 2010
Proposed
National Pollutant Discharge Elimination
System (NPDES) Permit

Peabody Western Coal Company
Black Mesa/Kayenta Mine

Istsa' ndtsealigi akahaleeh
Ista Beyaach 2010
5 diin Keysh akhididzohozubekaa
Sochoozud Ba'at'e, baahanal kelgo'ude.
tays' x' ho' naalmulgi naaltsos
pwa na' keedgo ha'idoonahgi beneyé
akah aleeh.

Schedule

- ◆ Public Notice January 20, 2010 ✓
 - Public Hearing ~~September~~ February 23, Kayenta
 - Public Hearing February 24, Kykotsmovi
- ◆ Comment Period Extended to:
 - March 31, 2010

Akch ak'eeh ni da huus-ta'ngi
Yas Nekt'es naadien yekkal daas
2010 naaltsos bee'eda hozin bi'da
115 nu' dii k'ad Atsa Beyaach naa
dien ta'a' yekkalgo To'dineesh
zheegi h'choo't'a' doo naadien
dii yekkalgo'ee' Doze'i Kykotsu
Movi di. Hada' udzuhigiu el Woosh
Chiid tadun ka'oi go akch'panat
neeh.
2010

Clean Water Act To bi bee hazda
◆ All facilities that discharge a pollutant through a point source to a Water of the U.S. must obtain NPDES permit.
◆ Peabody Western Coal Co. has applied for a renewal of their existing NPDES permit.
◆ First permit issued in 1970's. 5 yrs Renew

ni'ani; Pa'oz ak'ch h'ai shu' So'chooz
ndii nahgo' Kódeeshkix n'zini
gi'ei naaltsos ba'hol'oodoo ni
Pwcc ei' naaltsos nehá haa
doo nah nigo yokeed
1970 daa' dii naaltsos aktséedi,
ba' haa nah. 5 nina' hango' arii
di' ana'al nuq.

yaanichi? - restricts.

(2) (copy)

Authority of Clean Water Act

- ◆ Protects Water Quality *Surface hoo*
- ◆ Does not convey any "property rights of any sort, or any exclusive privilege".
- ◆ Does not regulate Water Rights
- ◆ Does not regulate Groundwater or Aquifer
- ◆ Does not regulate facility operations.
- ◆ Does not permit mining

Dó naat
tsas sa'ni
bee hots
na
keda has
hoh gbo

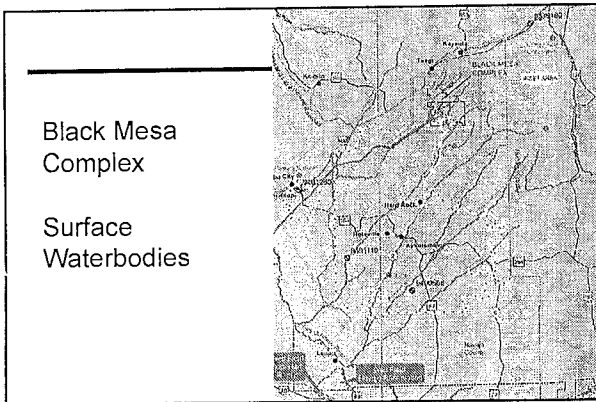
nda hedees tánee' á doo
á dui deet' i' da

tó bi bee, kááááá. áni
no hokáw to y...
~~to doo baah chen~~
tó t'ei hitsályágo yik'eh dozi
Kéyah hógi dooda
Bechoyáanisa'ni to bee hó hii
ni t'ia hdi to doo chooz u di gú doo'á
lee onishgi to chui doo'el
ha' da' ageedgi ei doo'á di deelt
k'ajú'ni da. naaltos

Proposed NPDES permit

- ◆ Authorizes the discharge of stormwater from:
 - Active Mine Areas
 - Coal Preparation Areas
 - Reclamation Areas
- ◆ Stormwater is treated in surface impoundments, then discharged through 112 Outfalls to surface waters on Navajo and Hopi

tó chooz u dii ba'at' e baahanaale
go'enda nah handag'ezgo
ha' da' ageed doo da deeg'la ngú
ha' ageed gi bee' onishgi
kéyah háá del néesgi to
chui ngú
naktin da nideeg'ehii 112 outfa
no hokaa' yu



Dzi' y' jien ha' ageed bek
hazáagi to naz tá doo ni
de'geehii á'ie.

1

can
not do

pg 2

Proposed NPDES permit - ^{na'ageed} ee ~~na'asa~~
do do' nishgi bekeezh be' haa
dzohzi' naktin doo yas bitoo'igi
to' nahyi' le' dootnekgi yik'ehdeez
ii' go nahgoo' k'ol'.

Evans

3

Xeejin hasht'ee' be' haa
doo to' da'eez li' nigi' doo y'eh
deez ii'.

Keyah be' na'asgeedgo hadakt'ee'
analneehgi to' chooz' i' digu' nahye'
kolme'ngi doo yik'ehdeez ii'.

pg 3

#2

name

conish bileezh bekaa'gi naktin
doo yas bitoo' to' ba'dada' dees
tx'inti doo yik'ehdeez ii' du'
to' ba'at'ee' be' yika'gi nahye'
k'ool nekgi.

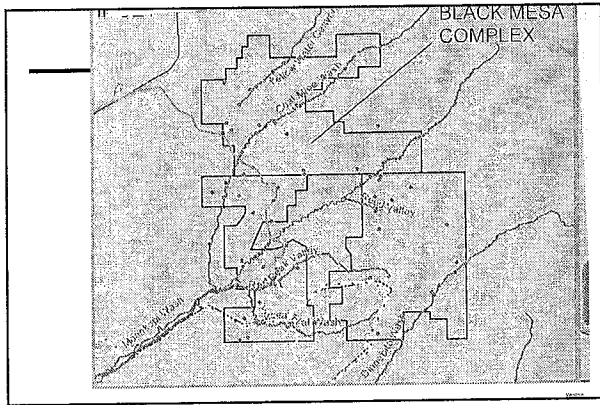
pg 4

#1
Bikanggi
to'

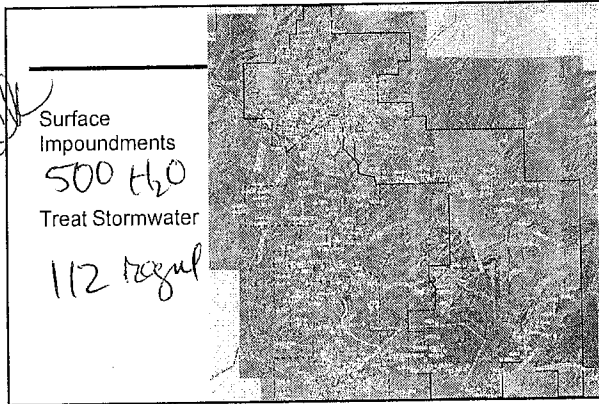
#1

nahde' to' chooz' ndii' du' ba'at'ee'
ba'ah' hana'aleekgo nahye' kal
ya'ahiyi' ee' 2009.

3



dabi ni koo hgo toni da
digohii keyah bekieh
Sila



Surface
Impoundments
500 H₂O
Treat Stormwater
112 H₂O

See
notebook

gonish bileezh bikaage dādo
deestk'ingid'oznoshkaagoo
Noshkaago fo dah nazye'gor
doo nahtenigii aze bee bar
zii haal'eeh

unp Storm H₂O Nit Temp/htmt permanent. Cattle
H₂O
Reclaim

Previous Discharges	
◆ 2009	.1 Discharge event – 8.9 acre-feet
◆ 2008	.9 Discharge events – 373 acre-feet total
◆ 2007	.10 Discharge events – 66 acre-feet total

nahdē' tō ni'ālye' hāadas
gizii:

nahast'ei azāo' xw'ades eez
li deest'ā'igō -

2

car
date 00.

T'áá'áhiáa K'as dōá' náhást'él
azááh ka' adēeshēēz ūdēt'áag
náhgōó kōlyaa.

qéed
kaa
ca
p'igū
kaq

2008
náhást'ēēdi táādi neznádin
dōo b'p'aaan tsosts'ídūindōo b'p'aaan
tāā' azááh ka' adēeshēēz ūdēt'áag
3 qō náhgōó kōlyaa.

Evap

ū
ūh

2007:
neznádi hást'ēēdin dōo b'p'aaan
hást'á azááh ka' adēeshēēz ū
dēēt'áāgo náhgōó kōlyaa.

kt'é
shye

fin
es
ū
p'
k

pg 4 dū' náhtsōs Pwcc náyō kéedīgū
#1 náhādēt' ēhēyū-ānē ná' aqéēdgīlē
#1 náhgōó náh k'xīn dōo. Gas b'p'aa
tō' náhgōó yīnāh dōo hēzū kāhō yānī
#1 chí' 40CFR Part 434 hēh jīn náhgēed b
hāy āāqī.

Hē
kēl

matkin yas
xubmit

(4)

Proposed Permit Requirements

- ◆ Effluent Limitations →
 - National, technology based limits based on 40 CFR Part 434 Coal Mining met.
- ◆ Must control:
 - Total Suspended Solids
 - pH
 - Oil and Grease
 - Total Iron

NAB

Naaltso ayesu' yee dees ezi higu
to'choozidli Bwat'e beebaa'ahaa
ngii

Proposed Permit Requirements

- ◆ Water Quality Standards laws
 - Must meet Water Quality Standards for
 - Navajo Nation
 - Hopi Tribe
 - Protects beneficial uses of Moenkopi Wash and Dinnebito Wash & Tributaries:
 - Secondary Human Contact Recreation
 - Ephemeral Warm Water Habitat
 - Livestock and Wildlife Watering

Wicel'ahere'ti
to'at'eedi beebaa'ahaa ya'anda
Dine' do' b'ozee bi beebaa'ahaa nu

bee neenigoo be'oonestigo
hegu

Proposed Permit Requirements

- ◆ Must Meet Narrative Water Quality Criteria to Control:
 - Discoloration, odor, aquatic growth, degradation
 - Dissolved oxygen, temperature
- ◆ Must conduct monitoring of discharge

Reubody

3
Pg 4

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49#
50#

Dūi yéego baa'á háyáadoo ní

tó t'áadoo t'ée dani t'izgo b'el
yí nah'igū baa'á ezh dool nāw
doo.

Tó de Ch'xih doo di K'ózhge yoa
Kólyen doo

• Ak'eh ak'aa'át'ée'í' áhāwōgo
baa'á háyáadoo

• B'esh ak'aa'át'ée'í' táye' hólóonui
baa'á háyáadoo

next
frame

Proposed → Naaltsos ánu di ánuál
nēeh'igū yee dees eez'igū

Tó' áhānū b'el k'í' adest'í' doo

Chool'igū:

Is'ida bee nahazáago yik'eh
dees ees ánu doo s'ó'én be
waashen doon pe bee nahazáanu
kūni b'el deet'í' igū.

next
frame

Restoration
and
name: see header
rehegi - reclaim
N/D met Ho

5

New Regulatory Requirements

- ◆ Western Alkaline Reclamation Subcategory

Requires

- Sediment Control Plan
- Best Management Practices to control sediment
- Reclamation pond imp natural conduit flow
- Remove Impoundments to re-establish natural water flows and sediment conditions

Complete Recl.

to have least a good doo hadoz ligoo

Additional Requirements

- ◆ Seep Monitoring and Management Plan
 - 230 impoundments have been monitored
 - at 9 to 16 impoundments, seeps have been identified where impounded stormwater seeping through dam structure
 - Must monitor
 - Must reclaim impoundments
 - Must install passive treatment
 - Must continue monitoring

cont. our plan

Other Requirements

- ◆ ^{Reakody} Must submit quarterly reports to U.S. EPA
- ◆ ^{Dine Hoopi} Must conduct monitoring, including flow, volume of discharge, date and time of discharge, and level of precipitation ^{pollutant results}
- ◆ Must re-apply for permit in 5 years

Waste water

4

Cont'd:

Dū daki koohégú Moencope,
Dene bitó dōo a'á y' beeh doas
lénégú baa' ahá y'g'

- tóhégú t'áá bu' nyzdooghal
hó he' náago

- Táx t'p'ahdi chunaanu
T'áá dōo tó bits'aa' baah danah
azani.
dōo

naaldlooshi chi yoh úso bá
bó hó nee d'áago' dól zingo.

next
name

naaltsos ámedé ánal néehégú yeedeseez
ígú:

tó bee baa' ahá y'g'gi beehazani yághí
dó' hó' ol zin dōo' neenu' y' lee náadōo
meshégú

• Tó táachxaa', tó nex chxongo, tá trid
dōo tó táá'á kól neehgo dól chxotgi
áysú' ahánigo yik'ahdeezii'

• Píabody éi baah zela tó choozidígú
ba'at'és kólóonu bu'ígú baah hanáal

5

go'inda nahgoo kónalíigi-yeeyo
baa'ahogelyaadoo.

Amudi Beechayane buh na'hes d'zohi
gi dó' d'í' naaltsoo amudi' anal
k'ehígi kahdoo yeedeesez.

e' e' aahyi keeryaán keesh ka'í' k'í
tahgo pinina'el nishgi haadzoh
bek'ehgo' a' deolnikgi.

aa'yi

- keesh b'el nehe' eelii bi'oonish
- keesh b'el nehe' eelii hazho'ó bin
a' anishdoo

- to' da deests'a' doo danélinígi haa
adilne'gi baa'je' el na'

- keyah bu' nida' asgedgo' hadaf
t'í' anidaalne'go - to' danídei
gehgo' da (da' des t'í' in)

to' hadas ts'a' doo to' hadaazlígi
á hanígo bik'í' adees'í' go' oolgin
230 di to' bi da' deest'í' in doo bik'í' a
deests'í'í'

3

Questions ?

◆ Comment Period Extended to March 31, 2010

◆ For Further Information Contact:

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(415) 972-3464
Smith.DavidW@EPA.gov

John Tinger, Permit Writer
(415) 972-3518
Tinger.John@EPA.gov



①

USEPA Public Hearing Feb. 23 2010

Ken Freeman Kayenta Chp
fly - meeting Hse
from Black Mesa - small concern
Black mesa - elk - good - Comm
@ Kayenta home water issue waste waste
Chp Hse not of our concern no fund to corr
ect issue - livestock water - use
clean - oil / pollut - problem
drank water - died - concerns
monitor meeting req. post good

Verbal
Comments
@ Kayenta
Chp Hse

no funds - need @ mine DIST
DIST work coming - stop many
breathe smoke - need good
water (good) Hosp. visit - not a
good idea. Thank.

fern
Bundy

blond grass:
related to water: dry easy. Blond grass
short. Blk mesa resident related
good plant livestock, garden water
grass - fair range - good forage -
some concern to Joann Coal
stop! mtg. unless - referred.
Issue - custom - good I fear
livestock expanded. Wrote out
concerns meeting + 1st snow
Prelody Energy situation

(2)

2/23/10

North - photo - what the
problem - snow bound. no help
assist in paper - computer did not
forward - replied to issue.

my concern Geneva - paper
2 work - ran array - not
covered - Lewistown not aware
of issue. They visitors - won't
hear other issue smoke/air
pollution, Lewistown garden empty
photo. Coal - particles & next day
blasting smoke - smell it - not
listen. Look @ it!

Computer - held on it - issue.
written comment to NPDES in
WDC - Judge there. Coal men in pond
on mining. active / stop. life of
mining - stoppage. Held on the permit
not renew the permit - if they
won't renew the permit.

already made agmt. people's
control - Peabody - bad -
contaminated. Keep it monitor
of volatile - out jail. use ash.
Talk w/ head person (elder),
eye to eye. need to shut down.

2/23/10

(3)

Tern friendly: Blk mesa - area lines
 Blk mesa / peylin learn lafre men
 Seen operation promises made -
 materialized - rainy water pond w/
 lvsch. Waste H₂O | 2007 shut-ban
 solvent, oil, gasoline discharged
 on grd - into water - belled lvsch
 pebbly - dented, own eye, explosive
 powder there - spillage of lvsch goes
 into lvsch water in vehicle - crystal
 pollut - lvsch died - chills, lvsch kids
 drink water - what happen - Peabody
 brought to us - lvsch - know pollut / in
 the H₂O. people - Chemical on road -
 monsoon lvsch run off - Denny's in
 Tago muck wash / moer kopi - disdrz
 H₂O into to imp - runs - its own
 path. no water passed into dike later
 can deny this don't happen. Don't give
 them permit - turn back on us. Fall
 over - not happen - use - remember. do
 for us - no remember. harsh com
 from them. grower flour & water.
 pig bar - monitor H₂O. true fold
 here - don't do right, no permit
 fines - Honrupt. fine imposed
 Osm - violates policy. Ty.

2/23/10

Separated: Cont / pollut from water.

