UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

April 10, 2008

Charlene Nelson
Program Supervisor
Navajo Air Quality Control Program
P.O. Box 529
Fort Defiance, AZ 86504

Dear Ms. Nelson:

Thank you for the opportunity to review the Navajo Nation Environmental Protection Agency's (NNEPA) proposed Part 71 permit renewals for El Paso Natural Gas' (EPNG) White Rock and Gallup compressor stations.

We have enclosed our comments. Please note that we raise many of the same issues we raised in our March 12, 2008 comments on the Leupp and Window Rock permits.

There are two issues that we believe NNEPA should pay particular attention to in all of its Part 71 permits. First, conditions in EPA-issued PSD permits are applicable requirements that must be included, without revision, in NNEPA Part 71 permits. See comments 3, 4, and 5.

In addition, NNEPA should carefully consider when to cite NNEPA, EPA, or both, in permit conditions. As discussed in comments 3 and 4, changing EPA to NNEPA in some cases can have the unintended consequence of altering the applicable requirement.

Please contact Roger Kohn at (415) 972-3973 or kohn.roger@epa.gov if you have any questions concerning our comments.

Sincerely,

Gerardo C. Rios
Chief, Permits Office
Air Division

enclosure

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EPA Region 9 Comments
Proposed Part 71 Permit Renewals – El Paso Natural Gas

Issues for both White Rock and Gallup

1. EPNG's most recent compliance certifications for both facilities covered a one year period that ended on December 25, 2007. The renewal permits must ensure that as the facilities are converted to calendar year based certifications, there are no gaps in the periods of time for which the facilities must certify compliance. To avoid a gap in compliance certification coverage while converting to calendar year certifications, conditions IV.C.1. of both permits should be revised to allow for two special reporting periods, the first beginning on December 26, 2007. NNEPA can determine the end date of the first period and the start date of the second period, which will end on December 31, 2008. Please note that the two reporting periods are necessary to convert the source to a calendar year schedule, while ensuring that no certification period covers a period of more than one year (which would be less stringent than Part 71 requires and therefore not allowable). NNEPA should apply the same principles to the semiannual monitoring reports (which cannot cover a period longer than six months).

2. EPA has received EPNG's request to modify the Prevention of Significant Deterioration (PSD) permits for White Rock and Gallup, but has not yet administratively amended the permits. Until the PSD permits are amended, the current PSD permit conditions are applicable requirements that would have to be included in the Part 71 renewals if they are issued prior to the amendment of the PSD permits. To avoid this, NNEPA should wait until the PSD permits have been amended before issuing the renewal permits. We note that we do not agree with EPNG's request to delete the quarterly reporting condition in the Gallup PSD requirement, but we will change the frequency to semiannual to match the revised excess emissions reporting requirements in NSPS Subpart A. NNEPA will need to include this condition, in its revised form, in the Part 71 permit renewal.

3. In several instances, NNEPA has modified the language of conditions from EPA-issued PSD permits. We would like to reiterate that all PSD conditions are applicable requirements that must be included; and NNEPA must incorporate the exact text of all PSD conditions. While we realize NNEPA's intent is to provide clarity and in some cases the change is inconsequential, e.g., changing "holder of this permit" to "permittee" in Special Provision 11 of Gallup's PSD permit (PSD-NM-999), other instances have the unintended effect of changing a requirement, e.g., allowing NNEPA to approve alternative test methods, requiring that only NNEPA be notified prior to performance testing, and requiring that performance test results be submitted to NNEPA instead of EPA (see section II.A. of White Rock permit). NNEPA should review all PSD conditions applicable to both facilities and ensure that they have been correctly incorporated into the Title V permit.

4. The White Rock statement of basis notes that condition II.B.1 of the initial Part 71 permit, which contains Special Condition 2 of the facility's PSD permit and requires emission point A-01 to comply with all applicable NSPS, has been included in the permit in condition II.B and II.C. Similarly, the Gallup statement of basis notes that condition II.B.1 of the initial Part 71 permit, which contains Special Condition 2 of the facility's PSD permit and requires emission point B-01 to comply with all applicable NSPS, is redundant and has been deleted because these requirements are now in condition II.B and II.C. While those sections of the permits do contain NSPS requirements, they do not contain Special Condition 2 from the PSD permits. These PSD conditions must be included in the permit. See comment 3 above regarding the need to properly incorporate all PSD requirements.

5. NNEPA has substituted "NNEPA" for "EPA" (or cited both) in several conditions where this is not appropriate. In addition to doing so in PSD conditions as described in comment 3 above, NNEPA has done this for some NSPS conditions. For example, conditions II.A.16, II.B.1, and II.B.8 of the White Rock permit improperly exclude EPA from NSPS requirements. Where such requirements overlap with Part 71 requirements, it is appropriate to refer to both NNEPA and EPA. However, purely NSPS requirements should not exclude EPA, since EPA has not delegated NSPS implementation to NNEPA (and some NSPS provisions are non-delegable). EPA recommends that NNEPA review all conditions in both permits where NNEPA is cited to determine which are appropriate and which must be revised.

