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

DEC 19 2018

VIA ELECTRONIC FILING, EMAIL AND REGULAR MAIL

Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1200 Pennsylvania Avenue, NW
Mail Code 1103M
Washington, DC 20460-0001

Jeffrey Jenkins
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Four Corners Steam Electric Station
PO Box 355, MS 4900
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Kerry McGrath
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2200 Pennsylvania Avenue, NW
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John Barth
Attorney at Law
P.O. Box 409
Hygiene, Colorado 80533

RE: Four Corners Power Plant, NPDES Permit No. (NN0000019) EAB Appeal No.18-02. Notice of Withdrawal Pursuant to 40 C.F.R. § 124.19(j)

Dear Ms. Durr, Mr. Jenkins, Ms. McGrath and Mr. Barth:

Pursuant to 40 C.F.R. § 124.19(j), the U.S. Environmental Protection Agency ("EPA") Region 9 ("Region") is providing notice of withdrawal of National Pollutant Discharge Elimination System ("NPDES") Permit No. NN0000019 ("Permit") issued on June 12, 2018 to the Arizona Public Service Company ("APS") for the Four Corners Power Plant ("FCPP"). The Region is

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withdrawing the entire Permit at this time and will issue a single revised draft permit for public comment after making modifications to the permit and the administrative record, as appropriate.

By way of background, five entities filed a joint petition ("Petition") with the Environmental Appeals Board ("EAB" or "Board") 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 raised nine issues for review by the EAB.

Withdrawal of Permit

Pursuant to 40 C.F.R. § 124.19(j), the Region may, upon notification to the Board and interested parties, withdraw a permit at any time prior to thirty (30) days after the Region files a response to the petition for review. Since the Region has not filed a response to the Petition, the Region's withdrawal is timely. Consistent with 40 C.F.R. § 124.19(j), the Region will prepare a new draft permit under 40 C.F.R. § 124.6 that will proceed through notice and an opportunity for public comment.

On October 9, 2018, the Region filed a motion to partially dismiss the Petition for Review. The Region explained that it had withdrawn two provisions of the contested permit (Section I.A.5 addressing Internal Outfall 01E, and Section I.B.3 addressing cooling water intake requirements) pursuant to its authority under 40 C.F.R. § 124.19(j) and would modify those provisions, as appropriate, in a new draft permit. On November 13, 2018, the EAB dismissed the Petition as to those two provisions and ordered the Region to respond to the other claims in the Petition by December 21, 2018.

After further deliberation, the Region, in consultation with EPA's Office of General Counsel and Office of Water, has determined that it is appropriate to withdraw the entire Permit to address additional issues raised by Petitioners, including but not limited to the status of Morgan Lake. The Region will issue a single revised draft permit, along with an associated fact sheet and an updated administrative record, for public review and comment in accordance with 40 C.F.R. § 124.6. Within 30 days after the Regional Administrator serves notice of issuance of a final permit decision under 40 C.F.R. § 124.15, any person who filed comments on the draft permit or participated in a public hearing may file a petition for review pursuant to 40 C.F.R. § 124.19(a).

Applicable Permit Terms

The Permit terms in the withdrawn Permit are no longer applicable. Until the Regional Administrator issues a revised final permit, the FCPP shall operate according to the terms of the administratively extended NPDES Permit No. NN0000019, which was effective on April 7, 2001.

At this time, the Region anticipates issuing the public notice for a revised draft permit in March of 2019 and, depending on the volume and nature of public comments received, issuing the final permit in June of 2019.

If you have any questions regarding this notification, please contact Tom Hagler, Assistant Regional Counsel at (415) 972-3945.

Sincerely,

December 19, 2018

Tomás Torres
Director, Water Division

cc: Jeffrey Allmon, APS
Andrew Hawley, Western Law Center
Shiloh Hernandez, Western Law Center

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