

Exhibit 2



NOTICE OF PROPOSED ACTION

by the

U.S. Environmental Protection Agency (EPA) Region IX

Public Notice #: AZ-09-W-05

Public Notice Date: February 19, 2009

Comment Period Closes: March 21, 2009

The U.S. EPA is issuing a notice of proposed action under the Clean Water Act to reissue a National Pollutant Discharge Elimination System (NPDES) permit NN0022179 to: Peabody Western Coal Company – Black Mesa Complex, P.O. Box 650, Kayenta, AZ 86033.

The Black Mesa Complex is a surface coal mine located southwest of Kayenta, Arizona. The complex is located on land leased within the boundaries of the Navajo and Hopi Indian Reservations primarily located in Navajo County, AZ. The permittee is required to control all surface runoff water with the potential of being contaminated from contact with mining activities. EPA initially issued a NPDES permit to the facility in the 1970s. The proposed permit incorporates recent regulatory changes to the Coal Mining Point Source Category (40 CFR Part 434) and implements changes to a Seep Monitoring and Management Plan but otherwise does not significantly change the previous permit.

The administrative record, including the draft permit, fact sheet, comments received, all data submitted by the applicant, and other relevant documents is open for public inspection during normal business hours (9:00-5:00) at the above address. Requests to obtain or review the administrative record should be made to the contact listed below. Interested persons may submit written comments on the draft permit during the public comment period to the contact listed below. All comments or objections received within the comment period will be retained and considered in the formulation of the final permit determination. A request for a public hearing may be made in writing to the contact below (40 CFR Part 124.11).

Upon issuance of a final permit decision and response to comments, the USEPA will notify the applicant and persons who submitted written comments or requested notice of the final permit decision. Within 33 days after EPA issues the final permit, any person who filed comments on the draft permit or participated in the public hearing may petition the Environmental Appeals Board to review any condition of the permit decision (40 CFR Part 124.19).

When public interest warrants, USEPA may schedule a public hearing or may grant an extension of the comment period for the submittal of comments or objections (40 CFR Part 124.14).

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:

John Tinger (415) 972-3518 or Tinger.John@epa.gov

EPA Region IX (WTR-5)

75 Hawthorne Street

San Francisco, CA 94105

Website: <http://www.epa.gov/region09/water/npdes/pubnotices.html>