6. The proposed permits require the permittees to submit compliance certifications to NNEPA on a semi-annual basis. Part 71 requires permitted sources to submit certifications annually. NNEPA's operating permit regulations require semiannual submittal (Part H of NNEPA's air quality control regulations). Since Part H is not part of an EPA-approved Part 70 program, neither EPA nor citizens can enforce the semiannual requirement. While NNEPA may require more frequent compliance certifications than Part 71 requires, it should do so in a separate condition that is marked as tribally enforceable only. EPA recommends revising condition IV.C.1. in both permits to require annual submittals, postmarked by January 30. The new tribally enforceable condition would require a submittal by July 30 and cover the period from January 1 through June 30.

7. NNEPA should modify the language in section 1 of both statements of basis that states that "There are no enforcement actions pending." Instead, NNEPA should state that there are no known noncompliance issues that must be addressed in this permitting action, and therefore the renewal can be proposed and issued. We encourage NNEPA to address any recent enforcement actions in its statements of basis, especially if there are repercussions in the permit such as a compliance schedule. EPA recommends that NNEPA discontinue use of the boilerplate language stating that there are no pending enforcement actions.

8. The discussion of potential to emit (PTE) in both statements of basis contains this language:

> Any physical or operational limitations on the maximum capacity of this plant to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, may be treated as a part of its design <u>if</u> the limitation is enforceable by US EPA *or NNEPA*. (emphasis added)

NNEPA should delete "or NNEPA" from this language. Until EPA promulgates a PTE rule that allows PTE limits to be created by conditions that are tribally enforceable only, conditions imposed only by NNEPA are not sufficient to limit a source's PTE.

9. Section 1.l of both statements of basis states that "fugitive NO_x and SO_2 emissions from this source are counted toward determinations associated with PSD review." Since both facilities are currently major sources under the PSD program due their PTE of criteria pollutants and are not making a physical change or a change in its method of operation, and it is not clear that the facilities have any fugitive NO_x and SO_2 emissions, there is no need to address how fugitive emissions are evaluated for PSD applicability purposes. For greater clarity, we recommend deleting this language.

10. The "Summary of Applicable Federal Requirements" at the end of section 4 of both statements of basis should include the PSD permits issued by EPA (cited with permit number).

11. Since the facilities are not voluntarily accepting any limits on their PTE in these permits, their PTE will be the same before and after permit issuance. For greater clarity, we recommend that NNEPA delete the phrase "after issuance" in the heading "Potential to Emit after Issuance" in section 1.l of the statements of basis.

12. The regulatory citation for the PSD major source threshold is 40 C.F.R. 52.21(b)(1)(i)(a), not 52.21(b)(1)(iii) as stated in section 1.l.ii of the statements of basis.

<u>White Rock</u>

13. The NO_x tpy limit for AUX A-02 in the table in condition II.A.1. should be 0.4, not 2.0.

14. EPA issued the initial Part 71 permit to White Rock, not NNEPA as section 1.d. of the statement of basis indicates.

15. For greater clarity, we recommend that section 1.e of the statement of basis indicate that the first administrative amendment of the permit (January 14, 2005) was issued by NNEPA, following delegation of Part 71 from EPA Region 9. In that same section, we also recommend that EPA's July 29, 2005 PSD permit revision be referred to as a "modification" or "revision", not an "amendment". The latter implies an administrative amendment without public notice; however, the 2005 permit modification was a minor modification that included an opportunity for public comment. Similarly section 3 should say "modified" instead of "issued an amendment."

16. Section 3 of the statement of basis states that the facility "has potential to emit NO_x greater than 250 tons per year." Actually, according to the PTE table in section 1, the PTE *equals* 250 tpy (but does not exceed it). NNEPA should reconcile these conflicting parts of the statement of basis.

17. When discussing PSD applicability of the initial construction of the source and its 1991 modification, NNEPA should use the past tense. The facility is not making a physical change or change in the method of operation at this time that requires a PSD applicability determination.

18. The paragraph in the statement of basis that begins with "On February 11, 2008, the permittee sent a letter" and ends with "concurrently with NNEPA processing this Part 71 Renewal" is repeated (see pages 3 and 6-7). One of them should be deleted.

19. EPA suggests the following edits to section 3.a. on page 7 of the statement of basis:

> Pursuant to PSD-NM-1000-B, issued on July 29, 2005, the Permittee shall not exceed the emissions listed in the table below. The hourly NO_x and CO emission rates listed below are directly enforceable. Any proposed increase in emission rates ~~may~~ would require a PSD permit modification ~~application to permit no. PSD-NM-10o0-B~~ [Permit no. PSD-NM-1000-B, Special Condition VI.A]

Gallup

20. The reference to the year 2001 in the PSD applicability discussion in section 3 appears to be an error, since the initial PSD permit was issued in 1991. NNEPA should also clarify in the statement of basis that in 2000, EPA simultaneously issued the initial Part 71 permit for the facility and modified its PSD permit.