(4)

Rose Yuzie

biological
cust

Good one - Stuart + add. oral
 comment, who conduct EPA - Billie
 Whitgrass NW pay more fairly
 small - slow selling on hrs pay
 respiratory daily daily asthma
 illness - unpleasant to our health
 mine / sup - Don't line there ^{is} no
 when to go - no the earth desebg
 PWCC - Ext. Jordan submit sup.
 nit - places - drain dirt plows
 area & naturally dirt - Don't meet
 standard - Do something
 scoop - Jordan haul away from
 area - no quality assurance
 contaminant to good water - prob
 coal operat - Answer to the air
 for anything w/ excess carbon
 dirt - Quality - Stand. Comment
 to EPA Nov. Times Newspaper
 Measure comment reach you.

Jonathan Key

Thank you - Comm. by. Know me
 5 min short. formality CD. Rep. shorts
 dep. County sup id Comm. by
 10 effect by present / money on Blk
 msa. Welcome WA (yours)

5

2/23/10

alaty quest brought Hopi session
 NNC coming up - one issue - telecon
 to - request EPA is it reviewed for
 very operation we had PTH on this topic
 no available - EPA out review the
 request - now operator - XNEPA.
 responsibly telecon over this part
 overse req out there. given case get
 FUSA emp be made. copy of - stormwater
 prevention plan - guide line set EPA
 for facility - work of EG. emp element
 replenish Naper - lately new adm
 ANMA - package of permit streamline
 Comm - heard word. Act of concern
 on non-ops - mining largest proposed
 Water Right / up / In CD River basin
 Govt to push - concern decision w/
 pressure from Politics. Son by - expect
 water right. Confident - comment to 4.
 welcome comment by Comm member
 EPA is looking to - good partnership
 on many issues. Ty. held by operators
 Comm - be review hear agmt. one of
 CD to look into peabody bases equal
 as a whole - that occur/couple -
 better decision - permit.

6

2/23/10

Simon Cronk

Comment - leader in audience, also of ch
 need to be here - issue to defer to them.
 take on resp during platform. we
 on Blk mesa - in midst of many
 complex issues - smoke - respiratory
 cases - dust - reddened vegetat - on
 daily base in midst of pollut - how
 contracted asthma - no quality water
 we were promised water, electricity, road
 dealmnt - intial agmt / promise, our elder
 ldshp. youth - need jobs, mgmt, adm -
 needs - partner to improve. entirely
 endeavors. refreshment - yussed on
 ldshp to make the lease - new Voluble Ed.
 try w/ novato in mgmt / adm. money
 that is result. we look for these promise
 we seek, search for it.

WDC - clone upper hand. to successful
 we mount to poverty - please lets
 uhh together - need to participate. Great
 met - Ce - Ty -

Dixon ~~Shollock~~ Sherlock - Don't give
 peabody? witness violation
 2 someone - Cynthia George Palomas
 shepherd - Dan - water shop we drink

2/23/10

(1)

Yeater - my died 4 yrs ago - hurt my
 heart. loved morning summer blast
 in DST 4 weeks - Dart in Valley
 Gabya - asthma passed Kaskasak
 dont give Pwcc permit old come
 elderly to die from it. Gydma
 mad palomas - only one get in life
 not to open + listen BM/Kay.
 Smeel out eukale Siech nurbob
 orthma Elder dougrom yiyu. dont
 let Pwcc cont. to kill our people
 don't rebel - thought family + life
 do for gydma (Beth Mary Belue) out of
 wood - trees to eat. forced for her.
 Dont do this Jy. sud

Coraline To'adoni:

Name ; Blk man / Hopi - Port lands
 Bereds. Issue. we on sword, Hopi enf
 afraid - living in the area. where
 we being head? relative moved
 out - living - suffering abment.
 being abused. why? being killed
 in such unethical way - archak
 in military - many dont come back
 few us in area. depend on our
 strength of other type of pallot

8

2123110

health, youth - leave the area
 for old / we suffer these element,
 no land for youth - Hoj P.A. Ad.
 dying from many other issues
 land is a major problem, great
 needs. being abused - we were
 worn here - this is our land -
 call our mother - Cosmic relation
 mining is a huge problem. Shut down
 why NPDES? Our youth - need to
 voice concern - our strength leads
 (non voices) helps us. Don't pick on
 us - cont'd abuse - renewal
 or permit - leave us alone on
 land believe sacred mtn. & dead
 (corinal), food - down to us it is sacred
 to save preserve. have compassion
 50 yrs of hauling water & water
 Ag. use - to raise our food (that) our
 system for us & children this is
 our life. T.G. Conier here @ rep
 us - Alby, T.G.

Nasha Monstky: Monestersky?

political forgetter people mge
 Victory Permit to BIK mesa
 mine flow - vacate 70
 BIK mesa complex - mine
 permit

200
 fast 11

Jan 5 2010

9

2/23/10

Robert G. Hebe Vacate Lloyd
 & op. Blk Mesa Mine Complex
 a.s. Decision OSM / Power
 Complete BIK USA reach
 permit. for Kayenta mine.
 Don't make same mistake -
 fully engage dialogue not
 offered EIS process permit
 Kayenta - Bndest Nav. Nat
 travel snow (need. Hopi - H.
 Sch forest TC chp. impact
 meenooji - import by valley
 lowest mining - present has
 truly understd - Clinton mining
 ful consultat - concern arise
 hazardous volatil - Kay.
 open mining arsenic not law
 be central policy in Clinton
 water way. CWA. Blk Mesa
 Con Eng Regmt - Graders PWA
 refused. not fd - proven promise
 study - what happen? testimony
 EIS - needs. arsenic, asthma.
 Blk long. no way out - 24 hrs.
 - Vacate Permit - not exist.
 handed paper (written)

200
first

(10)

2/23/10

Robert Beza TC Alons.
my comment FB. related
associated Rep. Grossart
people.

Help - many complex & heart
felt money comment - How much
more do we need money comment
to vacate permit. General P.H.
concern money related issue!

what a participatory rule
many serious health related
problem. Children military
over protect our interest
hard to pressure to sustain
what we have - Be honored.
Comment - left series and one
side one is added that operating
entity - like use ~~of~~ a driving
permit. Jy.

Philip Estilly: Blk mess line
Camp PWCE - that they testimony
mesfelt heart - even though
cherish our bond - properous
from men - job. mess ment
cool men - relative; father
relative, work for men's proper
from men - dont oppit

(11)

2/23/10

besides - lat concern - how people feel - where - what to do - move away to find job - another don't yrs - extend time periods
 + sensory - poralage - better rd. understood, id permit is/about (jumping around) wastewater pro off - rd. us. sediment slurry
 infrastructure originated principal - structure built now filtered - on bankment impoundment - used st. mixed in places - arenal/water use. built - overflow into tributary m w, yw w Deniloh - eye witness understood, rd. both side - mutual understandg. enforce - better debruly
 eco/ env mentally. participatory part side. treati way - ~~check~~ hear rep of women - kuala. yodi bly aliyah - elder didn't know what red was there. already knew elders to sustain us.

balance our decision - know reflection. Edna's critical. goal met it our self before decision to make

10:30

2/23/10

(12)

Luth Edmore:

short comment Blk Comment
my relatives, ldrs, WR, SF, CA
GPA groups - clip of Ty
for Phl Hrg. last great event
31 end of comment

my thought late notice in
news paper -

with

- Blatter - dust, busy coal
sick - passed on - bad

- good: relat. with PWCA.

good they - snow in. (Cor)
hogan Octogen check on her
guided road - ~~to~~ emplant.

Relative good/bad. Clip
of Ty testified listen to my
people - coming time -> concern.

Kevin Beenti

Ty come - mtg KB.

Intro. good job

have for water road chem
Calcium chloride how know
MSDs - reading health

hazard - more informed

men - off of many emplant
should be fully contained

2/23/10

(B)

→ treatment etc.
USA - Stiffer enf. shipped
out - not treated. more stiffer
enf. (that)
Other Peabody → open. Close
down.

more monitoring ever - lots
of after math downstream US
to relieve
line Bk Mesa - use / enjoy
future preservation

P - help out - maintain,
+ y. hrg.

B. Bezordie: Loretta. Alon.
empty Pwcc, line area money
no father Sergeykhom 5 4 girl
L. Cor - bro / sis. Bk Mine
Peabody Page - good income

Bk Mesa - reopen - job - left
short of funds. Alone!
successful - shut down -
Mother - money, didn't happen

2/23/10

14

have money - slip father -
long short lived - no home.
relative - made good money
related to me:
washed. public break
coal - leak - lot of coal.

burn coal - aware related
to health
conveyor - train / not
aware - opposed. Page.
cover the train ^{coal} blown
effects health

* reopen - need income / wk.
was ready to receive employ
out.

Elisa Beverly (English) - me.
Comment (op) Spk. BM born
live there young - did not
deschrg of waste water ^{paper} - blk
drink this coal loaden water
Hse structure - crystal
water pipe - health related
effects.

Not aware of wastewater
deschrg - not fence / condens

2/23/10 11pm.

Some are still not @ fixed -
discharge happen - request
over how to repair did meet
in present - Moencopi called
to a home - campid - water the
not monitored

dam structure know - few
buckets - collected - to collect
WW - not. separate path
along road - in the work

Money not regular -

road - wet down - need monitor
as well Ty. op to sph & led.

Norman Benally = (English)

add Forest Lake Chip. 2 weeks.
• Snow issue request.

Jucille Benally: (English)

line right pipeline -
poore health effects adverse impacts
my health. Mine is now a
reality that it is shut down

14

2/23/10

11:20 pm

Mohel Beverly - Don

flm more time when start
6 children - Elder - agmt bonded
respect for son. no employnt
for children. Frmgts - 2 yrs
@ PWCC. Juella - Sch - severe
impairt of related health. seizure
Don't like money operat

lost 1 hr. & killed - lamb
w/ my children - buried em tight
there in June. Children died tho
& killed them (if) WW - fix it
repair - cement cover -
talking WW away. lambs cry w/
em - 1 stormy day sheep died
had to buy feed em - raise em
lost cattle died. my life talk
to em - traumatized by this event
need piped water to my home.
- Cement's - funds short on my
case - need more time void of
end

Comment Form

Public Hearing
Proposed NPDES Permit
Peabody Black Mesa/Kayenta Mine

Please provide your comments regarding the proposed National Pollutant Discharge Elimination System (NPDES) permit for the discharge of treated wastewater from the Peabody Western Coal Company, Black Mesa/Kayenta Mine.

Please place this sheet in the comment box. Thank you

Name: Jerome K. Yazz
Forest Lake Chapter

Email: JeromeK.Yazz@yahoo.com

Affiliation: —

Comments:

Water management must begin place,
monitor at all time and maintained
to best of standard! EPA must conduct
safety procedure when chemical spill.
Oil and diesel is the most chemical
that spill on mine site!

Major Watersheds

Black Mesa Project EIS

LEGEND

Coal-Slurry Pipeline

Existing Route

Realignments

(Existing route with realignment/reroute is the preferred alternative)

Proposed Water-Supply Pipeline

Eastern Route (preferred alternative)

Subalternatives (preferred alternative)

Western Route

Other Project Features

C-Aquifer Well Field

PS = Pump Station

Peabody Lease Area

Watersheds

Bill Williams River

Lower Colorado River - Lake Mead

Upper Colorado River - Dirty Devil

Little Colorado River

Lower Gila River

Lower San Juan River

Verde River

Sub-watershed Boundary and Hydrologic Unit Number

Hydrologic Unit Number

General Features

River

Lake

Navajo Reservation Boundary

Hopi Reservation Boundary

State Boundary

County Boundary

Interstate/U.S. Highway/State Route

SOURCES:

URS Corporation 2005

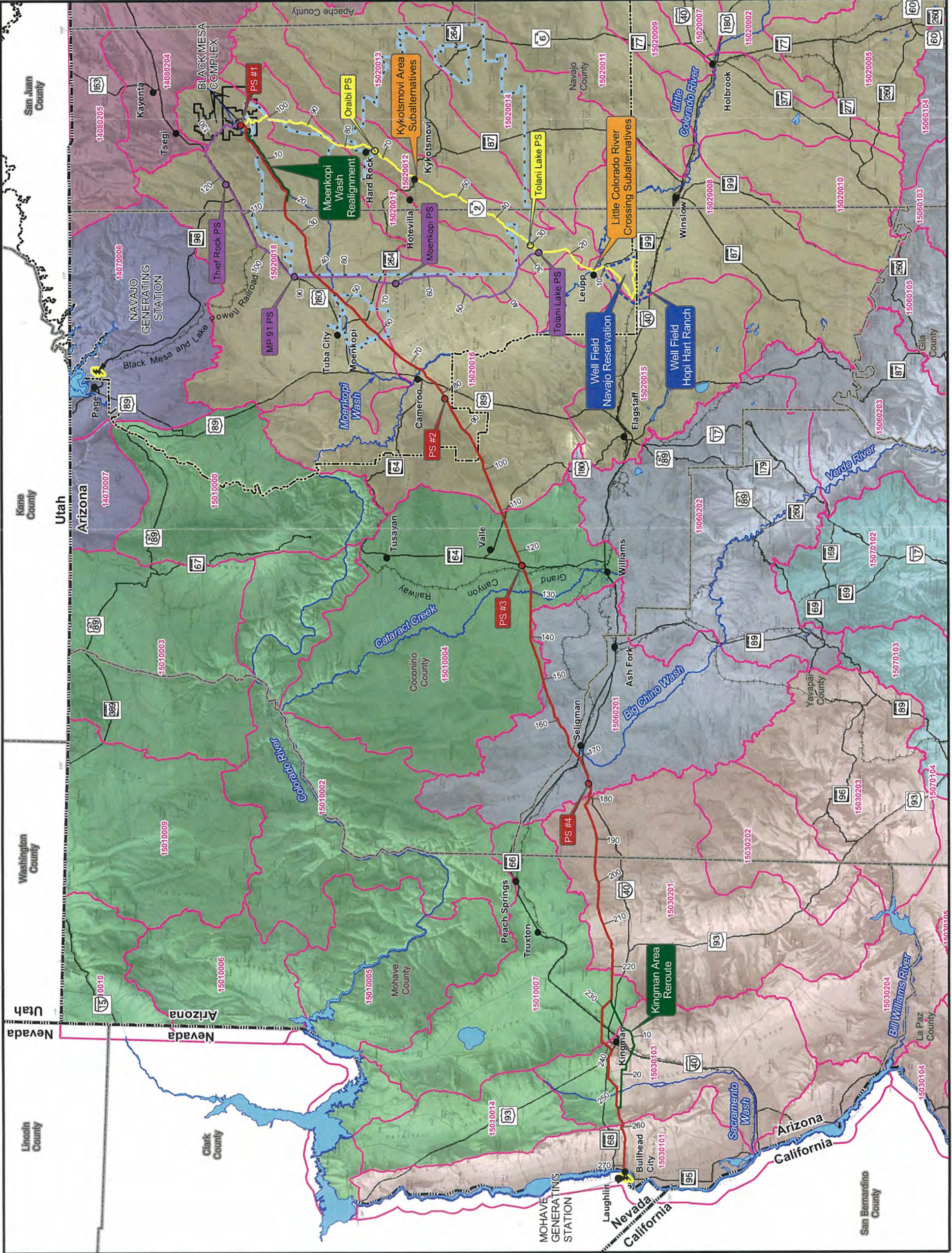
Arizona State Land Department 2005

Arizona Department of Water Resources 2004

- Modified by URS 2005



July 2006




Map 3-7


Temporary and Permanent Impoundments

Black Mesa Project EIS


LEGEND


Black Mesa Complex

 Kayenta Mining Operation Area, including Coal-Loading Site, Overland Conveyor, and Power Line (permanent permit area)


 Black Mesa Mining Operation Area (currently unpermitted area)

Coal-Slurry Pipeline


 Existing Route

 (Existing route with realignment/reroute is the preferred alternative)

Proposed Water-Supply Pipeline


 Eastern Route (preferred alternative)


 Western Route


 Proposed Coal-Haul Road


Impoundments

 Existing Permanent Impoundment (P)

 Existing Temporary Impoundment (T)


 Proposed Permanent Impoundment (P)

 Proposed Temporary Impoundment (T)


 Stream

 Spring

General Features

 Navajo Reservation Chapter Boundary

 Hopi Reservation Boundary

 Interstate/U.S. Highway/State Route

SOURCES:

URS Corporation 2005, 2006

Peabody Energy 2006

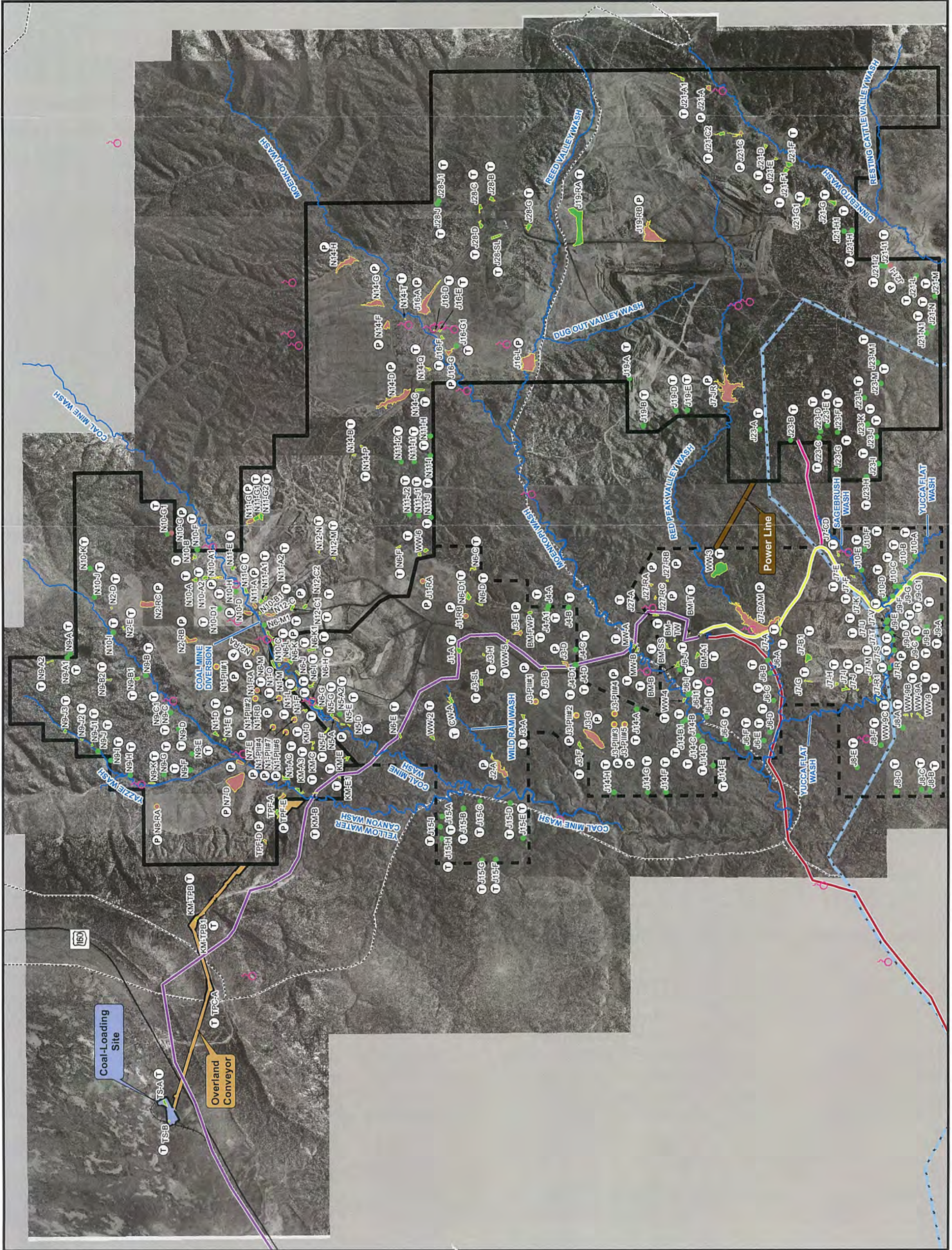
DigitalGlobe Incorporated 2003

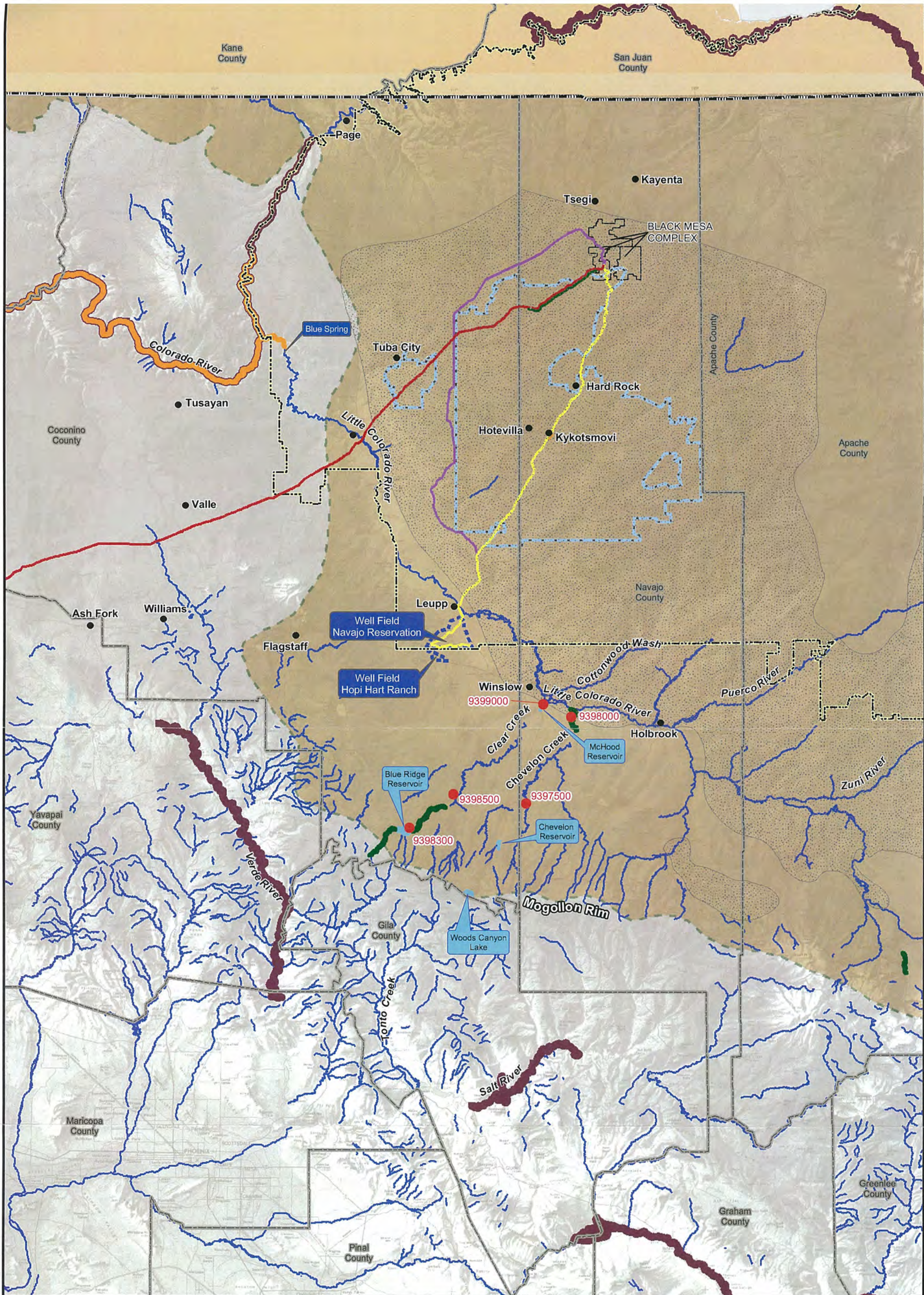


September 2006



Prepared By:
URS

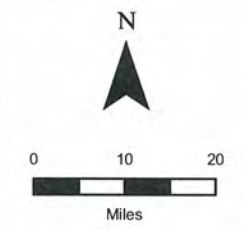




P:\SCE\Black Mesa\Project EIS\gis\p\gis\Hydrology\Location_C-Aquifer.pdf



Prepared By:
URS



SOURCES:
URS Corporation 2005
USGS 2005
USGS Water Resources 2006
Bureau of Reclamation 2005
U.S. FWS Critical Habitat Portal 2005

LEGEND

- | | | |
|---|---|---|
| <p>Coal-Slurry Pipeline</p> <ul style="list-style-type: none"> — Existing Route — Realignments
(Existing route with realignment/reroute is the preferred alternative) <p>Proposed Water-Supply Pipeline</p> <ul style="list-style-type: none"> — Eastern Route (preferred alternative) — Subalternatives (preferred alternative) — Western Route | <p>Other Project Features</p> <ul style="list-style-type: none"> C-Aquifer Well Field Peabody Lease Area ● 9399000 Steam Gage Station — Stream Reaches <p>Critical Habitat</p> <ul style="list-style-type: none"> Humpback Chub Little Colorado Spinedace Razorback Sucker | <p>Aquifers</p> <ul style="list-style-type: none"> C-Aquifer Boundary Confined Area of C-Aquifer (Northern edge is limit of the model) <p>General Features</p> <ul style="list-style-type: none"> Navajo Reservation Boundary Hopi Reservation Boundary State Boundary County Boundary |
|---|---|---|

Map 3-5

Location of Surface Drainages South of Black Mesa and Key C-Aquifer Features

September 2006

Black Mesa Project EIS

Comment Form

Public Hearing
Proposed NPDES Permit
Peabody Black Mesa/Kayenta Mine

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Please place this sheet in the comment box. Thank you

Name: Lillie Johnson
P.O. Box 1135
Kayenta, AZ 86033

Email: _____

Affiliation: _____

Comments:

How many times have Peabody been cited for not controlling coal dust, pit dust? Transfer 20-21 is about 3/4 mile away, I could see with my own eyes, the dust. The belt-line is about 2,000 yrd away, and explosive yrd is about 1/4 mile away. The active pits are about 3 to 4 miles away, but the dust could stretch miles in every directions, it gets really bad at times especially when there's no breezes.

I had been asked by many daily workers that come in from else where, "Why can't you residents complain or ask Peabody to control dust that you live in 24 hrs a day?" Yes, we have, but Peabody just turn their back on us each time. It has gotten worse the past 10 yrs, I'm afraid it's going to get even worse when you renew the lease. So I believe it's time to stop the mine. The Tribe is only want money, they don't care about us on Black mesa. The promises that was made over 40 yrs ago, has not happen... have running water into our homes. No one up there has running water. We all just haul water ever day. for drink water and for our livestock.

Comment Form

Public Hearing
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Please place this sheet in the comment box. Thank you

Name: Helen Botne
928-386-1584

Email: hncb33@yahoo.com

Affiliation: Navigo Coalfield residents

Comments: Questions

① ~~How~~ Is this Public Hearing about the Black Mesa Sherry impoundment/injections waste water disposal or the Kayenta Surface disposal of waste water or both? Each should have its own permits

② How is the Kayenta Surface and Black Mesa Sherry disposal of waste water different from the West Virginia underground Coal Sherry injection?

③ Has EPA or the state regulatory agencies ever studied a link between a disposal site and contaminated drinking water?

2

Comment Form

Public Hearing
Proposed NPDES Permit
Peabody Black Mesa/Kayenta Mine

Please provide your comments regarding the proposed National Pollutant Discharge Elimination System (NPDES) permit for the discharge of treated wastewater from the Peabody Western Coal Company, Black Mesa/Kayenta Mine.

Please place this sheet in the comment box. Thank you

Name: Helen Payne
928-386-1584

Email: hncb33@yahoo.com
Affiliation: Black Mesa coal field residents

Comments:
Coalfield residents are breathing in toxic
Chemical because of their contaminated
groundwater:

- A. What are the ammonium levels thru
the condensation/evaporation process?
- B. What are the toxic organic and in-
organic compounds in the slurry or
waste water disposed at the Black Mesa
coal fields?
- C. What are the organic compounds from
fine coal particles?
- D. What are compounds used in
coal washing?

If so little known about exactly what is
in coal mine waste water, it is way past
time for a study to begin

3

Comment Form

Public Hearing
Proposed NPDES Permit
Peabody Black Mesa/Kayenta Mine

Please provide your comments regarding the proposed National Pollutant Discharge Elimination System (NPDES) permit for the discharge of treated wastewater from the Peabody Western Coal Company, Black Mesa/Kayenta Mine.

Please place this sheet in the comment box. Thank you

Name: Helena Payne
928-386-1586

Email: hncb33@yahoo.com
Affiliation: Black Mesa Coalfield residents

Comments:
Members of the Navajo Nation are respectfully
the Az. State legislature to Okey a study
that will tell us:

- ① How much ground water has been contami-
nated by surface disposal of waste
water
- ② Where is the data on how waste disposal
have impacted human health and
animals and the Ozone (habitat + vegetation)
- ③ Waste water contains chemicals used in
prep plants, ^{market} heavy metals, arsenic, mercury,
chromium, cadmium, boron, selenium,
and nickel. (100 chemicals). Do these
seep back into the aquifer. The whole
Coalfield at Black Mesa reeks in sulfur
odor

Enforcement of EPA regulations relies on
coal companies to monitor their own impact
and to report to EPA what they are disposing
underground or surface. There is no independent

Rose Yazzie
P.O. Box 1275
Kayenta, AZ 86033

February 23, 2010

To: Environment Protection Agency Conducting Public Hearing Comments

I am a resident of White Grass Community on Black Mesa. I currently live 3/4 to 1 miles northwest of Kayenta Mine Facility. I absolutely do see and smell with my own eyes and nose of the coal dust slowly settling directly over our homestead on daily basis. The burning coal (sulfur) smells gives us headache and the coal dust makes us sneeze and gives us sore throat daily. I think I am beginning to develop asthma, like some people already have. These illness and disease are very unpleasant to our individual health. It makes me think these are the reasons why mine workers and supervisors live elsewhere. For us we have nowhere to go and this Black Mesa is our Mother and our home.

Now the proposed wastewater discharges permit for coal-mining complex operated by Peabody Western Coal Company. I have seen some extremely black (darkened sediments) at the bottom of these places where the runoff water have collected. When these places dry-up the darkened dust blows all over the places and they do collect in other runoff water and streams where there are no sediment ponds. It actually creates blowing coal dust and dirt. When this happens it does not meet the guidelines and the quality water standards. Something needs to be done about the problems. Maybe one way to minimize the problem is to scoop up the darkened dirt/sediments and haul them away, away from Black Mesa. I do not think there is any assurance of quality water standards on both the Navajo and Hopi. The other thing is the sediment pond water probably contaminates the underground water because of gravity.

I do have numerous questions of problems relating to the coal mining operation on Black Mesa. The one I would like to have an answer to is; has the mining operation ever done anything with excess of darkened coal dust collected in the sediment ponds? Another question is how often is the water quality tested or monitored for safe drinking water?

Thank you for the opportunity to give our comments.

cc. Office of Surface Mining
Navajo Nation Environmental Agency
Navajo Times Newspaper



Dine' Medicine Men Association, Inc
Leland Grass
HC 71 #2 Black Mesa S.C.
Tonalea, Arizona 86044
928 429 1504

US Environmental Protection Agency

February 23, 2010

Re: Protection against contamination of the aboriginal indigenous way of life.


Dear U.S. Environmental Protection Agency,

We, the Dine' Medicine Men Association, Inc and Irene Freeman, Traditional Elder land user on Black Mesa, respectfully state our concerns on Peabody Coal leasing areas to :

- Exhibit 1: Assist in cleanness of unprotected sewer water dam drainage releases contaminating our natural waterway washes where our livestock's water holes for drink.
- Exhibit 2: Assist in our efforts to protect our way of life from being contaminated by black dust travel on vegetations, snow, spring water holes, our homes and livestock's water and skin coat.
- Exhibit 3: After night mine blast's, we wake up to smoke filled valleys - a morning welcome - not a beautiful site. The smell and smoke covers the vegetations, contaminate cool morning air, the smoke en act with nature as it rain and snow moist the ground with mine minerals from the mine blasting covers the corn fields, vegetation's and color coats the skins on our livestock's for food.
- Exhibit 4: Private business (Peabody) to Tribal Government relation conflict of Traditional land user of elders interest with conspiracy of email against the Dine' people survival. The email is put in a way to manifest termination of elder's and land user above Black Mesa to rest its complaint on School, Private Business and Tribal Government level. This email from Peabody very own supervisor was intent to shut up or shovel up on Dine' Traditional people and Elders during Declaration of Emergency on snow over partial Navajo Reservation including around Peabody area. This is to stop! And to clear snow or maintain road for area resident when requested during nature cause emergency as well as Peabody and Black Mesa Mine unearth causes effects the land.

The Dine' people of this area is Indigenous to recognition of it's morals, ethics, beliefs, and how they are raised in their traditional way of life. It is through the care and teachings of our elders who provided guidance to survive where their ancestors lived. At time, not all elders and traditional people do for him or herself; due to this natural resource contamination is prime example. By preserving the sacred pathway for our children generation to come they will also carry on the traditional of respect for the nature, mother earth and universe. Their inherit rights to stay forever as the generations grand elders did – of our efforts to protect and maintain the integrity of our cultural resources all of which we call our way of life as Aboriginal Indigenous Peoples.

