

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

In re: NPDES Permit Renewal)	
)	
)	
Peabody Black Mesa NPDES Permit No.)	
NN0022179: Black Mesa Complex)	NPDES Appeal No. 09-10
)	
)	

NOTICE OF WITHDRAWAL OF PERMIT

Under the authority of 40 C.F.R. section 124.19(d), Region 9 of the Environmental Protection Agency (“Region 9”) hereby withdraws the National Pollutant Discharge Elimination System (“NPDES”) permit on appeal in this matter. Pursuant to 40 C.F.R. section 124.19(d), a Regional Administrator may withdraw a NPDES permit at any time prior to the issuance of a decision by the Board granting or denying review. The Region may then prepare a new draft permit. The Board has not yet issued a decision granting or denying review in this matter and thus, the Region is choosing to exercise its authority to withdraw the permit. By issuing this Notice, the Region does not intend to waive any argument or defense concerning the issues raised in the pending appeal.

This Notice, which Region 9 is serving on all parties to this matter, provides the necessary notice to the Board and interested parties of the withdrawal of the permit on appeal. In accordance with 40 C.F.R. sections 124.6 and 124.19(d), Region 9 will prepare a new fact sheet for the new draft permit and will provide notice and opportunity for public comment. Region 9 also intends to hold public hearings on Navajo and Hopi land.

The EPA Region 9 Water Division Director is authorized to issue this withdrawal pursuant to Delegation No. R9 1250.40 from the Regional Administrator. This delegation re-delegates authority to the Director of the Water Division to implement the procedures for issuance of a NPDES permit under the regulations at 40 C.F.R. § 122.1. The final permit decision was signed by the Region 9 Water Division Director in accordance with this delegation of authority, which applies equally to the decision to withdraw a NPDES permit.

Dated: *30 November 2009*



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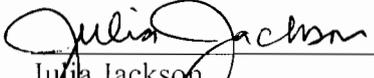
CERTIFICATE OF SERVICE

I hereby certify that a copy of the Notice of Withdrawal was served on the following persons by U.S. Mail and electronic mail:

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Dated: 12-1-09


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