

**ENVIRONMENTAL APPEALS BOARD  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

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<b>In Re:</b>	)	
	)	
	)	
<b>Four Corners Power Plant</b>	)	
<b>NPDES Renewal Permit: NN0000019</b>	)	<b>NPDES Appeal No. 19-06</b>
<b>Arizona Public Service Company (Applicant)</b>	)	
	)	
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**Petitioners’ Unopposed Motion to Strike Administrative Record Document #30**

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Petitioners consulted with counsel for EPA and APS prior to filing this Motion. EPA does not oppose this Motion and APS takes no position on the Motion.

1. This is an appeal of an NPDES permit issued by EPA Region 9.
2. The NPDES Final Permit was issued by EPA on September 30, 2019.
3. On December 18, 2019 EPA filed an index to the administrative record (“AR”) for its NPDES permit issuance.
4. Included on EPA’s index was Document #30, which is listed as “Email from Jeffrey Allmon, Pinnacle West to Dustin Minor Re: Water Balance at APS FCPP and Morgan Lake. December 10, 2019.” AR Document #30 is attached hereto.
5. AR Document #30 involves a discussion between legal counsel for the permittee and EPA that occurred almost 2 ½ months *after* the Final Permit was issued by Region 9. As such, AR Document #30 could not have been considered by EPA Region 9 at the time it issued the Final Permit in question.

6. EPA regulations state that “[t]he record shall be complete on the date the final permit is issued.” 40 C.F.R. § 124.18(c). *In re Dominion Energy Brayton Point, LLC*, 12 E.A.D. 490 \*20 (2006).

7. Because AR Document #30 post-dates the final permit decision by 2 ½ months, could not have been considered by EPA at the time of the Final Permit issuance, and is a communication solely among counsel for EPA and the permittee, AR Document #30 should be stricken from the administrative record. EPA does not oppose this Motion and APS takes no position.

12/30/2019

Respectfully submitted,

s/ John Barth  
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### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing **Petitioners’ Unopposed Motion to Strike Administrative Record Document #30** was served, by the method indicated, on the following persons this 30<sup>th</sup> day of December 2019:

By electronic filing and U.S. Mail:  
Clerk of the Board  
U.S. EPA  
Environmental Appeals Board  
1200 Pennsylvania Avenue, NW  
Mail Code 1103M  
Washington, D.C. 20460-0001

By electronic filing and email

Hagler.Tom@epa.gov  
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DATE: 12/30/2019

s/ John M. Barth