Sincerely


Leland Grass, Board of Director,
Dine' Medicine Men Association, Inc

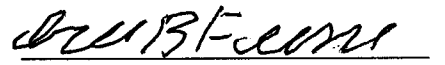
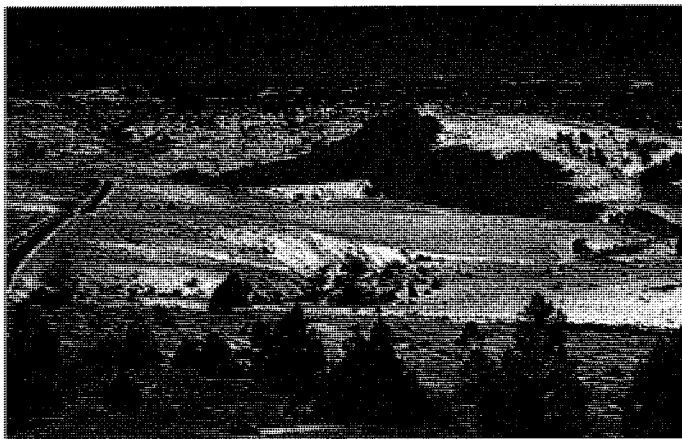
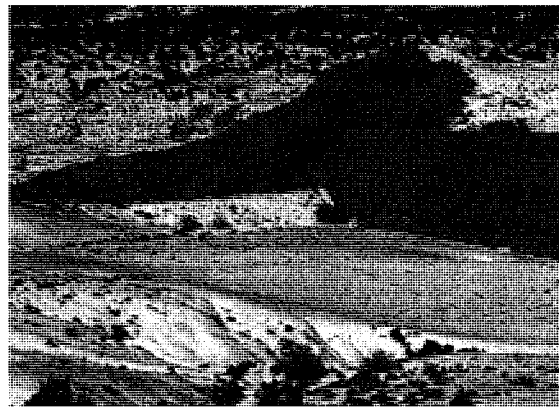

Irene Freeman, Black Mesa Res.
Traditional Elder and Land User

EXHIBIT 1: Sewer waste water Line or water line?



A: Fenced in-Sewer Dam below No liner to protect Ground.



B: (close up) Sewer Dam with release Shut off valve to bigger wash where livestock and wildlife drinks.



C: Natural wash (Valley) leads to sewer dam



D: Sign states Waterline w/ Manihole- below Human Resource bldg. Waste goes here to natural wash.

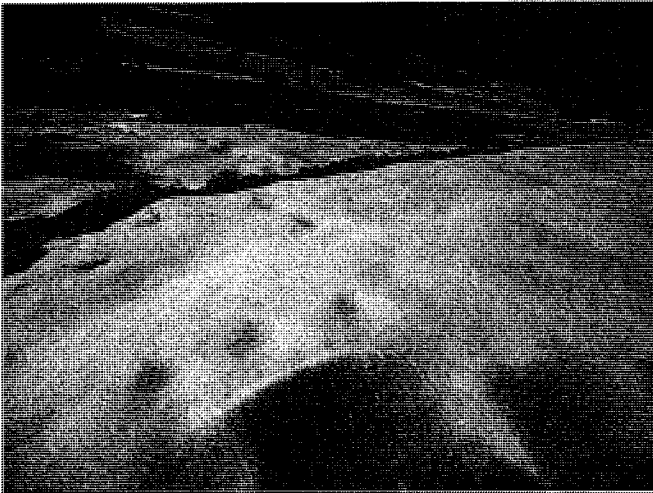


E: waste line exposed to dump in natural wash

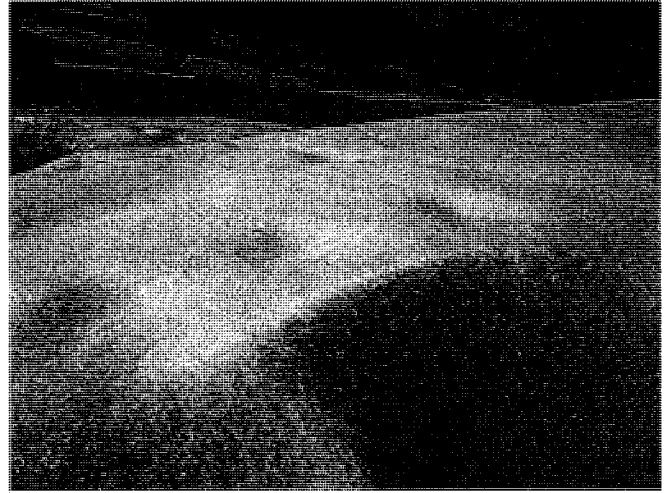


F: (waste line pipe seen in middle) into wash, and to Dam above

EXHIBIT 2: Dust (Black minerals)



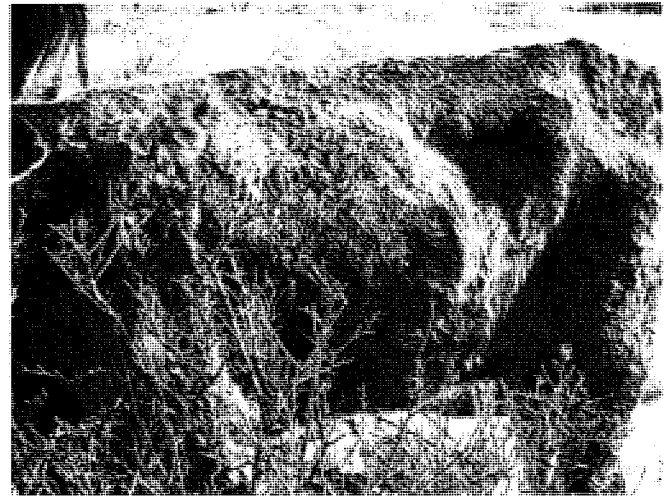
A: Dust (Black Mineral) on snow



B: Dust (Black Mineral) on Snow



C: Dust (Black Mineral) on Snow

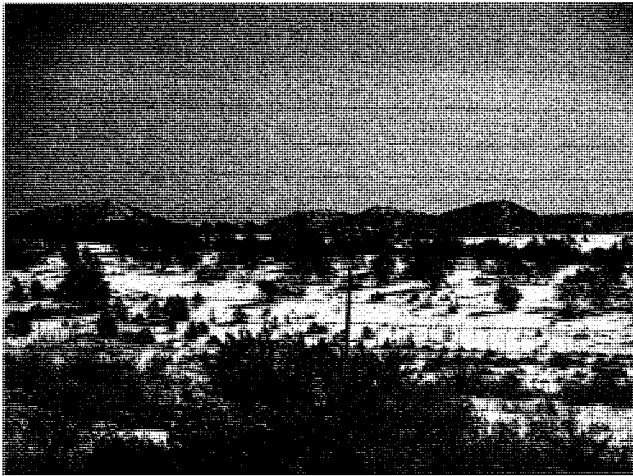


D: nearly bone white cow with dust and smoke on Skin

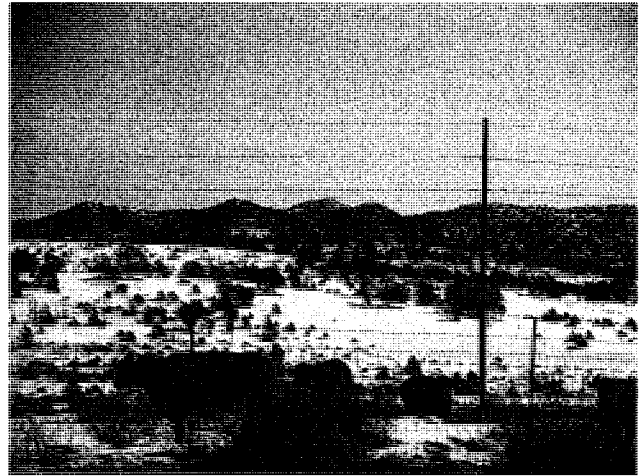


E: Smoke beyond at skyline (Same Cow above)

EXHIBIT 3: Smoke- misting the morning air



A: East Kayent Mine last night blasting smoke fills the Air.



B: Cattle and smoke in background from last night Blasting and burning coal from mine



C: Cattle and Mine Blasting Smoke & Home beyond



D: Smoke from burning coal and Blasting from Last Night. 4ml + scretch south to Black Mesa Mine



E: Down around Black Mesa onto Cactus Valley Where other homes and livestock are at.



F: white calf cover with black mineral and smoke stain.

EXHIBIT 4: Email from Peabody view on Declaration of Emergency

----- Forwarded Message -----

From: "jonmnez@yahoo.com" <jonmnez@yahoo.com>
To: Robert Black <robert_rkbj@yahoo.com>; Anson Arviso <aj@abcinc.biz>
Sent: Fri, January 29, 2010 3:04:44 PM
Subject: Fw: Go North Dakota

Add this to the press release. Lol

Sent via BlackBerry by AT&T

From: "Joe Salt" <jsalt@navajodot.org>
Date: Fri, 29 Jan 2010 15:01:48 -0700
To: <wmbegay@hotmail.com>; <williegrayeyes@yahoo.com>; <mreed@tcusd.org>; <mbegay@navajodot.org>; <mgoldtooth@hotmail.com>; 'Misty Dayzie' <MDayzie@azdot.gov>; 'Marie Dineyazhe' <dineyazhi2003@yahoo.com>; 'Gene Martinez' <gmartinez@navajodot.org>; <tplatero@navajodot.org>; Robert Yazzie <tndchapter@yahoo.com>; 'Ruth Gilmore' <ruth_gilmore@kayenta.k12.az.us>; <rdeschiney@yahoo.com>; <rbarney@navajodot.org>; <robert_rkb@yahoo.com>; Chester Claw <cclaw64@yahoo.com>; <ej_acothley@yahoo.com>; <ernestg@citlink.net>; Freida Maloney <(slpayestewa@yahoo.com)> <flpayestewa@yahoo.com>; <harrywagoner12@yahoo.com>; James Adakai <james_adakai@nnchid.org>; Jonathan Nez <jonmnez@yahoo.com>; Katherine Benally <stanbenally@hotmail.com>; <lgood01@hotmail.com>; Lola Smith <lsmith80cm@yahoo.com>; Lorenzo Isaac <Lorenzo_Isaac@yahoo.com>; Rosita Ann Kelly <rak22kelly@yahoo.com>; Roy Laughter <rl5572@hotmail.com>; Stanley S. Clitso <ssclitso@kayenta.k12.az.us>
Subject: FW: Go North Dakota

Fyi..

From: Begay, Walter [mailto:WBegay@PeabodyEnergy.com]
Sent: Friday, January 29, 2010 10:20 AM
To: jsalt@navajodot.org
Subject: FW: Go North Dakota

Joe,

Here how people work together and prepare themselves for the major winter emergency. Lesson to be learned.
Walter

From: Jones, Loretta
Sent: Thursday, January 28, 2010 10:09 AM
To: Woodward, Buck R.; Hongeva, Vern; Begay, Walter; Kitchen, Gregg
Subject: Go North Dakota

Thought you'd like to see this one. Maybe we should make North Dakota the capitol of the U S A.

This text is from a county emergency manager in Minot, North Dakota

Minot Daily News

WEATHER BULLETIN

Up here in the Northern part of North Dakota we just recovered from a Historic event --- may I even say a "Weather Event" of "Biblical Proportions" --- with a historic blizzard of up to 25' of snow and winds to 50 MPH that broke trees in half, knocked down utility poles, stranded hundreds of motorists in lethal snow banks, closed ALL roads, isolated scores of communities and cut power to 10's of thousands.



FYI:

Obama did not come.

FEMA did nothing.

No one howled for the government.

No one blamed the government.

No one even uttered an expletive on TV.

Jesse Jackson or Al Sharpton did not visit.

Our Mayor's did not blame Obama or anyone else.

Our Governor did not blame Obama or anyone else either.

CNN, ABC, CBS, FOX, or NBC did not visit - or even report on this category 5 snow storm.



Nobody demanded \$2,000 debit cards.

No one asked for a FEMA Trailer House.

No one looted.

Nobody - I mean Nobody demanded the government do something.

Nobody expected the government to do anything either.

No Larry King, No Bill O'Rielly, No Oprah, No Chris Mathews and No Geraldo Rivera.

No Shaun Penn, No Barbara Striesand, No Brad Pitts, No Hollywood types to be found.



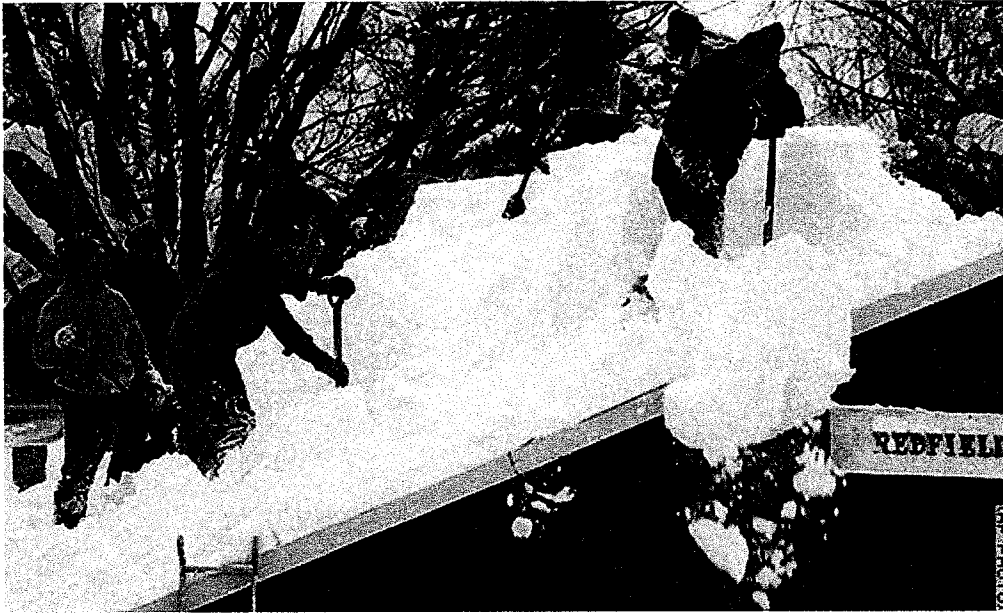
Nope, we just melted the snow for water.

Sent out caravans of SUV's to pluck people out of snow engulfed cars.

The truck drivers pulled people out of snow banks and didn't ask for a penny.

Local restaurants made food, and the police and fire departments delivered it to the snow bound families..

Families took in the stranded people - total strangers.



We fired up wood stoves, broke out coal oil lanterns or Coleman lanterns.

We put on an extra layers of clothes because up here it is "Work or Die".

We did not wait for some affirmative action government to get us out of a mess created by being immobilized by a welfare program that trades votes for 'sittin at home' checks.

Even though a Category 5 blizzard of this scale is not usual, we know it can happen and how to deal with it ourselves.



*I hope this gets passed on.
Maybe
SOME people will get the message
The world does Not owe you a living.*

1/4/10

E-mail Disclaimer: The information contained in this e-mail, and in any accompanying documents, may constitute confidential and/or legally privileged information. The information is intended only for use by the designated recipient. If you are not the intended recipient (or responsible for the delivery of the message to the intended recipient), you are hereby notified that any dissemination, distribution, copying, or other use of, or taking of any action in reliance on this e-mail is strictly prohibited. If you have received this email communication in error, please notify the sender immediately and delete the message from your system.



Dine' Medicine Men Association, Inc
Leland Grass
HC71 #2 Black Mesa S.C.
Tonalea, Arizona 86044
928 429 1504

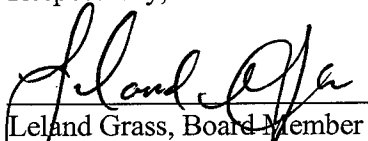
February 23, 2010

To U.S. Environmental Protection Agency, Region 9


We respectfully request that you take the following actions on water discharge permit on Peabody Energy's Black Mesa mine complex.

- The Dine' Medicine Men Association and Traditional Elders of Black Mesa unified effort request that permit receive further input and consideration from our organization and lives. We acknowledge the initial intent of this permit was to protect our indigenous cultural resources rather than hinder our ability to practice our way of life for survival. After reviewing the Department of Interior, Administrative law judge ruling that Office of Surface Mining violated the National Environmental Policy Act by not preparing a Supplement Draft Environmental Impact Statement when Peabody give leeway changed the proposed action to operate it's Black Mesa and Kayenta mines jointly under one permit - we do not believe the original intent of the permit is accomplished, rather the language may negatively impact our traditional practices and survival resources. We request the opportunity to have both parties under surveillances, as the sponsor of this permit, to neglect and ignore our concerns. We are requesting action against both Peabody and Black Mesa mine; in the interim, we ask that you place the permit on hold.
- The Dine' Medicine Men Association in a unified effort request that if a direct face-to-face meeting with Peabody and Black Mesa mine to discuss and address our concerns in near by or on Black Mesa Traditional Dine' homes is not an option for you, then we request that you terminate this permit to prevent the Private Business, Federal Agencies, State of Arizona and Federally Recognized Tribal Governments intrusion with our sacred responsibilities to the traditional people and all creation as well as our resources to survive
- The Dine' Medicine Men Association unified effort request as for Peabody owns a lot to Traditional people who lives there on or near and health of Dine' retiree of Peabody mine. Time when the Peabody Company actions will clean now or clean up before they leave, it needs to happen. To restore our survival resource as way it was and payment is a must due to contaminating our inherit habitats under our inherit rights and treaty law.

