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STATE OF CALIFORNIA

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Application of Southern California Edison Company (U 338-E) for Authority to, Among Other Things, Increase Its Authorized Revenues For Electric Service In 2012, And to Reflect That Increase In Rates.	Application No. 10-11-015 (Filed November 23, 2010)

MOTION BY SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) FOR THE COMMISSION TO TAKE OFFICIAL NOTICE OF FACTS

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Dated: **September 26, 2011**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for Authority to, Among Other Things, Increase Its Authorized Revenues For Electric Service In 2012, And to Reflect That Increase In Rates.	Application No. 10-11-015 (Filed November 23, 2010)

MOTION BY SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) FOR THE COMMISSION TO TAKE OFFICIAL NOTICE OF FACTS

Pursuant to California Public Utilities Commission's ("Commission") Rule 13.9, Southern California Edison Company ("SCE") files and serves the following motion requesting that the CPUC take official notice of two documents. First, SCE requests that the Commission take official notice of the August 17, 2011 decision of the California Court of Appeal, Second Appellate District, in *City of Oxnard, et al. v. California Coastal Commission, et al.* (B227835) ("Appellate Decision"), attached hereto as Exhibit A. SCE also requests that the Commission take official notice of the September 2, 2011 Notice of Intent To Sue the Owners Of The Four Corners Power Plant For Violations Of The Clean Air Act ("Notice of Intent"), served by the Sierra Club/Earthjustice on the Four Corners co-owners and the United States Environmental Protection Agency. The Notice of Intent is attached hereto as Exhibit B.

I. THE APPELLATE DECISION MEETS THE RULE 13.9 STANDARD FOR OFFICIAL NOTICE AND IS RELEVANT TO THE ISSUES IN THIS PROCEEDING

Rule 13.9 provides that the Commission may take official notice of "such matters as may be judicially noticed by the courts of the State of California pursuant to Evidence Code section 450 et seq."

California Code of Evidence § 451 states that "Judicial notice *shall* be taken of … [t]he decisional … law of this state… ." Evidence Code § 451(a) (emphasis added). The Appellate Decision is the "decisional law" of California, at least at it relates to the parties to that decision.[1] *See also* Evidence Code § 452(e) ("Judicial notice may be taken of … [r]ecords of … any court of this state… .")[2] Moreover, the Appellate Decision is relevant to the issues in this GRC. DRA and TURN argue that SCE's approved-but-not-yet-built McGrath Peaker is not likely to be on-line by 2012 due to litigation uncertainty, and thus forecast capital and O&M costs related to the Peaker should be excluded from the revenue requirement in this GRC. The Appellate Decision conclusively and comprehensively affirms the McGrath Peaker's Coastal Development Permit, which is the discretionary approval SCE needs to build the project. Accordingly, the Appellate Decision is relevant to this proceeding and the Commission should take official notice of it.

II. THE NOTICE OF INTENT MEETS THE RULE 13.9 STANDARD FOR OFFICIAL NOTICE AND IS RELEVANT TO THE ISSUES IN THIS PROCEEDING

California Code of Evidence § 452 states that "[j]udicial notice may be taken of … [f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy." Evidence Code § 451(h). SCE requests that the Commission take official notice only of the "fact [or] proposition" that the Sierra Club served the Notice of Intent.[3] The Notice of Intent, which was served after the scheduled evidentiary hearings ended on August 26, is an official prerequisite to filing a lawsuit under the federal Clean Air Act. *See* 42 U.S.C.A. § 7604(b). The fact of its existence is indisputably accurate.

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[1] Although the Appellate Decision is unpublished, California Rule of Court 8.1115(b) specifically allows a party to rely on the opinion when it "is relevant under the doctrines of law of the case, res judicata, or collateral estoppel." SCE is only relying on the Appellate Decision for these limited purposes, and is not citing to the decision for any broader proposition of law.

[2] In addition, ALJ Darling seemed to authorize citations to decisions from other jurisdictions during the August 26 live testimony of SCE witness Worden. *See* SCE, Worden, Tr., 24/4089, lines 12-27. SCE is requesting that the Commission take official notice of this document out of an abundance of caution.

[3] SCE does not agree with many of the factual and legal assertions in the Sierra Club's Notice of Intent.

It is also relevant in this proceeding. SCE has argued in its Opening Brief that the Sierra Club's real reason for involvement in this GRC is to obtain discovery for unrelated future lawsuits against Four Corners. *See also* 8/23/11 ALJ Darling email ruling denying Sierra Club's Motion to Compel on relevance grounds. The Notice of Intent states that the basis of many of the allegations contained therein "comes from documents that [SCE] filed with the California Public Utilities Commission." *See* Exhibit B, p. 4. Accordingly, the Notice of Intent is relevant to this proceeding and the Commission should take official notice of it.

Wherefore, for the above reasons, SCE respectfully requests the Commission to grant this motion and take official notice of the documents attached hereto as Exhibits A and B.

Respectfully submitted,

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September 26, 2011

Exhibit A
August 17, 2011 Decision of the California Court of Appeal, Second Appellate District, in *City of Oxnard, et al. v. California Coastal Commission, et al.* (B227835)

Filed 8/17/11 City of Oxnard v. Cal. Coastal Com. CA2/4

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

CITY OF OXNARD, et al., Plaintiffs and Appellants, v. CALIFORNIA COASTAL COMMISSION, Defendant and Respondent, SOUTHERN CALIFORNIA EDISON, Real Party in Interest and Respondent.	B227835 (Los Angeles County Super. Ct. No. BS122248)

APPEAL from a judgment of the Superior Court for Los Angeles County, David P. Yaffe, Judge. Affirmed.

City of Oxnard, Office of the City Attorney and Alan Holmberg, City Attorney; The Sohagi Law Group, Margaret M. Sohagi, Philip A. Seymour, R. Tyson Sohagi and Nicole H. Gordon for Plaintiffs and Appellants.

Kamala D. Harris, Attorney General, John A. Saurenman, Assistant Attorney General, Christina Bull Arndt and Terry T. Fujimoto, Deputy Attorneys General, for Defendant and Respondent.

Latham & Watkins, James L. Arnone, Duncan Joseph Moore and Damon P. Mamalkis for Real Party in Interest and Respondent.

This case involves a proposed project to build an electrical generating facility in the coastal zone of the City of Oxnard. Real Party in Interest Southern California Edison (Edison) applied to the City for a coastal development permit for the proposed project. The City denied the application on the ground that the project was not consistent with the zoning applicable to the property, which the City contended allowed development of energy facilities only if they were coastal-dependent. Edison appealed to the California Coastal Commission (the Commission), which granted the coastal permit.

The City and senior planner Chris Williamson (collectively, the City) filed a petition for writ of mandate challenging the Commission's decision to issue the permit. Among other things, the City argued that the proposed project was inconsistent with the zoning designation for the property and a policy set forth in the city's coastal land use plan regarding availability of water and sewer services, and that the Commission failed to adequately analyze the "no-project" alternative as required by the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (CEQA) before approving the proposed project. The trial court denied the City's petition. We affirm.

BACKGROUND

In August 2006, Commissioner Michael R. Peevey of the California Public Utilities Commission issued a ruling entitled "Assigned Commissioner's Ruling

Addressing Electric Reliability Needs in Southern California for Summer 2007" (the Assigned Commissioner's Ruling). Commissioner Peevey explained that he found it necessary to take action because "[t]he heat storm that hit California in July 2006, and the surprising growth in electricity demand throughout the state that had become evident even before the heat storm, . . . exposed certain vulnerabilities in the electric generation and transmission infrastructure that require immediate attention to assure reliability in 2007, particularly in parts of southern California." The Commissioner noted that the peak demand during the 2006 heat wave was well above the predicted worst case scenario, and was equal to the demand forecasted not to appear until five years in the future. Although the California Independent System Operator (CAISO), which is responsible for maintaining electric system reliability, was able to maintain reliability during the heat wave, the Commissioner determined that additional steps needed to be taken immediately to assure reliability in the future.

