



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

VIA ELECTRONIC FILING AND U.S. MAIL

Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1200 Pennsylvania Ave., N.W.
Mail Code 1103M
Washington, D.C. 20460-0001

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

RE: Four Corners Power Plant, NPDES Permit No. (NN0000019) EAB Appeal No. 18-02

In accordance with 40 C.F.R. § 124.16, the United States Environmental Protection Agency, Region 9 (EPA) is providing notice of a stay of the Four Corners Power Plant National Pollutant Discharge Elimination System (NPDES) Permit No. NN0000019 ("Permit"). EPA issued the final Permit on June 12, 2018, and transmitted the Notice of Final Permit Decision to Arizona Public Service Company ("APS") and other interested parties on June 14, 2018.

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

Several of the issues raised in the Petition question the viability of the Permit as a whole. These include, but are not limited to (1) Petitioners' contention that the Permit was issued in violation of the Endangered Species Act, and (2) Petitioners' contention that the certification issued pursuant to Clean Water Act section 401 was invalid.

When EPA is notified that a Petition for Review has been filed, EPA is to issue a notification to the EAB, the permit applicant, and all other interested parties of the uncontested and severable conditions of the final permit. While a permit appeal is pending, the contested permit conditions are stayed. The uncontested permit conditions that are not severable from contested conditions are also stayed. *See* 40 C.F.R. § 124.16(a). EPA recognizes that Petitioners requested that

certain provisions of the Permit remain in effect. *See* Petition at p. 54. However, based on our review of the Petition, EPA has determined that the uncontested claims implicate the Permit as a whole such that there are no severable uncontested conditions. The entire Permit is therefore stayed pursuant to 40 C.F.R. § 124.16(a).

EPA is notifying you that, pursuant to 40 C.F.R. § 124.16(c), APS corporation is subject to the terms and conditions of NPDES Permit No. NN0000019 as issued on January 24, 2001. *See also* 40 C.F.R. §§ 122.6, 124.60(b)(4).

If you have any questions regarding this notice, please contact David Smith at (415) 972-3463 or our attorney, Tom Hagler, of the Office of Regional Counsel at (415) 972-3945.

Sincerely,



Tomás Torres
Director, Water Division

August 28, 2018