Respectfully,



Leland Grass, Board Member
Dine' Medicine Men Association, Inc



Irene Freeman, Black Mesa Resident
Traditional Land user



Forgotten People

P.O. Box 1661

Tuba City, Navajo Nation, AZ 86045

(928) 401-1777

<http://www.forgottennavajopeople.org>

ForgottenPeoplecdc@gmail.com

TALKING POINTS

U.S. EPA Hearing on Black Mesa/Kayenta mine water discharge permit

fatal

There is no Black Mesa Mine Complex and the Black Mesa/Kayenta mine cannot be joined in a permit.

On January 5, 2010, Administrative Law Judge Robert G. Holt vacated OSM's approval of a life-of-mine permit for the Black Mea Mine. There is no currently operating Black Mesa mine and there is no Black Mesa Mine Complex. The US EPA cannot issue a permit for a mine that does not have a permit as a matter of law. Therefore, we request US EPA vacate the proposed permit and do the whole process over again to reflect the permit is only for the Kayenta mine.

As a matter of law, the US EPA must vacate the permit as it stands and re-issue a permit for only the Kayenta mine and in order to honor the intent of the Order of the ALJ that found the final EIS did not achieve informed decision-making and meaningful public comment. Please do not make the same mistakes that the Office of Surface Mining (OSM) made during the Black Mesa Mine Project EIS process. Allow Navajo and Hopi people to be fully engaged in this process so we can engage in a true dialogue. Navajo and Hopi people were not afforded this opportunity their our own tribal councils during the Black Mesa Project EIS process.

Once a new permit is issued for only the Kayenta mine, hold public hearings that allows the broadest participation by Navajo people that are currently unable to travel from remote areas due to a snow and mud emergency and allows the Hopi people to complete their ceremonials.

In addition the hearing locations you are presently using, please also schedule hearings at Forest Lake and Tuba City Chapter Houses to allow people most impacted to testify and in Moenkopi so Hopi people living in the Moenkopi Village area, directly impacted by your proposal by 2 Moenkopi villages located in the watershed, or the APE, that are downstream from the mine areas can testify.



We also request you provide an in-depth presentation, rather than a short cursory presentation, with unbiased Navajo and Hopi interpreters so Navajo and Hopi people can gain a full perspective of the proposal and its impacts.

Please consider these hearings in accordance with the intent of President Clinton's Executive Order No. 12898 on Environmental Justice, as "consultation" in the context of meaningful government-to-government consultation (President Clinton's Executive Order No. 13175; and President Obama's Memorandum of November 5, 2009). This is necessary to ensure you will provide a full explanation to Navajo, Hopi and Tewa people in terms that they can understand; and that you have provided for full and open dialogue. A one-way presentation is not consultation.

We are gravely concerned that hazardous waste including arsenic and other heavy metals into the environment that cannot be controlled such as washes that are considered US navigable waterway is a violation of the Clean Water Act.

The US EPA must require Peabody Coal Company replace all their signs to show only the Kayenta mine is operating.

Forgotten People will submit more complete comments prior to the deadline extension of March 31, 2010 and intends to do everything necessary to oppose US EPA's issuance of a permit even if and when the US EPA vacates the Black Mesa/Kayenta water discharge permit and re-issues a permit for only the Kayenta mine.

Recently, a National emergency was issued for snow and mud in the Black Mesa region, the hardest hit area on the Navajo Nation and in spite of repeated requests by the Department of Emergency Management, Forest Lake Chapter House and area residents, Peabody refused to help grade the roads. Peabody has demonstrated over and over they are not fit to operate a mine and do not know how to be a good neighbor.

Yours sincerely,

Don Yellowman
President

Marsha Monestersky
Paralegal & Program Manager

Robert Begay
Board of Director

Caroline Tohannie
Board of Director



FORGOTTEN PEOPLE WAS ONE OF THE PLAINTIFFS. TEXT FOLLOWS OF RELEVANT PORTIONS OF THE ORDER OF THE ALJ.

**Re: Significant Permit Revision Permit No. AZ-OOOID
Black Mesa Complex Permit Revision**

**NUTUMYA'S NEPA MOTION GRANTED
(Docket No. DV 2009-4-PR)
OSM DECISION VACATED
OTHER PENDING MOTIONS DENIED AS MOOT
OTHER REQUESTS FOR REVIEW DISMISSED AS MOOT**

**Per Order of the Administrative Law Judge Robert G. Holt
DV 2009-1-PR thru DV 2009-8-PR dated January 5, 2010**

Relevant Excerpts: The Final EIS Did Not Achieve Informed Decision-making and Meaningful Public Comment. Finally by not issuing a supplemental draft EIS, or starting over with a new NEPA compliance process, OSM denied informed decision-making and meaningful public comment. In summary the combined effects of these deficiencies in the form, content, and preparation of the Final EIS combined to deprive the public and OSM of the information they needed to participate in and make a decision on Peabody's current application. Because the Final EIS did not comply with NEPA, it cannot support OSM's permit decision, and the permit decision must therefore be vacated and remanded to OSM.

Conclusion: The Decision, dated December 22, 2008, of the Office of Surface Mining Reclamation and Enforcement, approving the Application for Significant Permit Revision (Project AZ-OOI-E-P-OI)(Permit AZ-OOOID) filed by Peabody Western Coal Company for the Black Mesa Complex, is vacated.



OFFICE OF THE NAVAJO NATION HUMAN RIGHTS COMMISSION

P.O. Box 1689
WINDOW ROCK, AZ 86515
PHONE: (928) 871-7436
FAX: (928) 871-7437

February 23, 2010

U. S. Environmental Protection Agency
Attn: John Tinger
Region 9, WTR-5
75 Hawthorne Street
San Francisco, CA 94105-3901

RE: Public Hearing Comment Notice #: AZ-10-W-001A

Dear Mr. Tinger:

The Office of the Navajo Nation Human Rights Commission ("Commission") was established by the Navajo Nation Council as codified in 2 N.N.C. § 920-924 et seq. The Commission's purpose is to operate as a clearinghouse entity to administratively address discriminatory actions against citizens of the Navajo Nation, and to interface with the local, state, and federal governments and with international human rights organization in accordance with its plan of operation and applicable laws and regulations of the Navajo Nation.¹

During a series of public hearings on race relations conducted by the Commission across the Navajo Nation and in several border towns, participants consistently cited the Navajo-Hopi Indian Land Settlement Act², as amended ("P.L. 93-531"), as an underlying causation of racial tension as individuals and families were required to relocate from their traditional homes to other areas including border towns. Testimony was presented that P.L. 93-531 also prohibited these individuals from practicing traditional customs and ceremonies because they were prevented from accessing their former ceremonial sites resulting in a disconnection from the Diné Life-way and an inability to access governmental services and programs. Moreover, individuals also expressed fear and anxiety about potential water contamination from Peabody Western Coal Company's (PWCC) pending permit to discharge wastewater from the mine site that is composed of runoff from active mine areas, coal preparation plant areas and reclamation areas.³

The Commission examined Diné Fundamental Law, Navajo Nation statutory and case law related to takings and just compensation. In addition, the Commission reviewed the Navajo Nation's policy position on the Organization of American States Draft Declaration on the Rights

¹ 2.N.N.C 920-924.

² P.L. 93-531 ordered the relocation of Diné from their ancestral land.

³ Blackgoat, D., Yellowhammer, G., Statements made at Navajo Nation Human Rights Commission Public Hearing at Winslow, Az. December 2, 2009

of Indigenous Peoples⁴ (“OAS Draft Declaration”), the United Nation’s Declaration on Rights of Indigenous Peoples (“UN Declaration”)⁵ and P.L. 93-351 to identify the standard(s) to address the issue of the individual right of a Diné citizen to reclaim their right to access ceremonial sites, to revitalize and practice their cultural traditions and customs and the responsibility of the Navajo Nation to provide Diné citizens an effective process for the restoration of their life-way that ensures the opportunity for all Diné citizens to be distinct and unique people among all of the world’s peoples.

The inherent right of the Diné and other indigenous peoples includes the right to preserve and protect their lands, resources, waters and minerals from economic exploitation, and to advance a healthy and sustainable physical and mental environment that is culturally relevant, respectful of indigenous culture and traditional healing ceremonies, and does not directly contribute to climate change⁶. Article 19 of the United Nation’s Declaration on Rights of Indigenous Peoples states; “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.” Under Article 29 of the UN Declaration, “indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programs for indigenous peoples for such conservation and protection, without discrimination.” While the United States has neither signed on nor ratified the United Nations declaration, the world community has attempted to impress on the United States to use the declaration as a guideline as it promotes comprehensive respect and recognition of indigenous rights.

Overall, the Commission, while researching appropriate standards to address the issues concerning Peabody’s permit, stresses the importance that the Diné and other indigenous people have the inherent right to protect, restore, conserve, manage and develop their natural, cultural and historic resources for future generations without undue influence by transnational corporations or foreign governmental agencies. The commission further advocates the PWCC and EPA actively engage in true nation-to-nation negotiations with the Diné and other indigenous nations, including indigenous peoples concerned, when contemplating, drafting and implementing federal, state and/or local government laws, policies, rules and regulations that impacts indigenous lands, resources, waters and minerals.

Today, the Diné continue to live within the four sacred mountains and possess over twenty-seven thousand square miles (seventeen million acres) of lands, resources, waters and minerals. Nonetheless, early foreigners applied the now archaic “Doctrine of Discovery” and the self-righteous principle of “Manifest Destiny” to claim lands and impose cruel and inhumane

⁴ Navajo Nation Intergovernmental Relations Committee approved Resolution IGRAP-51-09 that approved the Position statements of the Draft Declaration on the Rights of Indigenous Peoples and adopted said recommendations as the minimum standard to be utilized in advancing the Navajo Nation’s Policy Position.

⁵ United Nations Declaration on the Rights of Indigenous Peoples adopted by the U.N. General Assembly on September 13, 2007.

⁶ Article 31, U.N. Declaration.

acts and policies on America's indigenous peoples. These actions robbed, destroyed and imposed strict limitations on the natural advancement and implementation of indigenous peoples' self-determination. It is therefore imperative, the stakeholders, the Diné living or formally residing on or near these lands subject to potential wastewater disposal, be provided the fullest maximum participation and serious efforts be made to recognize and provided the necessary resources to assist the Diné and other indigenous peoples to reach constructive arrangements to resolve disputes or problems concerning lands, resources and minerals.

On behalf of the Diné, and those affected by the relocation of P.L. 93-531, we appreciate this opportunity to present this written statement. Thank you for accepting the Navajo Nation Human Rights Commission's written submission.

Respectfully,

A handwritten signature in black ink, appearing to read "Leonard Gorman", written over a horizontal line.

Leonard Gorman, *Executive Director*
Office of the Navajo Nation Human Rights Commission



FOR IMMEDIATE RELEASE
February 11, 2010



The U.S. Department of State to discuss the United States human rights record with the American Indian community and the Navajo Nation

Albuquerque (NM) – The U.S. Department of State will hear input from American Indian tribal governments and community members on the United States efforts in meeting its human rights obligations on March 16, 2010, at the University of New Mexico School of Law in Albuquerque, N.M. and on March 17, 2010, at the Navajo Nation Museum in Window Rock, Navajo Nation, (Ariz.). This particular listening session will be focused on Indian Country. Tribal officials and tribal community members are encouraged to participate.

The Department of State is seeking comments from non-governmental organizations and other domestic civil society groups, state and local authorities, tribal governments, universities, and individuals to receive feedback on the state of affairs regarding human rights in the United States, and hear recommendations on how the protection of human rights can be improved.

The Department of State will be accepting comments until April 30th, 2010, after which they will compile the information gathered from the various communities and prepare a national report, which will be submitted to the UN Human Rights Council before the Universal Periodic Review (UPR) of the United States.

The UPR is a process which reviews the human rights records of all 192 member States of the United Nations every four years. The United States is one of the States under Review in 2010.

For more information contact Rodney L. Tahe, *Policy Analyst*, of the Navajo Nation Human Rights Commission at (928) 871-7436 or visit their website at www.nnhrc.navajo.org or Helen B. Padilla, *Director*, of the American Indian Law Center, Inc. at (505) 277-5462.

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or see us in admin. court

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Submitted to Marsha Monesterky testimony.

Figure 1

← a person in a distance



DAMAGE CAUSED BY LAND SUBSIDENCE

Land subsidence causes many problems including: (1) changes in elevation and slope of streams, canals, and drains; (2) damage to bridges, roads, railroads, storm drains, sanitary sewers, canals, and levees; (3) damage to private and public buildings; and (4) failure of well casings from forces generated by compaction of fine-grained materials in aquifer systems. In some coastal areas, subsidence has resulted in tides moving into low-lying areas that were previously above high-tide levels. An example of damage caused by land subsidence can be seen in **figure 3**. The concrete base at the top of the well is above ground level because the land surface has lowered and the rigid well casing has not sunk.

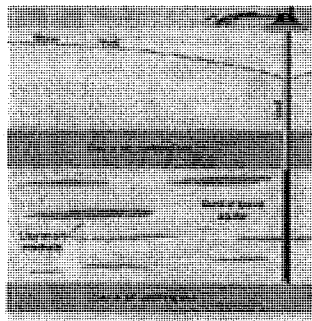


Figure 2. Click on Image to view full size.

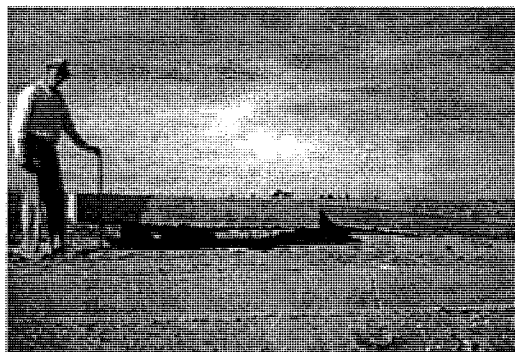


Figure 3. Click on Image for full size with explanation.

In many areas of the arid Southwest, earth fissures are associated with land subsidence. Earth fissures can be more than 100 feet deep and several hundred feet in length. One extraordinary fissure in central Arizona is 10 miles long. These features start out as narrow cracks, an inch or less in width. They intercept surface drainage and can erode to widths of tens of feet at the surface. Examples of earth cracks are shown in **figures 4, 5, 6, and 7**. Earth fissures are caused by horizontal movement of sediments that occurs when ground-water is pumped.



Figure 4. Click for full size and explanation.

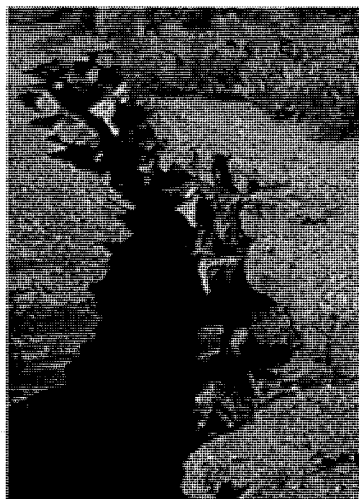


Figure 5. Click for full size and explanation.

FW: New Microsoft Word Jennifer Document (2)

Lionel Puhuyesva

to:

John Tinger

03/15/2010 03:56 PM

Cc:

David Smith

Show Details

History: This message has been replied to.

John,

Here is the translation of the NPDES Hearing we had on Hopi for your review. Any questions please contact me.

Thank you.

Lionel Puhuyesva, Director
Hopi Water Resources Program
PO Box 123
Kykotsmovi, AZ 86039
Ph: (928) 734-3711
Fax: (928) 734-3609
Lpuhuyesva@hopi.nsn.us

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From: Donald W. Dawahongnewa
Sent: Monday, March 15, 2010 1:31 PM
To: Lionel Puhuyesva
Subject: New Microsoft Word Jennifer Document (2)

Domald Dawahongnewa
P.O.Box 131
Second Mesa, Az. 86043

U.S. EPA
75 Hawthorne St. (WTR-5)
San Francisco, Ca. 94105

Re: Translations

Hello Mr. John Tinger,

Here are the translations from Ms. Jennifer's testimony...

My name is Qötshaynöm and I am from the village of Hotevilla. I chose to talk to you in our own language, because what you were just showing us a while ago, that is how I couldn't figure your presentation out. Maybe you don't understand what I am saying right now and that's how I was feeling. I know English too but I don't understand what you are trying to explain here.

So maybe sometime someone will translate what I am saying to you here.