Based upon the recommendation of CAISO, the Commissioner directed Edison "to pursue new utility-owned generation that can be online in time for summer 2007." He noted that he was taking this action out of concern that Edison's current competitive electric generation procurement process might not be completed in time for summer 2007 needs. "To avoid undue impacts" on that procurement process, the Commissioner directed Edison to develop not more than five generation units, with a total generation capacity of up to 250 megawatts, and stated that Edison's development of additional generation specified in his ruling should not cause Edison to reduce the amount of capacity it contracts for through the procurement process. He also directed that those generation units "should be

black-start capable and dispatchable, and should bring collateral benefits to [Edison's] transmission and distribution system as well as the CAISO grid."[1]

In response to the Assigned Commissioner's Ruling, Edison determined it needed to install five 50 megawatt units, known as "peakers," each of which would have an output of approximately 45 megawatts. In selecting sites for the five peakers, Edison looked for locations from which the peaker could black-start one or more major generating units, in "regions where peaking capacity would most benefit local reliability needs." Four of the selected locations were inland -- in Norwalk, Ontario, Rancho Cucamonga, and Stanton -- and the fifth was within the coastal zone in the City of Oxnard.

Edison filed permit applications and environmental studies or assessments for each of the peaker projects in late October and early November 2006. The applications for the projects at the four inland locations were approved in March or April 2007, and those peakers were installed and operating by August 2007. The City of Oxnard, however, required additional information and design changes, and ultimately denied Edison's application on July 24, 2007. The City found that the proposed project was not consistent with the City's local coastal program and coastal zoning ordinance because the peaker was not coastal-dependent -- i.e., it did not "'require[] a site on, or adjacent to, the sea to be able to function at all'" --

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[1] According to the Commission's staff report, "the term 'black-start' refers to the ability of a generating unit to turn on and power-up without the need for external power input, for example during a power outage in the area, and the term 'dispatchable' refers to a unit's ability to start and ramp up power output quickly, for example in response to a rapid demand increase or a sudden loss of other generation or transmission resources."

and therefore it could not be constructed at the proposed site, which is in the Coastal Energy Facility Sub-Zone (the EC sub-zone).[2]

Edison filed an appeal with the Commission on August 9, 2007. The Commission found that the appeal raised a "substantial issue" and set the matter for a full hearing. A series of hearings were held before the Commission, and on April 9, 2009, the Commission approved the proposed project, with special conditions. The Commission subsequently approved revised findings, including findings that: (1) section 17-20 of the City's Coastal Zoning Ordinance (hereafter section 17-20), which describes the EC sub-zone designation, does not require that a proposed energy development be coastal-dependent, and therefore a non-coastal-dependent "'electrical power generating plant' [such as] the proposed [peaker] project is a conditionally permitted use of the proposed project site"; (2) the proposed project is in conformance with the City's Local Coastal Policy 42 (hereafter Policy 42), which provides that projects may be approved only when "'sufficient water and sewer services are available'"; and (3) there are no feasible alternatives that would provide the reliability benefits of the proposed project, and the "no project alternative" would not "satisfy the fundamental purpose and need for the project."

On May 22, 2009, the City filed a petition for writ of mandate challenging the Commission's approval of a coastal development permit for the proposed peaker project. The operative first amended petition, which was filed on December 21, 2009, alleged four causes of action. The first cause of action alleged that the Commission abused its discretion and erred as a matter of law by approving the coastal development permit, because the proposed project is

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[2] The City Planning Commission rejected the proposed project on June 28, 2007, and Edison appealed to the City Council. The City Council upheld the Planning Commission's rejection on July 24, 2007.

inconsistent with the City's local coastal program, including section 17-20 and Policy 42. The second cause of action alleged the Commission violated CEQA, because the environmental report the Commission prepared failed to adequately address several issues it was required by CEQA to address, including the requirement to provide a meaningful analysis of the "no project" alternative to the proposed project. The third cause of action alleged that the Commission abused its discretion by failing to fully consider all relevant factors, including principles of environmental justice. Finally, the fourth cause of action alleged that after the Commission approved the coastal development permit, the City received new information that undermines the factual basis for that approval, and sought a writ of mandate under Code of Civil Procedure section 1094.5, subdivisions (e) and (f), directing the Commission to vacate and reconsider its approval in light of this new information.

Following a hearing on the merits, the trial court denied the petition. The court found, among other things, that section 17-20 does not limit development in the EC sub-zone to coastal-dependent energy facilities, and that, in light of substantial evidence in the administrative record that a peaker plant was necessary, the Commission properly analyzed all alternatives to the proposed project, and its approval of the proposed project was supported by substantial evidence. Although the trial court did not specifically address the Commission's finding that the proposed project was consistent with Policy 42, the court observed that the City's contention that it would not supply water to the proposed peaker plant unless Edison complied with the City's Water Use Neutrality Policy is a matter to be litigated (if necessary) between the City and Edison in a separate proceeding; it does not affect the Commission's decision.

The trial court entered judgment denying the petition, from which the City appeals.

DISCUSSION

On appeal, the City argues that the Commission's interpretations of section 17-20 and of Policy 42 are erroneous, and therefore the Commission erred in finding that the proposed project was consistent with the City's coastal zoning ordinance and land use plan. In addition, the City contends that the Commission failed to comply with CEQA because it failed to properly analyze the "no project" alternative. We disagree.

A. *Standard of Review*

"On appeal from the denial of a petition for writ of mandate, our role is identical to that of the trial court. . . . That is, both the trial and appellate courts must determine whether the record is free from legal error. Thus, the trial court's conclusions and disposition of the issues are not conclusive on the court of appeal." (*Alberstone v. California Coastal Com.* (2008) 169 Cal.App.4th 859, 863.)

To the extent the City's challenge involves the interpretation of provisions of the City's local coastal program, which is a question of law, we engage in de novo review. (*Reddell v. California Coastal Com.* (2009) 180 Cal.App.4th 956, 962, 965 (*Reddell*).) But because the Commission is the statutorily designated state coastal zone planning and management agency for any and all purposes (Pub. Resources Code, § 30330), we must give deference to its interpretation of the local coastal program unless that interpretation "'flies in the face of the clear language and purpose of the interpreted provision[s].'" (*Divers' Environmental Conservation Organization v. State Water Resources Control Bd.* (2006) 145 Cal.App.4th 246, 252; accord, *Reddell*, *supra*, 180 Cal.App.4th at p. 968.)

To the extent the City challenges the Commission's compliance with CEQA, we "must determine whether the [Commission] abused its discretion by failing to proceed in a manner required by law or by making a determination or decision that is not supported by substantial evidence." (*Association of Irritated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1390; see also Pub. Resources Code, § 21168.5.)

B. *Section 17-20*

The first issue raised by the City on appeal involves the interpretation of the zoning ordinance applicable to the site for the proposed peaker project. That site is located within an area identified in the City's local coastal program as the "EC, Coastal Energy Facilities, Sub-Zone."

The purpose of, and permitted uses within, the EC sub-zone is set forth in section 17-20. Subdivision (A) of the ordinance provides that the purpose of the sub-zone "is to provide areas that allow for siting, construction, modification and maintenance of power generating facilities and electrical substations consistent with Policies 51, 52, 54, 55 and 56 of the Oxnard coastal land use plan." That subdivision also provides that, "[t]o assure consistency with the Oxnard coastal land use plan," certain coastal act provisions and land use plan policies shall apply, including: "(1) Coastal dependent energy facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth, where consistent with this article. (Coastal Act [Pub. Resources Code], Section 30260)." Subdivision (B) of the zoning ordinance lists the conditionally permitted uses within the EC sub-zone, including: "(2) Electrical power generating plant and accessory uses normally associated with said power generating facility."

