



The Honorable Lisa P. Jackson  
Administrator, U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460  
(jackson.lisa@epa.gov)

Re: **EPA-R06-OAR-2010-0846**

Navajo Nation's Joinder in the Petitions for Reconsideration and Stay of EPA's Final Rule:  
"Approval and Promulgation of Implementation Plans; New Mexico; Federal  
Implementation Plan for Interstate Transport of Pollution Affecting Visibility and Best  
Available Retrofit Technology Determination " filed by the Public Service Company of New  
Mexico and the State of New Mexico

Dear Administrator Jackson:

With this letter, the Navajo Nation today joins the Request for Stay filed by the Public Service Company of New Mexico (PNM) on September 16, 2011, as well as the Petition for Reconsideration and Request for Stay filed by Governor Susana Martinez and the New Mexico Environment Department (NMED) on October 21, 2011 and the Petition for Reconsideration and Request for Stay filed by PNM on October 21, 2011 (together, Filings) in the reference matter. The Navajo Nation agrees with Governor Martinez, NMED and PNM that the United States Environmental Protection Agency (EPA) should immediately issue a stay of the effective date of the "Federal Implementation Plan for Interstate Transport of Pollution Affecting Visibility and Best Available Retrofit Technology Determination" (BART FIP) published in the Federal Register on August 22, 2011 (76 Fed. Reg. 52,388). The Navajo Nation also agrees with Governor Martinez, NMED and PNM that EPA should reconsider its regional haze decision announced in the BART FIP, determining that Best Available Retrofit Technology (BART) for NO<sub>x</sub> emissions from San Juan Generating Station (SJGS) is selective catalytic reduction (SCR) on each of the four electric generating units at SJGS. We support the determination of the State of New Mexico that BART for NO<sub>x</sub> emissions at SJGS is selective non-catalytic reduction (SNCR) and urge EPA to immediately approve the New Mexico State Implementation Plan for SJGS, as it must under the Clean Air Act, 42 U.S.C. §§7401 *et seq.*, and the BART rules promulgated by EPA.

During our May 20, 2011 government-to-government consultation with USEPA Region 6, we stated our support for the State of New Mexico's BART State Implementation Plan (SIP) for San Juan. Specifically, we stated that BART for NO<sub>x</sub> emissions at San Juan is selective non-catalytic reduction ("SNCR"). We urge EPA to immediately approve the New Mexico plan for San Juan, as it must under the Clean Air Act and the BART rules promulgated by EPA.

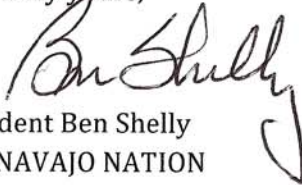
EPA's decision is both improper and incorrect for the reasons set forth in detail by Governor Martinez, NMED and PNM in their Filings. Furthermore, the Navajo Nation strongly disputes EPA's finding in the BART FIP that its BART determination for SJGS will not have an adverse economic impact on the Navajo Nation. Indeed, as set forth in PNM's Filings, 22% of the employees at SJGS and 46% of the employees at the San Juan Coal Company (the mine that supplies fuel to SJGS) are members of the Navajo Nation.

Furthermore, the Navajo Nation's comments dated April 4, 2011 (EPA Docket Number EPA-R06-OAR-2010-0846), state our view that EPA's proposed action to require SCR at San Juan will have impacts on Navajo workers, contractors and subcontractors at San Juan, as well as the San Juan Mine; and the potential for regional economic impacts.

Additional direct benefits include scholarships to Navajo people and contributions to non-profit organizations made by PNM and its coal supplier BHP Billiton. The issuance of a finding that EPA's enormously burdensome decision has no impact upon the economic health of the Navajo Nation merely because the plant is located on non-tribal lands ignores the reality of the culture, geography and economics of the Four Corners area.

We appreciate your time and consideration of this matter and welcome the opportunity to discuss these issues in detail with you and/or with EPA staff. Please contact Harrison Tsosie, Attorney General, at 928.187.6345 or [htsosie@nndoj.org](mailto:htsosie@nndoj.org) if you have any questions or require further information.

Very truly yours,



President Ben Shelly  
THE NAVAJO NATION

cc via email:

Gina McCarthy, EPA  
Dr. Al Armendariz, EPA Region 6  
Guy Donaldson, EPA  
Jessica Hernandez, State of New Mexico  
Ryan Flynn, NMED  
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