I am a woman and yet I took a risk to counter against you on this matter. Because I have children, grandchildren and they will have offspring in the future. They are in my thoughts as I stand here before you. Its been a long time since our and our grandfathers have countered you and their testimonies were I guess worthless, and we've come this far. So what I am about to say may not be worthwhile but I will say to you what I am thinking.

(Mam, I'm very sorry to interrupt but I want to give Donald a chance to translate accurately what you are saying.)

Maybe you can translate this to them later. (are you ok? Es, ok)

And so our people have spoken against this. Water to us is a very valuable resource. Not only to the Hopi but all living matter. The Spiritual nature are also sustaining themselves with water. With that, we are all alive. All our Hopi ceremonies have ties to it, water.

These people that are mining coal are stealing water from us and polluting it. And are we suppose to drink that kind of water? Bring up our young with that? No! We will not bring up our young with that kind of water and also have them live a life that of that sort. We are not thinking of it. Water is so precious and what we're living on is valuable to us. We've lived out here from the archaic times and so I will tell you, it wont take just one meeting to make us understand what you're trying to get across. Not once, so you don't hurry on this matter. You are asking us to give you hasty decisions but we don't understand what you are presenting to us. We cant really tell you of our thoughts and minds. Some of us don't really understand what it is.

Some of our people that are working on this aren't teaching us of it, people that are taking charge of this. Those in charge of water matters, land matters, and those working for the Government are not teaching us of things. We are just finding things out ourselves. So you better inform us everything. That they are informing you of . How these people that are mining coal , they must have documents and are sharing those with you. You're telling us of that, I would not understand that. And why are you in such a hurry for us to fix up this matter? We cant notify all the people in one month and make them understand. But that is what you are telling us tonight. All this will come to a conclusion when we have our say?, it wont. So you listen to us. The people that have spoken here have spoken from their hearts. I have been thinking about this but I hesitated and have come this far. Now I am before you.

You better stop polluting our water. It belong to all races of people. It don't belong to just one. That is how you are working on this as if it belongs to one. That is our ceremonial gift. And so we are talking to you from our hearts. That is why you are working through E.P.A. . You will maintain that for us. Environmental Protection, that is your job. And so you do it right , also I would like to encourage you that you find a way to help us better understand it. There is still more but this is much as I will say to you now. Thank you...

KAYENTA CHAPTER COMMENTS
RE: US EPA BLACK MESA/KAYENTA MINE COMMENTS
2/23/10

For questions call:

David Smith, Manager
Smith.DavidW@epa.gov
(415) 972-3464

John Tinger, Permit writer
Tinger.John@epa.gov
(415) 972-3518

Presentation by US EPA: New Regulatory requirements for Sediment Control Plan.
230 impoundments

At 9-16 impoundments, seeps have been identified where impounded storm water seeping through dam structures.

Must monitor, must reclaim impoundments. Must install passive treatment and continue monitoring. (Note: passive treatment was described as sediment settles to bottom-not applicable for arsenic and heavy metals). Submit quarterly reports to US EPA and monitor waste water. Re-apply permit every 5 years.

Air quality is under another permit, the Clean Air Permit. Both are issued separately under different legal authority.

Seeps are monitored quarterly. There are requirements. Sediment from trucks can come into impoundment. Overflows into wash regulated for flow and how often discharged. Ground water is not regulated. See page about sediments and overflows.

Rose Yazzie, Black Mesa Resident Question: I live 3 miles from the Kayenta mine. They are not monitoring the impoundments. The quarterly reports need to be made public. A lot of water is used for dust control on the road. It is supposed to keep the dust down but it rusts underneath our vehicles and it forms oily film on the road. The chemicals go into the tributaries and washes.

US EPA Answer: There is no monitoring for dust control in the permit.

Rose Yazzie, Black Mesa resident Question: What will happen if Peabody does not get a water discharge permit?

US EPA Answer: If there is no permit Peabody cannot discharge water into a body of the US. If they can figure out a way to mine without discharging water they will continue to operate. Otherwise, that is it.

Discussion of broken promises by Peabody. Why should we believe you when all we have seen from Peabody are broken promises.

Simon Crank, Black Mesa resident Question: Life used to be beautiful before the mine. There used to be enough seepage from water, snow to feed underground aquifers. The wastewater is contaminating the water and in the few places there are fences around

impoundment dams the fence is not maintained. I don't see how wastewater is being corrected. Where is the facility?

US EPA Answer: There is no facility. The sediment settles to the bottom of the impoundment dam.

Response: Arsenic and heavy metals do not settle to the bottom.

Simon Crank, Black Mesa resident Question: I see equipment and domestic vehicles washing off and the water goes into washes. The livestock drink the water and when we butcher we find coal inside the organs and intestines so we throw it away. We requested water and use of a dozer to clean out the sediment but nothing. How does the wastewater get treated before it is discharged? You say the sediment settles to the bottom, it needs to be hauled away.

General response by US EPA: EPA will prepare a written summary decision. If you want to file a petition to the Environmental Appeals Board you must submit comments on the record according to 40 CFR part 124. Ask for a Request for Review. Otherwise you are restricted to only offering changes in conditions that are uncontested.

Irene Freeman, Black Mesa resident Comment: Wastewater is my major concern. When we ask Peabody to do something they say there are no funds to correct the issues. Me and my livestock drink rain water. Our livestock died from drinking polluted water, oils and other toxins, monitoring waste water-it is not monitored. I was told there are no funds to correct problems, residents never got any royalties and funds. I live in District 2, the mine is in District 8. I want the mining stopped. It is so related to health problems, breathing in a lot of smoke. No good water, children are always going to the hospital. I don't want the mine.

Leeland Grass, Shonto resident: Seems like you already established an agreement to give the permit. It seems like you are in control not the people. Peabody is bad. They contaminated the whole area. If you give the permit back a lot of the violations needs to stop. I am asking you to talk with us person to person with traditional elders. If they do not want the mine, shut it down.

Fern Benally, Black Mesa resident: I live by the Black Mesa complex and the pipeline. Before the mine started I grew up there. There were lots of promises made. They never came to be. I have no electricity and no running water. In 2007 the Black Mesa mine shut down. Solvents, diesel oil, gas was poured near our residence. It was poured on the ground into the ground water. It killed our animals. I saw it with my own eyes. I have seen explosive powder spills. They did not clean it up. When it rained and snowed and mixed with the water our livestock drank it. When they wash vehicles with explosives it ran into the wash and we could not see it. Our livestock drank the water and died. It gives me chills. If a child had taken care of the sheep they would see the clear water and would not know. This is what Peabody brought to us, chemicals on the road used to control the dust goes into washes. When monsoons come, the treated water goes into the ravines and washes Sagebrush and Moenkopi wash. Peabody denied it and came over quickly saying

they wanted to buy them right away. From the pipeline I still see discharge of water that does not go into the impoundment. The water makes its own ravine. It does not go into the impoundment into washes. I have seen this with my own eyes. You shouldn't give Peabody a permit. Peabody looks at us like trouble makers, they always turned back on us. When we asked for help to get pulled out of the snow. Over and over the years they don't listen to us and don't help. Don't issue the permit. No one is going to go out there to monitor. I have seen flows of water. I know they are liars. I know they do not monitor. What people are saying is the truth. Don't think about the permit. Peabody should be gone. All they will get is asked to pay some fines. I would like to see Peabody administration, higher ups in OSM in jail.

Rose Yazzie, Black Mesa resident: I live 3/4 to 1 mile NW of Kayenta mine facility. The smell. I see coal dust over homes daily, burning coal. The sulphur smell causes headaches. I always have sore throats and am developing asthma. It makes me think. Most of the mine workers don't live here. They go home at the end of their shift. We live here all the time. We can't go anywhere. Black Mesa is our mother. The Discharge permit-I see extreme black sediment where the run off water collects. I see dust blow and go into streams where there is no sediment ponds. These water impoundments do not meet guidelines for water quality. They can scoop up the dark sediment. There is no assurance of quality standards. The sediment ponds contaminate underground water. I have numerous questions. I want answers. How is the mine operating doing anything with darkened coal dust in the pond and how often is the water tested for safe drinking water. I will cc OSM, NNEPA, Navajo Times and newspaper. I want to be reassured my comments will reach you.

Jonathan Nez, Shonto Council delegate, Navajo County Board of Supervisors: 10 communities are affected by mining. EPA should take into consideration policies for mining operations. We had public hearings many times to no avail. NN EPA delegated certain responsibilities. I hope the NN is capable of reviewing and overseeing. I hope the public hearings is giving you some insight where there needs to be improvement. I would like a copy of the storm water plans out there and use the guidelines set by EPA, replenish the aquifer. What is going back in? A lot of decisions, passage of permits streamlined but the community input is never heard. I hope and pray the people's concerns are the largest component in these talks is listened to. I am also concerned about water rights to the CO River and upper and lower CO River basin. I urge you to hold off on the permit. The Navajo Nation Council is looking at the leases. I am one of the delegates that says we must look back into the Peabody leases and are looking at the Peabody mine and what is equitable. Until that occurs with lease review, wait.

Simon Crank, Black Mesa resident: I notice few leadership in the audience. We need Chapter officials here that is why we elected them. We on Black Mesa are in the middle of smoke from mining. It causes respiratory on vegetation, livestock. We live on this in the midst of daily pollution. I have contracted asthma. Peabody does nothing to improve the roads or give us water and electricity. The elders were persuaded by Peabody when the original lease was approved. They were told they will have jobs and will be in management. They served refreshments. We believed them. Our elders believed our own

people would be trained and be in management. Nothing and Peabody officials from far away are in high offices while we live in poverty. We plead with you to let us participate and hear us.

Dijon Sherlock, Black Mesa resident: Don't give Peabody a permit. They are breaking a lot of regulations. People here witness these violations. I have 2 loved ones, my great grandparents Mae Pulinos and George Pulinos. George herded sheep at a dam nearby water for sheep. He drank the water. He did not know it was dangerous. George died 4 years ago. It hurt my heart. In the summer when they bomb too much there is a lot of dust. I live in District 4 and wake up and see dirt in the valley. My other grandpa had asthma from dirt, Kee John Kescoli. Don't give Peabody a permit. A lot of old citizens. I don't want them to see any more elderly die from that. I have a great grandmother, Mae Pulinos. She is all I got in my life. This is what people are saying. Open up your eyes. Smell the dirt in the morning and see how our people get sick like Eli Crank said Ei ya' in the Navajo way-Peabody is dangerous. It is killing our communities and I see it. I was raised up here. My grandmother raised me. I know who is part of my family. Yesterday I helped Mary Gilmore. She was out of wood. I got wood for her. I have loved ones in and around the community.

Caroline Tohannie, Black Mesa resident: I live on Black Mesa on Hopi Partition Land. We have many issues that frighten me, Hopi enforcement is a daily event in our live. Where are we being herded to, mining, suffering, abused. Are we just being killed outright? Our children are in the military safeguarding the country. Only a few of us are in the area, we are trying to battle complex issues, health, youth leaving us alone. We have enough suffering and many of our people are dying from abusive issues, land, contamination. We were born here. This is our land we call mother and all our cosmos is related. Mining is a huge problem. Where are our leaders? I plead with you don't pick on us and don't give Peabody a wastewater discharge permit.. Leave us alone. This is our land within the 4 sacred mountains, 4 cardinal directions. We are guardians of our livestock, down to insects that is what we are trying to preserve. We haul water, raise our own food to sustain us and continue our legend. This is our life.

Marsha Monestersky, Paralegal and Program Manager, Forgotten People: The US EPA water discharge has a fatal flaw. There is no Black Mesa Mine Complex and the Black Mesa/Kayenta mine cannot be joined in a permit. On January 5, 2010, Administrative Law Judge Robert G. Holt vacated OSM's approval of a life-of-mine permit for the Black Mea Mine. The deadline passed for OSM and they lost their change to appeal the ALJs decision. This means there is no operating Black Mesa mine and there is no Black Mesa Mine Complex. The US EPA cannot issue a permit for a mine that does not have a permit as a matter of law. Therefore, we request US EPA vacate the proposed permit and do the whole process over again to reflect the permit is only for the Kayenta mine.

As a matter of law, the US EPA must vacate the permit as it stands and re-issue a permit for only the Kayenta mine and in order to honor the intent of the Order of the ALJ that found the final EIS did not achieve informed decision-making and

meaningful public comment. Please do not make the same mistakes that the Office of Surface Mining (OSM) made during the Black Mesa Mine Project EIS process. Allow Navajo and Hopi people to be fully engaged in this process so we can engage in a true dialogue. Navajo and Hopi people were not afforded this opportunity their our own tribal councils during the Black Mesa Project EIS process.

Once a new permit is issued for only the Kayenta mine, hold public hearings that allows the broadest participation by Navajo people that are currently unable to travel from remote areas due to a snow and mud emergency and allows the Hopi people to complete their ceremonials. In addition the hearing locations you are presently using, please also schedule hearings at Forest Lake and Tuba City Chapter Houses to allow people most impacted to testify and in Moenkopi so Hopi people living in the Moenkopi Village area, directly impacted by your proposal by 2 Moenkopi villages located in the watershed, or the APE, that are downstream from the mine areas can testify.

Environmental Justice practices instituted by OSM require all public records on air and water be on file at Peabody and area Chapter Houses. It also requires special broad notification in Navajo and English announcing public hearings be on the radio and in the local press. We also request you provide an in-depth presentation, rather than a short cursory presentation, with unbiased Navajo and Hopi interpreters so Navajo and Hopi people can gain a full perspective of the proposal and its impacts.

Forgotten People is gravely concerned that hazardous waste including arsenic and other heavy metals into the environment that cannot be controlled such as washes that are considered US navigable waterway is a violation of the Clean Water Act. Arsenic and other heavy metals do not settle to the bottom as sediment. US EPA must include in the permit monitoring of contaminated residue from dust control chemicals mixed with water on the roads that runs into the tributaries and washes and careful consideration of the risks of discharging improperly treated waste water. Children play in wastewater discharge dams that are not fenced. John Tinger, US EPA permit writer responded to Dijon Sherlock when he asked is it safe for children to swim in wastewater impoundment ponds? He responded, the water is safe to swim in. What science is he basing his response the water meets swimming standards when children swimming usually swallow some water while swimming?

Forgotten People wants to know what happened to the Study we submitted to US EPA on Peabody Health Effects and the results of a multi-media agency task force investigation of Peabody? Forgotten People requests environmental health assessments and medical intervention for local residents suffering from silicosis, black lung, asthma from drinking contaminated water, breathing coal dust and eating animals that rely on water from unfenced sediment impoundment dams. Forgotten People requests the return of reclaimed land under Surface Mining Control and Reclamation Act which requires reclaimed land be returned within 10 years of mining activities and a response whether the refusal to return the land is because the land is

contaminated and cannot be reclaimed and whether this is the reason why no trees grow and only invasive species thrive?

Please consider these hearings and the concerns presented in accordance with the intent of President Clinton's Executive Order No. 12898 on Environmental Justice, as "consultation" in the context of meaningful government-to-government consultation (President Clinton's Executive Order No. 13175; and President Obama's Memorandum of November 5, 2009). This is necessary to ensure you will provide a full explanation to Navajo, Hopi and Tewa people in terms that they can understand; and that you have provided for full and open dialogue. A one-way presentation is not consultation.

Recently, a National emergency was issued for snow and mud in the Black Mesa region, the hardest hit area on the Navajo Nation and in spite of repeated requests by the Department of Emergency Management, Forest Lake Chapter House and area residents, Peabody refused to help grade the roads. Due to the long history of broken promises, no electricity, running water, earthen dam repair and refusal to grade dirt roads that become impassable, Peabody has demonstrated over and over they are not fit to operate a mine and do not know how to be a good neighbor.

Forgotten People will submit more complete comments prior to the deadline extension of March 31, 2010 and if the US EPA intends to approve this permit for the Black Mesa/Kayenta mine when the Black Mesa mine is closed down, Forgotten People will file a Request for Review and require US EPA to vacate the Black Mesa/Kayenta water discharge permit and begin a new permit process with hearings for only the Kayenta mine. In addition, the US EPA must require Peabody Coal Company replace all their signs to show only the Kayenta mine is operating.

Robert Begay, Bodaway gap resident: I am protecting religious interests and sustain ourselves. Can't you honor what we have? My comments are given as a representative of Forgotten People who are unable to attend. We testify concerning many complex, heartfelt moving comments, emotionally packed comments. How much more do you need to hear to decide to vacate the permit? People are talking about grave health related problems. We are trying to preserve and sustain what we have. That needs to be honored. I believe this hearing is self servicing and one-sided. It is not participatory. The Kayenta mine is the one mine left. The Black Mesa mine is not an operating entity. This is a violation and US EPA cannot not issue a permit for a non-operating mine.