According to the City, it was the City's intent at the time it enacted section 17-20 that only those energy facilities that were coastal-dependent (as defined in

the Coastal Act, Pub. Resources Code, § 30101) would be permitted. Therefore, the City denied Edison's application for a coastal development permit for the proposed peaker project (which Edison concedes is not coastal-dependent) on the ground that the proposed peaker project is not consistent with section 17-20.

The Commission, however, found that the section 17-20 does not limit development of electrical power generating plants within the EC sub-zone to plants that are coastal-dependent. The Commission observed that only one subsection of the ordinance "refers to 'coastal-dependent' facilities, and it only 'encourages' such facilities to locate within 'existing sites.' The other subsections apply generally to 'energy related developments,' not exclusively to 'coastal-dependent' developments. Additionally, these subsections are all subject to the overarching provision of Section 17-20(A), which states that this zoning designation allows 'power generating facilities and electrical substations' and is therefore not limited to 'coastal-dependent' facilities."

On appeal, the City argues that this court should defer to the City's interpretation of section 17-20, rather than the Commission's, because a municipality's interpretation of its own zoning regulations generally is entitled to great weight. (Citing *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173 and *Flavell v. City of Albany* (1993) 19 Cal.App.4th 1846, 1851.) What the City's argument ignores, however, is that local coastal programs, although issued by local government, "are not solely a matter of local law, but embody state policy." (*Charles A. Pratt Construction Co., Inc. v. California Coastal Com.* (2008) 162 Cal.App.4th 1068, 1075 (*Pratt*).) Thus, a local government must submit its local coastal program, as well as zoning ordinances and other implementing actions, to the Commission for approval. (Pub. Resources Code, §§ 30512, 30513.) Once the Commission certifies a local coastal program, authority over coastal development permits is delegated to the local government,

but the Commission has appellate jurisdiction to determine whether a proposed development conforms to the standards set forth in the local coastal program. (Pub. Resources Code, §§ 30519, 30603.) In short, as the court in *Pratt* observed, "the Legislature made the Commission, not the [local government], the final word on the interpretation of the [local coastal program]." (*Pratt*, *supra*, 162 Cal.App.4th at p. 1078.)

We find that the Commission's interpretation of section 17-20, unlike the City's, is consistent with the plain language of the ordinance. The fact that the ordinance uses the term "coastal-dependent" in one subsection -- referencing a policy set forth in Public Resources Code section 30260 and encouraging the location of coastal-dependent facilities at existing sites -- but does not use that term when describing permitted uses in the EC sub-zone is a strong indication that the ordinance was not intended to limit development of electrical power generating facilities to those that are coastal-dependent. To interpret the ordinance in the manner suggested by the City would require us to insert language, used in one place in the ordinance, into several other places in the ordinance, something we may not do in light of the unambiguous terms of the ordinance. (*People v. National Automobile & Casualty Ins. Co.* (2002) 98 Cal.App.4th 277, 282; see also *Collection Bureau of San Jose v. Rumsey* (2000) 24 Cal.4th 301, 310 ["Absent a compelling reason to do otherwise, we strive to construe each statute in accordance with its plain language"]; accord *Reddell*, *supra*, 180 Cal.App.4th at p. 966.) Accordingly, we defer, as we must, to the Commission's reasonable interpretation of section 17-20. (*Reddell*, *supra*, 180 Cal.App.4th at p. 968.)

C. *Policy 42*

In approving the proposed peaker project, the Commission found that the project is in conformance with water conservation and municipal services policies

contained in the City's local coastal program. The City challenges the Commission's finding with regard to one of those policies -- Policy 42 -- contending that the Commission misinterpreted that policy.

Policy 42 states: "Consideration of all proposed projects in the coastal zone shall include consideration of the remaining water and sewer capacities. This shall include a calculation of the proposed project's use of remaining capacity in percent. Projects shall be approved only when sufficient water and sewer services are available." With regard to water usage, the Commission found that, assuming the peaker would operate at the maximum level of 2,000 hours per year, the proposed project would require almost 27 acre feet of water per year for the first two years, approximately 25 acre feet per year for the next two years, and 24 acre feet in each subsequent year of operation. However, the Commission noted it is anticipated that the peaker would operate only 200 hours per year, in which case the water requirements would be between two and four acre feet per year. The Commission determined, based upon projections in the City's 2005 Urban Water Management Plan (the 2005 Plan), that the proposed project would require less than one percent of the projected excess water capacity of 3,189 acre feet in 2010. Therefore, the Commission concluded that the proposed project's municipal water requirements would not be expected to substantially affect remaining or projected water supply capacity in the City.

The Commission noted that the City informed Commission staff that "due to existing drought conditions, recent court decisions, and the fact that long range municipal water supply assessments did not include an allocation of water for this project, [Edison] would be required to participate in a newly created mitigation program designed to address projects requiring substantial use of municipal water." As described in a report by City staff provided to the Oxnard City Council on January 15, 2008, recommending adoption of the mitigation program, the program

would augment the 2005 Plan's water shortage contingency plan, which "would be activated during a declared Water Shortage Emergency." The mitigation program would require large municipal water users to either (1) participate in a to-be-developed offset program or (2) suspend project approval contingent on confirmed availability of reliable water supplies. The report explained how the mitigation program would be implemented, stating that "[i]nitially, this program would be included in EIRs and MND, including the General Plan Update EIR, and then added into the next update of the [Urban Water Management Plan]."

In its revised findings, the Commission observed that the City's General Plan Update EIR was still being developed, the next update of the Urban Water Management Plan was not scheduled until the following year, and the offset program described in the first option had yet to be developed and implemented. The Commission noted, however, that even though the mitigation program had not yet been implemented by the City, Edison obtained a letter from the general manager of the Calleguas Municipal Water District, one of the primary suppliers of water to the City, warranting that the Water District could provide additional water to the City to service the proposed facility. Because the City had not, at the time of the Commission's approval of the coastal development permit, responded to the Commission's repeated request for confirmation as to whether the Water District's letter qualifies as "confirmed availability of reliable water supplies," as required by the mitigation program, the Commission evaluated the City's water supplies based upon the 2005 Plan and the Water District's letter. Based upon that information, the Commission found that, in light of the small amount of municipal water required by the proposed project relative to the projected total excess capacity, "'sufficient water and sewer services are available' for the proposed project and that [the proposed project] is therefore in conformance with . . . Policy 42."

The City does not contend on appeal that the facts underlying the Commission's finding (i.e., the proposed project's water requirements and the projected water capacity provided in the 2005 Plan) are unsupported. Instead, the City argues that the Commission improperly interpreted Policy 42 by focusing solely on whether there was sufficient water *capacity*. The City contends that, in doing so, the Commission ignored the last sentence of Policy 42, which requires a determination of whether water *service* is available. According to the City, that determination requires the Commission to determine whether the City would actually provide water service to the proposed project, which would depend upon Edison's compliance with the City's new mitigation program. We disagree.

It is true that Policy 42 uses the word "services" rather than "capacity" in its last sentence, requiring that projects be approved "only when sufficient water and sewer services are available." It does not follow, however, that the term "service" as used in that sentence requires the Commission to consider anything other than projected excess capacity when determining whether the proposed project conforms to the local coastal program policy.

Under established rules of statutory interpretation, the words of a statute must be construed in context, taking into account the legislative intent apparent in the statute. (See *Lungren v. Deukmejian* (1988) 45 Cal.3d 727, 735.) The structure of Policy 42 demonstrates the legislative intent, and supports the Commission's interpretation -- an interpretation to which we must defer. (*Reddell*, *supra*, 180 Cal.App.4th at p. 968.)

The first sentence of Policy 42 sets forth its purpose: to ensure that water and sewer remaining capacities are taken into account when considering proposed projects in the coastal zone. The second sentence provides the means by which those remaining capacities are to be taken into account: it requires a calculation of a proposed project's use of remaining capacities. The last sentence provides a

baseline for approval of proposed projects: they may be approved "only when sufficient water and sewer services are available." Read in context, the last sentence's reference to "sufficient water . . . services" reasonably may be construed to refer to water capacity. Thus, the Commission properly found that the proposed peaker project conformed to Policy 42 in light of its finding that the proposed project would require less than one percent of the City's projected remaining water capacity.

In any event, even if Policy 42 had required the Commission to consider whether there were City policies -- not included in the City's local coastal program -- that would impact the availability of water services to the proposed project, the administrative record does not support the City's assertion that Edison was required to demonstrate compliance with the mitigation program at issue here. As Edison noted in a submission to the Commission, the presentation and report to the City Council outlining the recommended mitigation program indicated that the program would be implemented in the event that new water demands temporarily exceeded available supply, and would remain in place until reliable water supplies were consistent with anticipated demand. Edison also noted that the program had not yet been fully developed or formally adopted by the City Council, and that there had been no determination that water for new hookups was not available. The City provided no evidence to the contrary, but instead simply insisted that it was "not prepared to extend water service" to the proposed project unless Edison "participates in a program that identifies offset consumption." In the absence of evidence in the administrative record that the program was sufficiently developed, adopted by the City Council, and implemented, the Commission had no reason (or even ability) to determine whether the proposed project would satisfy that program. Thus, even if Policy 42 could be interpreted to require a determination as to whether a proposed project complied with other City programs or policies

affecting water service, no such determination was required with regard to the mitigation program at issue here.[3]

D. *"No Project" Alternative*

The final issue raised by the City relates to the Commission's compliance with CEQA with regard to its analysis of the "no project" alternative. Under CEQA, before a public entity approves a project that will have a significant impact on the environment, it is required to conduct a review of the project, "documenting its analysis, usually through the preparation of an environmental impact report (EIR)." (*Strother v. California Coastal Com.* (2009) 173 Cal.App.4th 873, 877.) There is, however, an exemption in CEQA from the EIR requirement for state agencies, such as the Commission, that are certified to conduct environmental reviews under their own regulatory programs. (*Ibid.*; Pub. Resources Code, § 21080.5.) The exemption "is not a 'blanket exemption to CEQA's provisions; it grants only a limited exemption to the applicability from CEQA by allowing [the Commission] to prepare a [staff report] in lieu of a complete [EIR].' [Citation.]" (*Joy Road Area Forest & Watershed Assn. v. California Dept. of Forestry & Fire Protection* (2006) 142 Cal.App.4th 656, 667.) That staff report -- which "functions as the equivalent of an EIR" (*Sierra Club v. State Bd. of Forestry* (1994) 7 Cal.4th 1215, 1230) -- must include "a description of the proposed activity with alternatives to the activity, and mitigation measures to minimize any significant

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[3] We do not mean to suggest that the Commission's finding of compliance with Policy 42 precludes the City from requiring compliance with its mitigation program if the program has been adopted and implemented at the time Edison seeks whatever additional approvals and/or permits are required to go forward with the project. Our holding, that Policy 42 does not require a determination as to whether the project complies with the mitigation program, relates only to the Commission's approval of a coastal development permit.

adverse effect on the environment of the activity." (Pub. Resources Code, § 21080.5, subd. (d)(3)(A); see also Cal. Code Regs., tit. 14, § 15252, subd. (a)(2)(A).)

The guidelines for implementation of CEQA, set forth in the California Code of Regulations, include a guideline for consideration of alternatives in an EIR. (Cal. Code Regs., tit. 14, § 15126.6.) That guideline states that, in addition to considering reasonable feasible alternatives to the proposed project, "[t]he specific alternative of 'no project' shall also be evaluated along with its impact." (Cal. Code Regs., tit. 14, § 15126.6, subd. (e)(1).) The "no project" alternative is "the circumstance under which the project does not proceed." (Cal. Code Regs., tit. 14, § 15126.6, subd. (e)(3)(B).) The guideline directs the lead agency to "analyze the impacts of the no project alternative by projecting what would reasonably be expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services." (Cal. Code Regs., tit. 14, § 15126.6, subd. (e)(3)(C).) "The purpose of describing and analyzing a no project alternative is to allow decisionmakers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project." (Cal. Code Regs., tit. 14, § 15126.6, subd. (e)(1).)

In the present case, the Commission's staff report included a discussion of alternatives to the proposed peaker project, including a no project alternative. Addressing the no project alternative, the report refers to an analysis conducted by Edison (which was attached as an exhibit to the report), explaining why the no project alternative was rejected. Edison's analysis stated that the area on the Edison system most in need of a peaker project is the Ventura/Santa Barbara system west of the Pardee Substation, and that no other projects have been proposed for that area that will provide the reliability benefits of the proposed

project. Edison's analysis also stated that "[i]f the proposed project is not constructed, one or more future generation or transmission projects will need to be constructed in this same area" to address the local reliability needs. The analysis concluded that the no project alternative "does not satisfy the fundamental purpose and need for the project." The Commission's staff report provided no further analysis, and simply agreed with Edison's analysis.

The City contends that the Commission's analysis of the no project alternative was inadequate because it did not include a description of existing conditions on the site, or an evaluation of the potential effects on the site if the project were not approved, such as possible alternative uses of the site that might be proposed. The Commission argues in its respondent's brief that it was not required to analyze a no project alternative, but even if it was required, its analysis complied with CEQA.[4] While we disagree that the Commission was not required to analyze a no project alternative, we agree that the analysis in the staff report complied with CEQA.

1. *CEQA Requires Analysis of a "No Project" Alternative in the Commission Staff Report*

The Commission staff report began its analysis of alternatives with an "overview" in which it noted that the CEQA guidelines require a discussion of reasonable feasible alternatives as well as a discussion of the "no project" alternative. (Citing Cal. Code Regs., tit. 14, § 15126.6.) In this appeal, however, the Commission contends for the first time that analysis of the "no project" alternative is only required in an EIR. It reasons that, in exempting stage agencies such as the Commission from the EIR requirement, CEQA requires only that the

[4] Edison also argues on appeal that the no project analysis satisfied the requirements of CEQA.

functional equivalent document include "a description of the proposed activity with alternatives to the activity, and mitigation measures to minimize any significant adverse effect on the environment of the activity." (Pub. Resources Code, § 21080.5, subd. (d)(3)(A).) The Commission observes that "[h]ad the Legislature intended to impose . . . a requirement [to include a no project analysis in the functional equivalent document] it would have done so explicitly as it did with EIRs."

The flaw in the Commission's reasoning is that the Legislature did not explicitly impose that requirement in the statute setting forth the required elements for an EIR. That statute simply states that the EIR must include "a detailed statement setting forth . . . [¶] [a]lternatives to the proposed project." (Pub. Resources Code, § 21100, subd. (b)(4).) The required analysis of the "no project" alternative is found in section 15126.6 of guidelines adopted by the Secretary for Resources and set forth in title 14 of the California Code of Regulations. Although that section (entitled "Consideration and Discussion of Alternatives to the Proposed Project") is located in the portion of the guidelines relating to the contents of an EIR, rather than a functional equivalent document, there is no reason why its provisions should not apply to the discussion of alternatives in either type of document. (See *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 135-136 [noting the applicability of guideline requiring consideration of "no project" alternative to state agency certified to conduct environmental reviews under its own regulatory program].)