Philip Etcitty: I am originally from the Bennett Freeze, reside on the Bennett Freeze, am an employee of Peabody. A lot of things are being said in testimony here. We cherish the land. Our people are suffering from mining activity. There is always a misconception, being a second generation coal miner, I know how my relatives feel and I feel the same way. I heard what the paralegal said, I feel the same way. I should be better educated so I know what the permit is about. That is the way I want to understand the wastewater runoff from the mine. We should educate ourselves. The impoundment, how it should be

structured and dams and how and where the waster water filters. US EPA should justify hazards in impoundments so we can all understand. Our livestock are drinking the impounded water. The water runs over to the main washes like Moenkopi, Yellow, Dinnebeto. I have seen it everyday while I am riding my horse tending to my livestock. We should all be better educated so we all understand. We want to understand. These are violations, then fine Peabody. Conduct better enforcement, do better oversight, give us equal oversight to what is enforced elsewhere. In traditional way of life, yes, I was raised by my grandfather. He was a medicine man who taught me. Black Mesa is a symbol of a woman, it is a woman mountain. Elders tell us this mountain is very sacred. My grandpa remembers the first negotiations. I urge you to go to these impoundments to see for yourself how much we need better enforcement of wastewater impoundments.

Kevin Biscenti: Peabody uses a lot of chemicals. We need to have knowledge of the health effects of these hazards on our people. We should be informed. During monsoon, chemicals used on the mining haulage road goes into the tributaries and washes. Wastewater should be fully contained and we need a water treatment center. Other mines are stricter on containment. This place should not be treated as less important. We need stricter enforcement and copies of material safety data sheets. The other mine, Black Mesa was shut down. People live downstream and for livestock and wildlife, we use this land and it should be preserved for our children and our children's children.

Jimmy Bizardi: In one of the washes the pipeline is broken and leaking and there is a lot of coal coming out of it. Nothing is monitored. I am opposed to open conveyor belt and railroad cars carrying coal. I wish they were covered so coal dust does not blow downwind. It affects the health of our people and animals.

Elsie Benally: I was born and raised on Black Mesa. As a young girl, I did not know about wastewater system laws in place but I always see black rivers laden with coal dust that are crystal clear. I drank water out of the pipe. I did not know health related effects. I am not aware. None of the impoundments are fenced. The waste water is not contained and discharge happens in remote areas. I don't think it will ever get repaired. We should have been given more information. Moenkopi collects more sediment. Wastewater run offs are not monitored in NPDES. I now of dam structures that are supposed to collect waste water. A few years ago I collected a few buckets. Most of the wastewater bypasses along road into Moenkopi wash. I see violations on a daily basis. The water is mixed with chemicals for dust control. You need to include monitoring of all water use on roads.

Norman Benally: I never worked at the mine. I have experienced the negative impacts. I deal with people from government agencies, back and forth and understand both cultures. During this whole hearing processes, I have never seen real concerns of the people addressed and dealt with. I think you need to weigh the principles of values of the people and shut down the mine. We need to work on alternative development. We need to clean up the tributaries and Moenkopi wash. We need a hearing at Forest Lake Chapter House in the next 2 weeks so the people that are snowed in can attend.

Lucille Benally: I live by the Black Mesa pipeline. I want the mining gone forever. The mining is responsible for all my health problems. My mom's job to raise me up, go to school to go through college and earn a degree. But I got asthma from all the coal dust . It got to my brain and I had brain surgery. I lost a lot memory and all my college learning is worth nothing. I want all the mining gone. I have seizures, memory loss when I wake up. I pray to God you never re-open the Black Mesa mine. Thank you.

Mabel Benally: I live right in the area of the Black Mesa mine. I have 6 children who never worked for the mine. My daughter Lucille is educated so she can succeed. Now she is severely impacted, has seizures. She does not like hte mining operations. I lost 86 sheep in 1 hour. All I had left was lambs crying at my feet. Peabody came over to immediately bury my animals. I thought, what if my children drank the water. I have seen wastewater leak and seep out of structures. Repair the cement canals but animals still had access . My lambs were starving, I lost cattle, had to feed them, haul water to feed them for a year. It traumatized me greatly. I asked Peabody for piped water. Never got piped water. Why is this always happening, I am stopped from finishing what I have to say. I need more time to voice my opinions.

**Notes from 3.3.10 Meeting re: Black Mesa NPDES Permit Renewal
EPA Region IX Office**

Vernon Masayesva

- Gave background of OSM process and DOI decision to remand the Life-of-Mine permit
- Important Hopi Ceremonial Times:
 - November –Red Tail Hawk Month
 - December – Month of Respect
 - November through February – Ceremonial period
- Requests:
 - EPA needs to look at Hopi science and beliefs, not just our science. E.G. Hopi science/beliefs do not separate groundwater and surface water; respect water usage (very careful with how they use the water).
 - More time for comment – could not give specific time frame but said he would talk to others and think about it and get back to Dave.
 - One or two-day workshop
 - Particularly explain the differences of what agency covers what permit and how they work together
 - EPA should fund community members to do water quality monitoring from PWCC's discharges (access issues because leases apparently give PWCC exclusivity over lease area).
- Other comments:
 - 404/Impoundment Issues
 - Concerned that water is trapped in the impoundments, which keeps waters from downstream farmers. Who handles the effects of the loss of water?
 - EPA should consider groundwater and surface water together; the fact that we consider them separately is a fallacy.
 - Reclamation of water – OSM requires PWCC to reclaim the land, but nothing requires PWCC to put the water that they have taken back in the aquifers.
- Also gave Dave a list of items that he created while he was Chairman of Hopi Tribe; list of issues that need to be studied.

Amy Atwood – CBD

- EPA should approach comment period in a different way; Need to comment affected people in a meaningful way:
 - We need more consultation with Tribe (unclear whether she means government, NGOs, or generally tribal members)
 - Need to provide more information
 - How exactly will communities be affected by discharges
 - Map of impoundments
 - What impoundments actually discharged in the past years
 - Clarify how our NPDES process relates to the OSM process
 - Need more time to comment

- Significant problem with timing of hearings (ceremonies and weather)
- EPA has a trust responsibility that requires us to go above and beyond what we normally do.
- Substantive comments:
 - Dove-tailing with OSM process: how does EPA know what the discharges are when we don't know what OSM will do with the mine?
 - What waterbodies are currently not meeting national, Hopi, and/or Navajo WQS?
 - Endangered Species Act analysis was insufficient:
 - EPA relied on OSM's ESA analysis
 - The NPDES permit is a different action, and
 - OSM's ESA analysis was insufficient because it failed to adequately look at the action area. OSM considered the action area to only be the mining area, rather than the total area where effects are felt.

Andy Bessler – Sierra Club

- EPA should set up a working group so that we can communicate with the Tribal governments as well as with the tribal communities/NGOs
- EPA did come to an agreement with NNEPA and NGOs on how to communicate on issues that may affect the area
 - Danny Google was the consultant
 - Andy said he might have copy.

Hearing Testimony Summary Notes
2/23/10 Kayenta, AZ
2/24/10 Kykotsmovi, AZ

By John Tinger, US EPA, 2/24/10

Comments Related to Hearing & Public Notice process

- Need more communication between people, agencies, tribes, mine; EPA should set up working group between EPA, tribal governments, and tribal people/NGOs
- Proper communication takes longer than one meeting
- EPA should not only consult with tribal governments on when and where to hold hearings
- EPA should, in particular, meet with tribal elders
- Confusing how NPDES permit relates to OSM permit; Need to better explain how all Agencies permit the mine
- Need to have additional hearings at other chapter houses (in particular, Forest Lake Chapter House, Black Mesa Chapter House, and Hopi Villages that are downstream of discharges)
- Should have additional meetings.
- Some could not attend due to weather; need to have additional meetings
- Some could not attend due to commitments to Hopi ceremonial times; need to have additional meetings
- Hearings not considerate of Navajo and Hopi cultures.
- Announcement of public comment period and hearing cannot be understood and/or will not reach the majority of people
- Hearings should include prolonged, full presentations about the permit; one-two day workshop
- Need more information about how livestock grazing areas and mine discharges overlap
- Need more time at hearings to take comments
- Navajo Nation EPA should be issuing this permit in the future
- Request more time in comment period (did not give a specific time frame)
- EPA's trust responsibility requires the agency to go above and beyond normal permitting processes

Comments Related to NPDES Permit/Water Issues

- Do not issue permit to mine
- Close the mine
- Black Mesa Complex no longer exists. Separate permits need to be issued for Black Mesa Mine and Kayenta Mine; EPA cannot legally issue a permit that covers both mines as one complex.
- EPA cannot legally issue a permit for mine that is not in operation [Black Mesa Mine].
- Need to protect threatened and endangered species in compliance with Endangered Species Act; relying on OSM's BA is not sufficient; OSM's ESA analysis is insufficient because it failed to

adequately look at the action area (OSM considered the action area to be only the mine site, rather than the total area where effects are felt).

- Must undergo a NEPA analysis
- Must disclose information, including map of area, outfall locations, areas of non-compliance
- Should show which outfalls have discharged in the past permit period
- Must disclose all locations where water quality standards are not being met
- EPA should explain the results of EPA inspections and monitoring
- Should consult with citizens to do monitoring of mine site; EPA should fund citizens to do water quality monitoring
- All data from past 30 years needs to be analyzed
- Moenkopi wash used to flow all the time
- Chemicals are used for dust control – this is washed into the washes. Magnesium chloride is used.
- Vehicle wash waters have caused contamination. There was a problem when explosive powder was washed, livestock drank it and died.
- Livestock drink from ponds.
- Concern that when livestock drink from ponds, they get sick and die from pollution.
- Need more monitoring
- Monitoring should be done by independent group
- PWCC is not properly monitoring and reporting
- When mine was shut down, oil and solvents were poured onto the ground
- How often is excess sediment cleaned from ponds?
- Coal dust settles on bottom of ponds, when it dries the wind blows the dust. Coal dust should be cleaned from ponds.
- EPA should not issue permit until Navajo Nation council has reviewed the mine lease.
- EPA's NPDES permit process should coincide with OSM's permitting process (how does EPA know what the discharges are when we do not know what OSM will do with the mine?)
- Pipeline is broken and leaks coal.
- EPA should not issue a permit to a facility that has had many violations over the years
- Commenter witnessed wastewater leak
- Discharges often exceed water quality standards
- Runoff and wastewater often bypasses impoundments; violations occur on a daily basis.
- EPA must/should enforce against PWCC for violations
- Commenter does not believe that heavy metals, such as arsenic, will settle out in impoundments, and thus, they are discharging into washes.
- Impoundments should be fenced because they contain contaminants
- Concern that sediment ponds and/or discharges contaminate groundwater; EPA should not treat surface water and groundwater separately
- Concern about loss of water for downstream farmers because water is trapped in impoundments

May 26 and 27, 2010

**HANDOUT FOR INFORMAL CONFERENCES ON
PEABODY WESTERN COAL COMPANY'S
PERMIT RENEWAL APPLICATION FOR THE KAYENTA MINE**

OSM CONTACTS

Elaine Ramsey, Manager
Indian Programs Branch
Western Region
OSM
1999 Broadway, Suite 3320
Denver, Colorado 80202-3050
e-mail: kayentarenewal@osmre.gov
telephone: 303-293-5104

Dennis Winterringer, Leader
Black Mesa Complex Team
Indian Programs Branch
Western Region
OSM
1999 Broadway, Suite 3320
Denver, Colorado 80202-3050
e-mail: kayentarenewal@osmre.gov
telephone: 303-293-5048

PERMIT RENEWAL

5-year permit terms for Kayenta Mine permit AZ-0001D.

Permit originally approved by OSM on July 6, 1990.

Permit renewed in 1995, 2000, and 2005.

Permit due for renewal on July 6, 2010.

**WRITTEN COMMENTS ON THE PERMIT RENEWAL APPLICATION MUST BE RECEIVED
BY OSM BY JUNE 4, 2010. Submit letters and e-mail messages to Mr. Winterringer at the
addresses above.**

OSM REGULATIONS FOR PERMIT RENEWALS

30 CFR 774.15 Permit renewals.

(a) *General.* A valid permit, issued pursuant to an approved regulatory program, shall carry with it the right of successive renewal, within the approved boundaries of the existing permit, upon expiration of the term of the permit.

* * * * *

(c) *Approval process* —(1) *Criteria for approval.* The regulatory authority shall approve a complete and accurate application for permit renewal, unless it finds, in writing that—

(i) The terms and conditions of the existing permit are not being satisfactorily met;

Kykoctsmovi ~30 attendees, 16 speakers
Kayenta - 22 attendees, 1 speaker 1

- (ii) The present surface coal mining and reclamation operations are not in compliance with the environmental protection standards of the Act and the regulatory program;
- (iii) The requested renewal substantially jeopardizes the operator's continuing ability to comply with the Act and the regulatory program on existing permit areas;
- (iv) The operator has not provided evidence of having liability insurance or self-insurance as required in §800.60 of this chapter;
- (v) The operator has not provided evidence that any performance bond required to be in effect for the operation will continue in full force and effect for the proposed period of renewal, as well as any additional bond the regulatory authority might require pursuant to subchapter J of this chapter; or
- (vi) Additional revised or updated information required by the regulatory authority has not been provided by the applicant.

(2) Burden of proof. In the determination of whether to approve or deny a renewal of a permit, the burden of proof shall be on the opponents of renewal.

KAYENTA MINE

Kayenta Mine has operated since 1973.

Mine produces about 8.5 million tons of coal per year – all shipped by electric railroad to Navajo Generating Station in Page, Arizona.

Mine permit area boundary shown on attached map.

44,073 acres in permit area; about 20,000 acres disturbed.

Active mining in areas N-9, J-19, and J-21 (areas shown on attached map).

At current production rates, coal production in these areas would occur respectively through about 2018, 2023, and 2030.

Mining of these entire areas authorized by OSM.

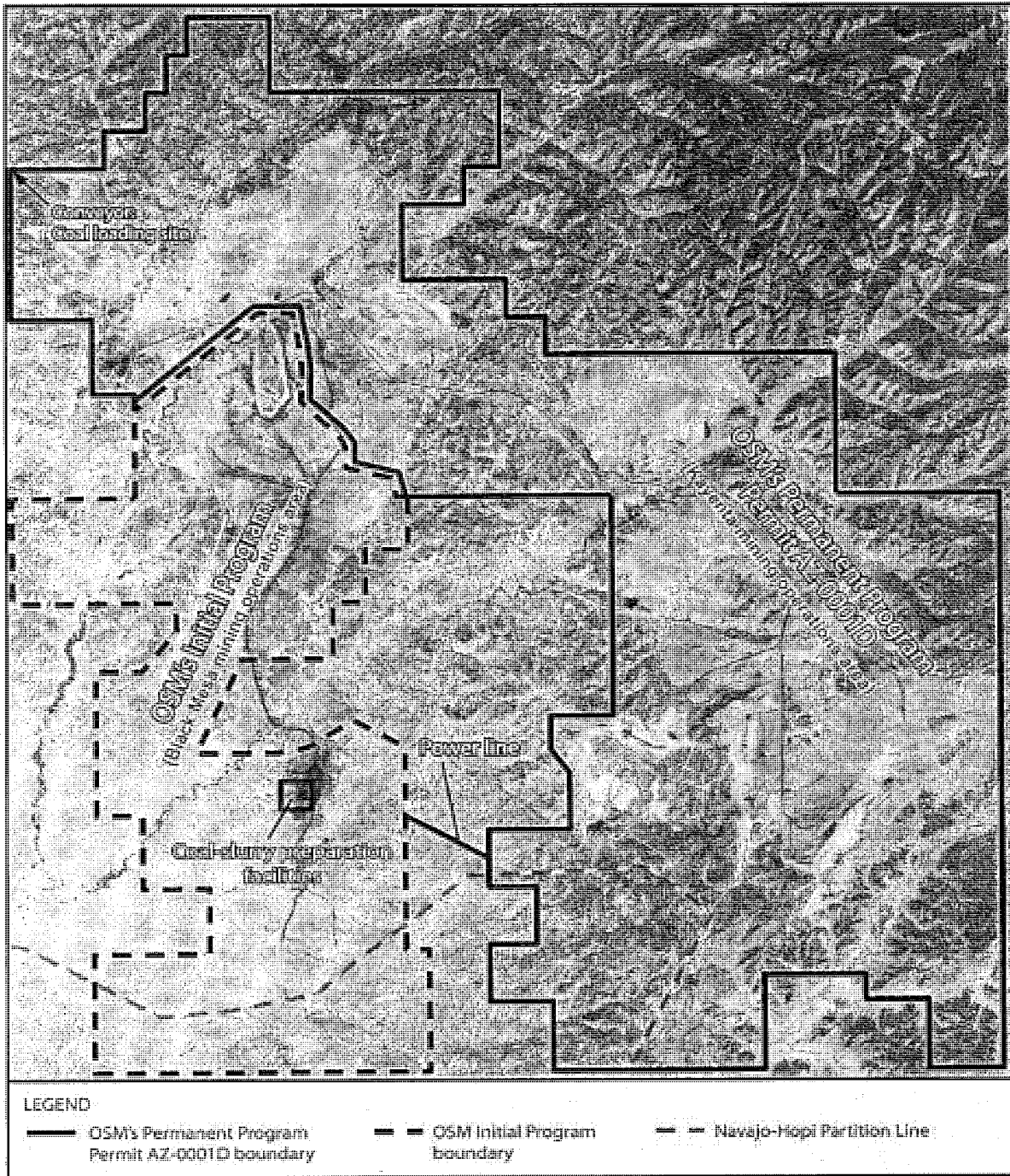
NOT PROPOSED IN MINE PERMIT RENEWAL APPLICATION

Revisions to the mining and operations plans.