2. *The Commission's "No Project" Alternative Analysis is Sufficient Under the Facts of This Case*

Having concluded that the Commission was required to analyze the "no project" alternative in its staff report, we turn to the sufficiency of its analysis.

As the City correctly notes, the analysis must include a description of existing conditions at the site. (Cal. Code Regs., tit. 14, § 15126.6, subd. (e)(2).) But contrary to the City's assertion, the Commission's staff report includes a detailed description of existing conditions. Although that five-page description is located in an earlier section of the report, under the heading "Biological Features of Project Area," rather than in the "Alternatives" section, it clearly satisfies the purpose of an EIR (or functional equivalent document), which is to give the public and government agencies the information needed to make informed decisions, thus protecting """not only the environment but also informed self-government."" [Citation.]" (*In re Bay-Delta etc.* (2008) 43 Cal.4th 1143, 1162.) Thus, we find the staff report complied with the requirement to describe existing conditions at the site.

The guidelines also provide that the "no project" analysis must discuss "what would be reasonably expected to occur in the foreseeable future if the project were not approved." (Cal. Code Regs., tit. 14, § 15126.6, subd. (e)(2).) The City argues that the staff report did not comply with this requirement because it did not discuss the fact that the California Coastal Conservancy "has targeted the project site for acquisition and restoration for conservation purposes," and instead focused on the fact that the impacts of building the peaker plant at some alternative location would be greater than the impacts of building it at the proposed site.

While it is true that the Conservancy had expressed interest in acquiring the project site in 2000, Edison notified the Conservancy in 2001 that it intended to retain the property. Edison informed the Commission that it is not interested in selling the property and it is not aware of any public agency that has been specifically authorized, or has funds available, to acquire the property. In light of this information, the Commission was not required to discuss the possibility of acquisition of the project site by the Conservancy, because it was not an event that

"would be reasonably expected to occur in the foreseeable future if the project were not approved." (Cal. Code Regs., tit. 14, § 15126.6, subd. (e)(2).)

Instead, the "no project" analysis properly focused on the fact that the impacts of building the peaker plant at some alternative location would be greater if the proposed project was not approved. As the guidelines state, "[t]he purpose of describing and analyzing a no project alternative is to allow decisionmakers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project." (Cal. Code Regs., tit. 14, § 15126.6, subd. (e)(1).) Due to the unusual circumstances of this case, rejection of the proposed project would not result in the peaker plant not being built. Edison is *required* by the Assigned Commissioner's Ruling to build a peaker plant that is black-start capable and addresses local reliability needs. Although that ruling directed Edison to complete construction by summer 2007 so it would be available during peak demand, the fact that the project was delayed due to the City's denial of Edison's permit application does not relieve Edison of its obligation under the ruling. Indeed, the circumstances that led to the Assigned Commissioner's Ruling -- the need expressed by CAISO for new peaking resources to ensure electric system reliability -- still exist, as evidenced by a letter sent by CAISO to the Commission in March 2009 urging the Commission to approve the proposed peaker project. In short, the effect of not approving the proposed project would be that the peaker plant would be built at an alternative site. Thus, the staff report analysis of the "no project" alternative properly compared the impacts of building the peaker plant at the proposed site with the impacts of building it at alternate sites. The Commission did not abuse its discretion by proceeding in this manner. (*Association of Irritated Residents v. County of Madera*, *supra*, 107 Cal.App.4th at p. 1390.)

DISPOSITION

The judgment is affirmed. The Commission and Edison shall recover their costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

WILLHITE, Acting P. J.

We concur:

MANELLA, J.

SUZUKAWA, J.

Exhibit B
September 2, 2011 Notice of Intent To Sue the Owners Of The Four Corners Power Plant For Violations Of The Clean Air Act

EARTHJUSTICE

ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, DC INTERNATIONAL

September 2, 2011

RECEIVED
SEP - 6 2011
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Phoenix, AZ 85016

(See Additional Addressees on Attached Page)

RE: **NOTICE OF INTENT TO SUE THE OWNERS OF THE FOUR CORNERS POWER PLANT FOR VIOLATIONS OF THE CLEAN AIR ACT**

To whom it may concern:

On behalf of the Diné Citizens Against Ruining Our Environment ("Diné CARE"),[1] To' Nizhoni Ani ("TNA"),[2] National Parks Conservation Association ("NPCA")[3] and Sierra Club, with its over 700,000 members[4] (collectively, "Noticing Parties") we are writing to provide you with notice that we intend to file a federal Clean Air Act citizen suit against the owners and operator of the Four Corners Power Plant ("Four Corners"). Four Corners is located on Navajo land in Fruitland, N.M., near Farmington. The Noticing Parties hereby allege that Four Corners has repeatedly violated the Clean Air Act, 42 U.S.C. § 7401 et seq., as described below. These

[1] Diné CARE, Attn: Anna Frazier, 63 Box 263, Winslow, AZ 86047, (928) 380-7697
[2] TNA, Attn: Nicole Horseherder, PO Box 657, Kykotsmovi Village, AZ 86039-0657, (928) 675-1851
[3] NPCA, Attn: Stephanie Kodish, Clean Air Counsel, 706 Walnut Street, Suite 200, Knoxville, TN 37902, (865) 329-2424
[4] Sierra Club, Attn: Sanjay Narayan, 85 Second Street, Second Floor, San Francisco, CA 94105, (415) 977-5769

426 17TH STREET, 5TH FLOOR OAKLAND, CA 94612-2807
T: 510.550.6725 F: 510.550.6749 E: eajusca@earthjustice.org W: www.earthjustice.org

violations injure, and will continue to injure, the health, aesthetic and economic interests of the Noticing Parties and their members. The injuries are traceable to the violations and redressing the violations will redress the injuries. This notice is being provided pursuant to 42 U.S.C. § 7604(b).

I. FOUR CORNERS

Four Corners is one of the largest coal-fired generating stations in the United States.[5] The plant's five units generate 2,040 megawatts. The first unit went online in 1963.[6] The plant, operated by Arizona Public Service Co. ("APS"), provides power to about 300,000 households in New Mexico, Arizona, California and Texas.[7]

Four Corners is a very large source of air pollution. According to the EPA's Clean Air Markets database, last year alone, the plant emitted over 38,000 tons of nitrogen oxide ("NOx") pollution, over 11,000 tons of sulfur dioxide pollution("SO2"), and over 14 million tons of carbon dioxide. The plant also emits particulate matter ("PM"), and mercury, an established neuro-toxin. According to the U.S. Environmental Protection Agency, "[t]he Four Corners Power Plant and Navajo Generating Station are two of the largest pollution sources in the United States. Air pollution from the Four Corners Power Plant and the Navajo Generating Station impacts many of our most pristine and precious natural areas."[8] As reported in a news article from 2009,

> Regulated pollutants at the power plant include sulfur dioxide, particulate matter and nitrogen oxide, the latter constituting "the largest single nitrogen oxide source in the United States," according to Colorado state Rep. Scott Tipton, R-Cortez, in a letter March 9 to the state attorney general.
>
> The power plant's "dangerous emission levels of nitrogen oxide have created a permanent haze above Mesa Verde and the surrounding areas," he said. "The National Park Service has reported that the haziest days at Mesa Verde have worsened over the past 10 years."
>
> He said ground-level ozone and fine particle pollution from power plant emissions create health hazards.
>
> "It is past time that we cleaned up the Four Corners Power Plant, one of the largest sources of air pollution in the country, so that we can reduce ozone, people can breathe easier, and we can improve our western vistas towards what

---

[5] http://www.pnm.com/systems/4c.htm
[6] *Id.*
[7] *Id.*
[8] http://yosemite.epa.gov/opa/admpress.nsf/d0cf6618525a9efb85257359003fb69d/9263df2fe9e7215085257618005b8137!OpenDocument

> they used to be and should be," Colorado Gov. Bill Ritter said in a March 16 press release, as he and the state attorney general joined the controversy.
>
> The Four Corners Power Plant emits more than 40,000 tons of ozone-causing pollution annually . . . .[9]

The plant's excessive emissions not only impact scenic vistas, but also pose a serious threat to human health. As described in the following news article, local community groups are raising environmental justice concerns and are analogizing their plight to those who live in "Cancer Alley" in Louisiana.

> Navajos at the environmental group Diné CARE (Citizens Against Ruining our Environment) compare the region to "Cancer Alley" in southern Louisiana, where petroleum companies were built in a poverty-stricken region and high cancer rates followed.
>
> Sarah Jane White of Sanostee, N.M., member of the "Dooda [No] Desert Rock" Navajo group, pointed out that little is being done to counter the pollution and treat the respiratory diseases and cancers resulting from local power plants.[10]

II. VIOLATIONS

A. PSD MAJOR MODIFICATIONS

The Clean Air Act's New Source Review Prevention of Significant Deterioration ("PSD") program requires that anyone constructing or modifying a major source of air pollution obtain a PSD permit and install and operate Best Achievable Control Technology ("BACT"), among other requirements.

At various times since January 1, 1985, Southern California Edison, Arizona Public Service Company, El Paso Electric Company, PNM Resources, Inc, Salt River Project Agricultural Improvement and Power District, Tucson Electric Power Company and/or their predecessors or subsidiaries have modified and/or operated Four Corners without obtaining PSD permits, without installing BACT and without complying with BACT emission limits, in violation of the Clean Air Act's PSD provisions. These modifications were physical changes and changes in the method of operation of the plant, each of which has resulted in a significant net emissions increase in particulate matter ("PM") and PM10, sulfur dioxide ("SO2"), carbon monoxide ("CO"), sulfuric acid mist, fluorides, lead, mercury and nitrogen oxides ("NOx"). Failure to install BACT and meet BACT emission limits has resulted in excess emissions of sulfuric acid mist, fluorides, lead, mercury, CO, SO2, NOx and/or PM and PM10 which will continue unless these violations are corrected. These modifications, as that term is defined in 40 CFR § 52.21(a) & (b), are described in more detail below.

---

[9] By Carol Berry, *Indian Country Today* (April 22, 2009)
[10] http://www.msnbc.msn.com/id/8161048, accessed on Monday, October 26, 2009.

1. First Set of Modifications – Replacement of 18 Pulverizers

During the years 1985 and 1986, the owners and operator of Four Corners replaced at least 18 pulverizers at Units 4 and 5. The owners and operator of Four Corners replaced the existing pulverizers with new Babcock & Wilcox pulverizers ("B&W- 89" or "B&W model MPS89"). Those replacements are further described in a Babcock and Wilcox document, attached hereto as "Exhibit A."

2. Second Set of Modifications – Units 4 and 5

Starting in or around 2007, the owners and operator of Four Corners commenced a massive modification project involving Units 4 and 5 of the power plant. The effect of the modification was to extend the life and/or increase the capacity of both of those units by upgrading and/or replacing key components of the boilers, turbines and generators. The following list of modifications comes from documents that APS filed with the California Public Utilities Commission. The relevant portions of those documents are attached hereto as "Exhibit B."

a. Unit 5 Boiler

- Replacement of the lower part of the furnace section of the Unit 5 boiler. The Noticing Parties are informed and believe, and thereupon allege, that this work was approved in or around 2005 and was completed in or around 2008.

- Replacement of the pendant reheater section of the Unit 5 boiler, along with the outlet header for that section. The Noticing Parties are informed and believe, and thereupon allege, that this work was approved in or around 2005 and completed in or around 2008.

- Replacement of the horizontal reheater section of the Unit 5 boiler.

- Replacement of the first stage pendant superheater section of the Unit 5 boiler.

- Replacement of the second stage pendant superheater section of the Unit 5 boiler. The Noticing Parties are informed and believe, and thereupon allege, that this work was approved in or around 2005 and completed in or around 2008.

- Replacement of the nose portion of the furnace section of the Unit 5 boiler.

- Replacement of the baskets in the hot and cold ends of the air heaters associated with the Unit 5 boiler. The Noticing Parties are informed and believe, and thereupon allege, that this work was approved in or around 2006 and completed in or around 2008.

- Replacement and upgrade of pulverizers associated with the Unit 5 boiler by replacing and/or upgrading the classifiers.

b. Unit 5 Turbine/Generator

- Replacement of the high pressure section of the main turbine, along with some or all of the turbine controls, in Unit 5. The Noticing Parties are informed and believe, and thereupon allege, that this work was approved in or around 2005 and completed in or around 2008.

- Replacement of the fourth-stage rows of blades in the low-pressure sections of the main turbine in Unit 5. The Noticing Parties are informed and believe, and thereupon allege, that the work was approved in or around 2007 and completed in or around 2008.

- Replacement of one or more rows of blades in one of the low-pressure sections (section A) of the main turbine in Unit 5. The Noticing Parties are informed and believe, and thereupon allege that the work was approved in or around 2007 and completed in or around 2008.

- Replacement of one or more rows of blades of the intermediate-pressure section of the main turbine in Unit 5. The work was approved in or around 2007 and completed in or around 2008.

- The rotor (field) in the generator that is associated with the low-pressure turbine in Unit 5 was rewound. The work was approved in or around 2006 and completed in or around 2008.

c. Unit 4 Boiler

- Replacement of the pendant reheater section of the Unit 4 boiler, along with replacement of the outlet header for that section. The Noticing Parties are informed and believe, and thereupon allege that this work was approved in or around 2006 and was scheduled to be completed in or around 2010.

- Replacement of the second stage pendant superheater section of the Unit 4 boiler. The Noticing Parties are informed and believe, and thereupon allege, that the work was approved in or around 2006 and was scheduled to be completed in or around 2010.

- Replacement of the nose portion of the furnace section of the Unit 4 boiler.

- Replacement of the baskets in the hot and cold ends of the air heaters associated with the Unit 4 boiler. The Noticing Parties are informed and believe, and thereupon allege, that this work was approved in or around 2008 and completed in or around 2010.

- Upgrade of the capacities of the pulverizers associated with the Unit 4 boiler .

- Upgrade of the pulverizers associated with the Unit 4 boiler by replacing and/or upgrading the classifiers.

d. Unit 4 Turbine/Generator

- Replacement of the high pressure section of the main turbine, along with turbine controls, in Unit 4. The Noticing Parties are informed and believe, and thereupon allege, that this work was approved in or around 2006 and scheduled to be completed in or around 2010.

- Replacement of the fourth-stage rows of blades in the low-pressure sections of the main turbine in Unit 4. The Noticing Parties are informed and believe, and thereupon allege, that this work was approved in or around 2007 and completed in or around 2008.

- Replacement of the second stage rows of blades in one of the low-pressure sections (section B) of the main turbine in Unit 4. The Noticing Parties are informed and believe, and thereupon allege that this work was approved in or around 2008 and was scheduled to be completed in or around 2010.

- Replacement of one or more rows of blades in the intermediate-pressure section of the main turbine in Unit 4. The Noticing Parties are informed and believe, and thereupon allege, that this work was approved in 2008 and was scheduled to be completed in 2010.