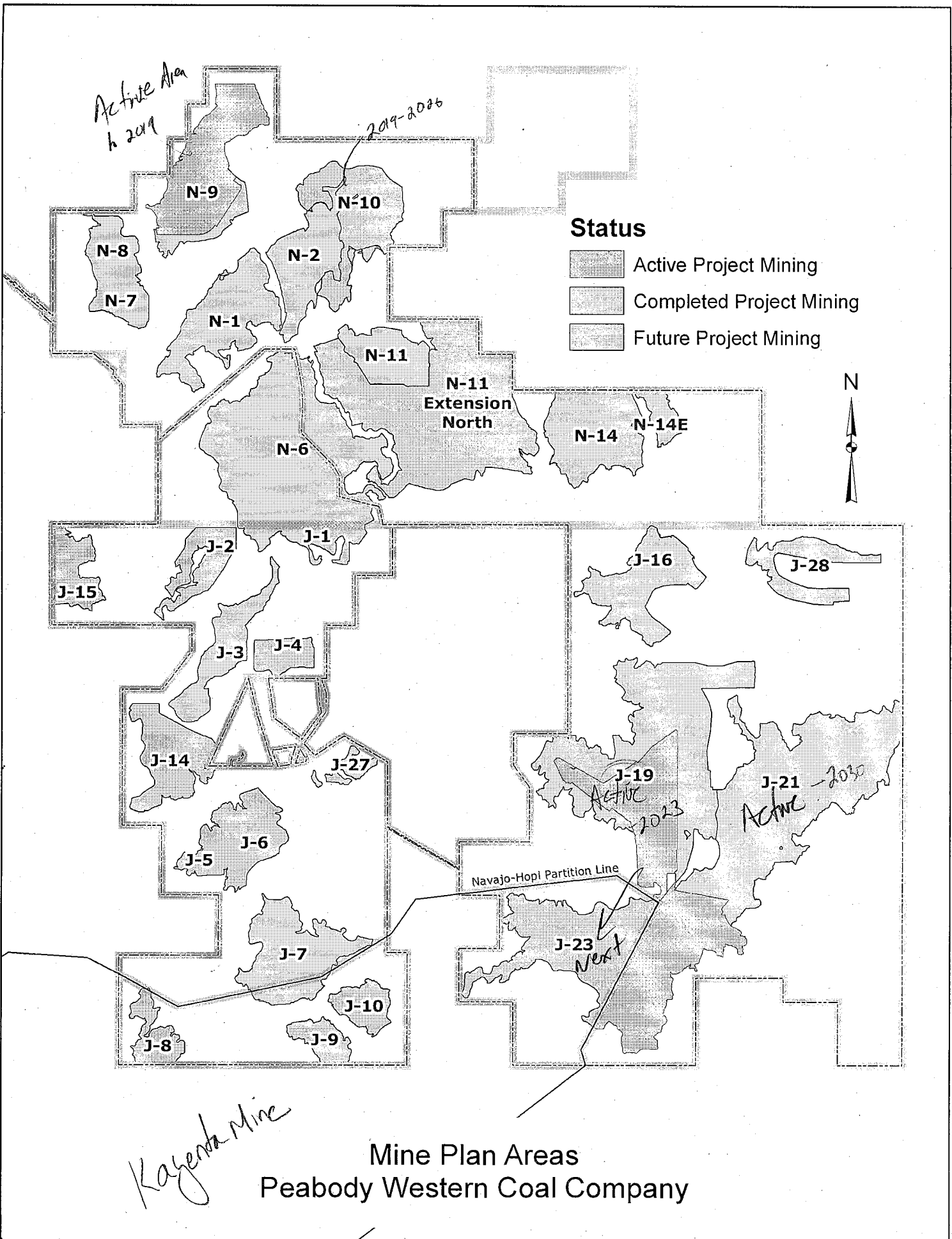
Incorporation of Black Mesa Mine into permit area.

Use of Navajo aquifer water for slurring coal.

Change in the amount of Navajo aquifer water being used (on average about 1,200 acre-feet/year).



Kayenta Mine Permanent Program
Permit Area and
Black Mesa Mine Initial Program Area





United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
Western Region Office
1999 Broadway, Suite 3320
Denver, CO 80202-3050



May 17, 2010

Brad A. Bartlett
Energy Minerals Law Center
1911 Main Avenue, Suite 238
Durango, CO 81301

REF: OSM-2010-00022
Kayenta Mine Permit

Dear Mr. Bartlett:

The Office of Surface Mining (OSM) received your FOIA request dated April 09, 2010 on April 12, 2010 and assigned it Request No. OSM-2010-00022. Please reference this number on correspondence concerning your request. Your request was for documents related to the Peabody Western Coal Company's Kayenta Mine located on Indian lands in Northeastern Arizona. Your request has been categorized as voluminous. Documents will be provided in a staggered release.

Following is the numerated listing from your request and the responsive materials.

(1) A full and complete copy of Peabody's permit renewal application for Kayenta Mine Permit Renewal Permit No. AZ-0001D.;

An electronic copy of the application is accessible for viewing and copying through the OSM, Western Region, Internet website at <http://www.wrcc.osmre.gov>.

(2) A full and complete copy of Peabody's current operating permit issued under the requirements of Surface Mining Control and Reclamation Act ("SMCRA");

Copies of the approved Kayenta Mine permit application are available for public viewing at the following locations:

Navajo Nation Minerals Department
Office of Surface Mining
Window Rock Boulevard
Window Rock, AZ 86515

Forest Lake Chapter House
Navajo Route 41
20 miles north of Pinon
Pinon, AZ 86510

The Hopi Tribe
Office of Mining and Mineral Resources
Highway 264
1 mile east of Kykotsmovi
Kykotsmovi, AZ 86039

Office of Surface Mining
Reclamation and Enforcement
505 Marquette NW, Suite 1200
Albuquerque, NM 87102

Office of Surface Mining
Reclamation and Enforcement
501 Airport Drive, Suite 208
Farmington, NM 87401

Office of Surface Mining
Reclamation and Enforcement
Western Region
1999 Broadway, Suite 3320
Denver, CO 80202-3050

(3) A full and complete copy of all permit revision authorizations and applications for the Kayenta mine from 2005 to the present;

Approved applications for the time period January 1, 2005, through April 9, 2010, are incorporated into the copies of the approved applications kept at the locations listed in the response to request No. 2.

(4) Any and all cumulative hydrologic impact assessments ("CHIAs") for the Kayenta mine;

The enclosed compact disk contains copies of the 1990 and 2008 CHIAs.

(5) Any and all National Environmental Policy Act ("NEPA") documents for the Kayenta mine excluding the "Black Mesa Project Draft and Final Environmental Impact Statement, OSM-EIS-33";

The enclosed compact disk contains copies of the 1990 EIS and six environmental assessments prepared from 1984 through 2004.

(6) Any and all notices of violation from 2005 to the present;

The enclosed compact disk contains copies of the 19 notices of violations OSM issued to Peabody Western Coal Company for the Kayenta Mine from January 1, 2005, through April 9, 2010.

(7) Any and all communication between OSM and Peabody Western Coal Company from December 2008 to the present;

The amount of documents for this request is voluminous. Documents will be provided in a staggered release.

(8) Any and all communications between OSM and other Federal agencies regarding Peabody's permit application for Kayenta Mine Permit Renewal Permit No. AZ- 0001D including, but not limited to, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service and Army Corps of Engineers;

The enclosed compact disk contains copies of OSM notifications of eight Federal agencies of the permit renewal application.

(9) Any and all communications between the Navajo Nation and Hopi Tribe regarding Peabody's permit application for Kayenta Mine Permit Renewal Permit No. AZ-0001D;

OSM does not have any records of communications between the Navajo Nation and Hopi Tribe regarding the permit renewal application.

(10) Any and all communications between the Office of the Solicitor and attorneys for Peabody Western Coal Company from December 2008 to the present.

Send your request for information to the Office of the Solicitor.

If EMLC seeks records from the regional office only, send the request to:

FOIA Officer
Rocky Mountain Region
Office of the Solicitor
Department of the Interior
755 Parfet Street, Suite 151.
Lakewood, CO 80215


If EMLC seeks records from the entire Office of the Solicitor, send the request to:

FOIA Officer
Office of the Solicitor
Department of the Interior
1849 C. St. NW
Washington DC, 20240.

This letter completes OSM's reply to Items 1, 2, 3, 4, 5, 6, 8, 9, and 10.

If you have any questions contact Judith Meuret at 303-293-5002.

Sincerely,


Judith Meuret
FOIA Coordinator
Western Region

Enclosure

Enclosure A

List of documents on the enclosed CD that are responsive to your request.

Record number	Document
Item 4: "Any and all cumulative hydrologic impact assessments ("CHIAs") for the Kayenta mine."	
A - 1	1990 CHIA.
A - 2	2008 CHIA.
Item 5: "Any and all National Environmental Policy Act ("NEPA") documents for the Kayenta mine (excluding the "Black Mesa Project Draft and Final Environmental Impact Statement, OSM-EIS-33")."	
A - 3 - 7	Five environmental assessments prepared from 1984 to 2004 and the final environmental impact statement prepared in 1990.
Item 6: "Any and all notices of violation from 2005 to the present."	
A - 8 - 26	19 notices of violations.
Item 8: "Any and all communications between OSM and other Federal agencies regarding Peabody's permit application for Kayenta Mine Permit Renewal Permit No. AZ0001D including, but not limited to, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service and Army Corps of Engineers."	
A- 27 - 34	Eight letters.



United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
Western Region Office
1999 Broadway, Suite 3320
Denver, CO 80202-3050



May 12, 2010

Brad A. Bartlett, Managing Attorney
Energy Minerals Law Center
1911 Main Avenue, Suite 238
Durango, Colorado 81301

Dear Mr. Bartlett:

In response to Energy Minerals Law Center's April 21, 2010, letter request, the Office of Surface Mining Reclamation (OSM) has scheduled two informal conferences on Peabody Western Coal Company's permit renewal application for the Kayenta Mine. The conferences will be held in Kykotsmóví, Arizona, on May 26, 2010, at 6 p.m., m.s.t., and in Kayenta, Arizona, on May 26, 2010, at 6 p.m., m.d.t.

Enclosed is a public notice that includes further details. OSM published the notice in the Navajo Times on May 6, 2010, and in the Navajo Hopi Observer on May 12, 2010.

If you have any questions, please contact me by telephone at 303-293-5048 or by e-mail at kaventarenewal@osmre.gov.

Sincerely,

Dennis Winterringer, Leader
Black Mesa Complex Team

Enclosure

PUBLIC NOTICE

On the following dates and at the following times, the Office of Surface Mining Reclamation and Enforcement (OSM) will hold informal conferences to receive comments on Peabody Western Coal Company's application to renew surface coal mining and reclamation Permit AZ-0001D for the Kayenta Mine in Navajo County, Arizona.

May 26, 2010, 6 p.m., Mountain Standard Time
Veteran's Center
Highway 264, mile post 375.5
Second Mesa, Arizona

May 27, 2010, 6 p.m., Mountain Daylight Time
Kayenta Chapter House
U.S. Highway 163 on the north end of town
Kayenta, Arizona

The Kayenta Mine permit renewal does not affect any terms and conditions of the existing coal leases, and no new coal leases are associated with the renewal. No new permit area for the Kayenta Mine is proposed beyond that which is currently approved. The term of the renewed Kayenta Mine permit would be from July 6, 2010, through July 5, 2015.

The Black Mesa Mine, which is adjacent to the Kayenta Mine and which until December 2005 produced coal for shipment via a coal-slurry pipeline to a power plant, is not a part of Kayenta Mine permit area. In the permit renewal application, Peabody Western Coal Company does not propose to permit the Black Mesa Mine.

An electronic copy of the application is available for review on the OSM, Western Region, Internet website at <http://www.wrec.osmre.gov>. Paper copies of the application and existing permit are available for public review at the following locations:

Navajo Nation Minerals Department
Office of Surface Mining
Window Rock Boulevard
Window Rock, AZ 86515

Forest Lake Chapter House
Navajo Route 41
20 miles north of Pinon
Pinon, AZ 86510

The Hopi Tribe
Office of Mining and Mineral Resources
Highway 264
1 mile east of Kykotsmovi
Kykotsmovi, AZ 86039

Office of Surface Mining
Reclamation and Enforcement
505 Marquette NW, Suite 1200
Albuquerque, NM 87102

Office of Surface Mining
Reclamation and Enforcement
Western Region
1999 Broadway, Suite 3320
Denver, CO 80202-3050

The public notices of the permit renewal application previously printed in this newspaper indicated that the comment period was scheduled to end at 5:00 p.m., m.d.t., on May 17, 2010. OSM is extending the comment period through May 27, 2010. Comments must be received by OSM by this date. Persons may send e-mail comments to kaventarenewal@osmre.gov or send letters to:

Mr. Dennis Winterringer
Attn: Kayenta Mine permit renewal
Office of Surface Mining Reclamation and Enforcement
1999 Broadway, Suite 3320
Denver, CO 80202-3050

Further information is available by sending a message to Mr. Winterringer at the above e-mail address or by telephoning him at (303) 293-5048.

If you would like to be included on future mailings/information, PLEASE SIGN IN

Public Hearing February, 2010
 Proposed NPDES Permit for Black Mesa Mine

NAME	ADDRESS	AFFILIATION (if any)
X Marsha Monastersky	Email: forgottenpeoplecd@gmail.com P.O. Box 1135 Kaysville, AZ 86033	Forgotten People
X Ellie Johnson	Email: Kaysville, AZ 86033	
X Eisie Benally	Email: eisiebenally@gmail.com Box # 946	
Alexis Gagne	Email: Kaysville, AZ 86033	
X Ann Young-Talbot	Email: Kaysville, AZ 86033 PO Box 2004	
X Norman Benally	Email: PO Box 433, Kaysville, AZ 86033	
X Caroline Tolman	Email: P.O. Box 298 Kaysville, AZ 86033 Tombela, AZ 86044	

If you would like to be included on future mailings/information, PLEASE SIGN IN

Public Hearing February, 2010
Proposed NPDES Permit for Black Mesa Mine

NAME	ADDRESS	AFFILIATION (if any)
Ruth Simone	<input checked="" type="checkbox"/> P.O. Box 1531 Kayenta, AZ 86033 Email:	
Jonathan Nez	<input checked="" type="checkbox"/> P.O. Box 7707 Shonto, AZ 86054 Email: jonathannez@navajod.org	Shonto Chapter
Leland Grass	<input checked="" type="checkbox"/> Dine' Medicine Men Assoc. Inc H-4 #2 Black Mesa S.C. Tonalapa, AZ 86044 Email: lgrass Sacred45@hmfmail.com	Shonto/Black Mesa
ERIC RICH	<input checked="" type="checkbox"/> P.O. Box 3780 TUBA CITY, AZ 86045 Email: HYDR02@CITLINK.NET	NANAJU EPA WATER QUALITY
Simon Crank	<input checked="" type="checkbox"/> P.O. Box 93 Kayenta, AZ 86033 Email:	Local Res.
Rose Yazzie	<input checked="" type="checkbox"/> P.O. Box 1275 Kayenta, AZ 86033 Email: None	Black Mesa Resident
Jack Williams	<input checked="" type="checkbox"/> P.O. Box 3935 Kayenta, AZ 86033 Email:	Forest Lake Resident

If you would like to be included on future mailings/information, PLEASE SIGN IN

Public Hearing February, 2010
Proposed NPDES Permit for Black Mesa Mine

NAME	ADDRESS	AFFILIATION (if any)
Mable Bernathy	PO Box 7245 Shonto, AZ 86033	
Lucille Bernathy	Email:	
KRISTINA BARNOTA	Email: kristina_barnota@hotmail.com	NNOSM
John Stucker	Email: jstucker@frontiernet.net	NAVASO NATION SUPPORTS MINING PROCESING
Bernice Williams	Email: bernicewilliams@frontiernet.net	Navajo Nation Water Resources
Johnny Seaton	Email: P.O. Box 1458 Kaayanta, AZ	
Ray Seaton	Email: Box 1555 Kaayanta, AZ	

If you would like to be included on future mailings/information, PLEASE SIGN IN

Public Hearing February, 2010
Proposed NPDES Permit for Black Mesa Mine

NAME	ADDRESS	AFFILIATION (if any)
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