- The rotor (field) in the generator associated with the high-pressure turbine in Unit 4 was rewound. The Noticing Parties are informed and believe, and thereupon allege, that this work was approved in or around 2008 and was scheduled to be completed in or around 2010.

- The stator in the generator associated with the low-pressure turbine in Unit 4 was re-wedged. The Noticing Parties are informed and believe, and thereupon allege that this work was approved in or around 2008 and was scheduled to be completed in or around 2010.

- Replacement of one or more of the high-pressure feedwater heaters in Unit 4.

The Noticing Parties hereby allege that these modifications resulted in a "significant" "net emission increase" in sulfuric acid mist, fluorides, lead, mercury, CO, PM, PM10, SO2 and/or Nitrogen Oxides emissions, as defined in the version of 40 CFR § 52.21(b)(3) and (23) that was in effect at the relevant time(s). The modifications at Four Corners did not constitute "routine maintenance, repair or replacement" or qualify for any of the other exemptions under 40 CFR 52.21(b) and therefore were not exempt from PSD requirements pursuant to the version of 40 CFR § 52.21(b) that was in effect at the relevant time. Each of the modifications described above involved a component with a long useful life. Each modification was performed to increase capacity, regain lost capacity and/or extend the useful life of Four Corners. None of the modifications at Four Corners qualify for the demand growth exclusion because the emissions increases which occurred after each modification resulted from the modification. No one voluntarily provided US EPA or the State of New Mexico with any information regarding actual emissions after the modifications in any effort to claim that there was no significant net increase in emissions, or with information required to claim that the physical change should qualify as a "pollution control project." In fact, in an effort to separately investigate the emissions consequences related to the second set of modifications, the US EPA has sent a request for information under section 114 of the Clean Air Act. Southern California Edison, Arizona Public Service Co., El Paso Electric, PNM, Salt River Project, Tucson Electric Power and/or their predecessors or subsidiaries violated and continue to violate 40 CFR § 52.21 by constructing and operating major modifications at Four Corners without first obtaining a PSD permit. Each of these violations has been ongoing from the start of the construction of the modification and will continue to be ongoing until owners and operator of the plant obtain the appropriate PSD permit(s) and come into compliance with its BACT emission limits.

B. ARIZONA PUBLIC SERVICE CO. IS OPERATING UNITS 4 AND 5 IN VIOLATION OF THE EMISSION LIMITS FOR SO2, MERCURY AND PM IN NSPS SUBPART Da

In addition to being in violation of the PSD program of the Clean Air Act, Southern California Edison, Arizona Public Service Co., El Paso Electric, PNM, Salt River Project, Tucson Electric Power and/or their predecessors or subsidiaries are in violation of the emission limits under the New Source Performance Standards ("NSPS") for power plants. More specifically, the modifications described herein are subject to NSPS Subpart Da, which is applicable to affected facilities for which construction is commenced or a modification occurs after September 18, 1978.

Units 4 and 5 of Four Corners were modified as that term is defined under the NSPS after September 18, 1978. The modifications are described above. These modifications resulted in an increase in the emission rates of PM, PM10, SO2, NOx and mercury. Therefore, the above-mentioned entities have owned and operated Units 4 and 5 in violation of the SO2 emission limit of a 90% reduction required by 40 CFR 60.43Da for every day that those Units have

operated, excluding periods of startup, shutdown or malfunction, during the five year period previous to the date of this letter and will continue to operate in violation of this standard unless enjoined. Each day is a new violation because each day has a new 30 day rolling average. In addition, the above-mentioned entities have owned and operated Units 4 and 5 in violation of the mercury limit of 20×10^{-6} pound per megawatt hour ("lb/MWh") or 0.020 lb/gigawatt-hour ("GWh"), on an output basis, over a 12 month rolling average period, as described in 40 CFR 60.45Da. Furthermore, the above-mentioned entities have owned and operated Units 4 and 5 in violation of the 0.5 lb/MMbtu NOx limit, based on a 30-day rolling average basis, as expressed in 40 CFR 60.44Da.

Finally, the above-mentioned entities have owned and operated and continue to own and operate Units 4 and 5 in violation of the 99% particulate matter reduction imposed by 40 CFR 60.42Da during the five year period previous to the date of this letter and will continue to operate in violation of the particulate matter limit unless enjoined.

III. CONCLUSION

The parties to this matter and their counsel have a policy of trying to resolve these matters without the need for litigation. We are aware that some, if not all, of the owners of the Four Corners Power Plant are engaged in settlement discussions with EPA concerning the second set of modifications described above. As we have expressed to EPA in our August 29th response to APS's offer of settlement, full and timely resolution of these claims cannot occur without our participation. That August 29th response is attached as Exhibit C. An inclusive negotiation process is therefore more likely to lead to an efficient and certain outcome. If you wish to discuss this matter, please contact the undersigned counsel at (510) 550-6725.

However, if we do not hear from you in 60 days, we will be forced to assume that you are not interested in resolving this matter and will file a complaint. We will seek injunctive and declaratory relief as well as civil penalties, a supplemental environmental project, costs of litigation and other appropriate relief. We look forward to hearing from you soon.

Sincerely,

Suma Peesapati/JB

Suma Peesapati
Counsel for Diné Citizens Against Ruining Our Environment, To' Nizhoni Ani, National Parks Conservation Association and Sierra Club

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EXHIBIT A

Appendix D CR Pulverizer Replacements

Figure D-1 is a comprehensive listing of the replacements installed for CR pulverizers.

Figure D-1 CR Pulverizer Replacement Listing

The Babcock & Wilcox Company
Generating Powerful Solutions

CR Pulverizer Replacement Listing

Customer	Plant or Location	Number of CR Pulverizers Replaced	Year CR Pulverizer Replaced	Number and Replacement Type
AEP	Cardinal 2	1	1971	1, MPS-2250
TVA	Cumberland 1 & 2	22	1975	22, B&W-89
Alabama Power	Greene County 1	4	1978	4, B&W-75
American Electric Power	Cardinal 1 & 2	9	1978	9, B&W-89
American Electric Power	Muskingum River 5	5	1978	5, B&W-89
Georgia Power	Harlee Branch 1	4	1978	4, B&W-75
Allegheny Energy Supply	Hatfield's Ferry 1, 2 & 3	15	1979	15, B&W-89
Dayton Power & Light	Stuart 1, 2, 3 & 4	24	1979	24, B&W-89
Detroit Edison	Monroe 1, 2, 3 & 4	28	1979	28, B&W-89
FirstEnergy CEI	Eastlake 5	6	1980	6, B&W-89
New England Power	Brayton Point 3	5	1981	5, B&W-89
Orion Power Midwest	Avon Lake 9	6	1981	6, B&W-89
Monongahela Power Company	Fort Martin 2	5	1982	5, B&W-89
Arizona Public Service	Four Corners 4 & 5	18	1985 & 1986	16, B&W-89
ENEL (Italy)	La Spezia 1	6	1988	6, B&W-89
FirstEnergy Ohio Edison	Sammis 6 & 7	12	1998 & 2000	10, B&W-89
Pacific Power & Light	Dave Johnston 3	4	Replaced by Others	By Others
	Total	174		

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- Fax Worldwide ..... (330) 860-1886 or (330) 860-1909

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- Outside U.S.A., call ..... (330) 860-1200
- Fax Worldwide ..... (330) 860-9350

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April 12, 2007 *Page 1 of 1*

EXHIBIT B

Appendix A

ATTACHMENT A
FOUR CORNERS CAPITAL FORECAST 2007-2011
NOV. 24, 2008

Owner Approval Status	GRC id	GRC id	GRC id	APS Work Order	Capital Project	Purpose of Project	Basis for EPS Non-Applicability	SCE GRC Page References Direct Testimony	SCE GRC Page References Work Papers
pre Jan07	R	1		06-08	HP TURBINE & CONTROLS REPL, U 5	Replaces & Upgrades Deteriorated Turbine Components to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	(1) This project is not designed or intended to extend the life of one or more generating units beyond the remaining duration of existing contracts governing plant ownership. (2) This project does not increase the generator nameplate capacity of the plant. Project restores and improves Unit MW gross output to approx. 815 MW from prior approx. 795 MW (generator nameplate rating is 818 MW). (3) The plant is already a base load plant.	14	33
pre Jan07	R	2		07-05R0	HP TURBINE & CONTROLS REPL, U 4	Replaces & Upgrades Deteriorated Turbine Components to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	(1) This project is not designed or intended to extend the life of one or more generating units beyond the remaining duration of existing contracts governing plant ownership. (2) This project does not increase the generator nameplate capacity of the plant. Project restores and improves Unit MW gross output to approx. 815 MW from prior approx. 795 MW (generator nameplate rating is 818 MW). (3) The plant is already a base load plant.	16	60
Pending	R	3		PWEE	MINOR OVERHAUL TURB REPAIRS, U 5	Replaces & Upgrades Deteriorated Turbine Components to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	**[For the remainder of this matrix, the symbol *** denotes content identical to the information in this field.]** (1) This project is not designed or intended to extend the life of one or more generating units beyond the remaining duration of existing contracts governing plant ownership. (2) This project does not increase the generator nameplate capacity of the plant. (3) The plant is already a base load plant.	17	239
09-16	R	4		PWEE	HP GENERATOR FIELD REWIND, U 4	Replaces Deteriorated Generator Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	17	197
pre Jan07	R	5		06-05	LOWER BOILER REPLACEMENT, U 5	Replaces Deteriorated Boiler Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	18	27
pre Jan07	R	6		06-06	PENDANT RH & OUTLET HEADER REPL, U 5	Replaces Deteriorated Boiler Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	23	29
pre Jan07	R	7		07-04R0	PENDANT RH & OUTLET HEADER REPL, U 4	Replaces Deteriorated Boiler Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	24	58
pre Jan07	R	8		06-07	2ND STAGE PENDANT SUPHTR REPL, U 5	Replaces Deteriorated Boiler Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	24	31
Pending	R	9		PWEE	1ST STAGE PENDANT SUPHTR REPL, U 5	Replaces Deteriorated Boiler Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	26	240
pre Jan07	R	10		07-06R0	2ND STAGE PENDANT SUPHTR REPL, U 4	Replaces Deteriorated Boiler Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	27	61
Pending	R	11		PWEE	HORIZONTAL REHEAT BANK REPL, U 5	Replaces Deteriorated Boiler Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	27	241

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Pending	R	12		PWEE	BOILER NOSE REPLACEMENT, U 4	Replaces Deteriorated Boiler Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	27	198
Pending	R	13		PWEE	BOILER NOSE REPLACEMENT, U 5	Replaces Deteriorated Boiler Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	28	242
pre Jan07	R	14		05-04R1	MAIN FLAME SCANNER UPGRADE, U 5	Replaces and Upgrades Unreliable Boiler Component to sustain plant Reliability and Safety for remaining duration of existing contracts governing plant ownership.	***	28	17
09-05	R	15		PWEE	AIR PREHEATER H/C BASKET REPL, U 4	Replaces Deteriorated Boiler Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	(1) This project is not designed or intended to extend the life of one or more generating units beyond the remaining duration of existing contracts governing plant ownership. (2) This project does not increase the generator nameplate capacity of the plant. Project may, however, result in the recovery of a minor amount of capacity, but will not increase capacity beyond nameplate. (3) The plant is already a base load plant.	30	199
pre Jan07	R	16		07-08	COAL PIPE REPL, U 5	Replaces Deteriorated Coal Fuel Handling components to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	31	66
09-04	R	17		PWEE	COAL PIPE REPL, U 4	Replaces Deteriorated Coal Fuel Handling components to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	31	200
Pending	R	18		PWEE	HP FEEDWATER HEATER REPL, U 4	Replaces Deteriorated Boiler Feedwater component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	(1) This project is not designed or intended to extend the life of one or more generating units beyond the remaining duration of existing contracts governing plant ownership. (2) This project does not increase the generator nameplate capacity of the plant. Project may, however, result in the recovery of a minor amount of capacity, but will not increase capacity beyond nameplate. (3) The plant is already a base load plant.	32	201
Pending	R	19		PWEE	PULVERIZER CAPACITY UPGRADE, U 4	Refurbishes and Upgrades Deteriorated Coal fuel handling components to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	32	202
pre Jan07	R	20		05-13	GSU TRANSFORMER T633 & T634 REPL, U 5	Replaces Deteriorated Transformers to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	33	23
pre Jan07	R	21		06-09R1	GSU TRANSFORMER T631 REPL, U 4	Refurbished Deteriorated Spare Transformer to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	34	35
08-04	R	22		PWEE	GSU TRANSFORMER T629 REPL, U 4	Replaces Deteriorated Transformer to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	34	203
Pending	R	23		PWEE	UNDERGROUND CABLE REPLACEMENTS	Replaces Deteriorated Electrical Cables to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	35	152
08-18	R	24		PWEE	PLANT PERIMETER SECURITY UPGRADE	Upgrades Plant Security in accordance with NERC security standards governing power grid Reliability, to assure regulatory compliance for remaining duration of existing contracts governing plant ownership.	***	35	204

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09-25	R	25		PWEE	COMPUTER PREDICTIVE/PERF TOOLS	Upgrades Plant Operations and Maintenance Data Analysis Capabilities to sustain the Reliability of this aging plant for remaining duration of existing contracts governing plant ownership.	***	36	153
Pending	R	26		PWEE	BOTTOM ASH CONTROLS REPL, U 4&5	Replaces and Upgrades Deteriorated Plant Control System components to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	36	165
Pending	R	27		PWEE	**UNALLOCATED FUTURE PROJECTS U4&5**	**Funds Additional Projects expected to arise during 2009-2011 which had not yet been identified at the time the SCE 2009 GRC Capital Forecast was prepared in mid-2007. To date, 33 such projects have arisen and are therefore identified at the bottom of this list.**		37	none
pre Jan07	R	28	1	07-11	AIR PREHEATER H/C BASKET REPL, U 5	Replaces Deteriorated Boiler Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	(1) This project is not designed or intended to extend the life of one or more generating units beyond the remaining duration of existing contracts governing plant ownership. (2) This project does not increase the generator nameplate capacity of the plant. Project may, however, result in the recovery of a minor amount of capacity, but will not increase capacity beyond nameplate. (3) The plant is already a base load plant.	39	72
pre Jan07	R	28	2	07-19	GEN PROT RELAY REPLACEMENT, U 5	Replaces and Upgrades Deteriorated Generator Protective Device to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	86
08-08	R	28	3	PWEE	IP TURBINE BLADE REPLACEMENT, U 5	Replaces Deteriorated Turbine Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	(1) This project is not designed or intended to extend the life of one or more generating units beyond the remaining duration of existing contracts governing plant ownership. (2) This project does not increase the generator nameplate capacity of the plant. Project may, however, result in the recovery of a minor amount of capacity, but will not increase capacity beyond nameplate. (3) The plant is already a base load plant.	39	138
pre Jan07	R	28	4	07-13	LP GENERATOR FIELD REWIND, U 5	Replaces Deteriorated Generator Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	76
Pending	R	28	5	PWEE	REHEAT ISOLATION VALVES, U 5	Facilitates Detection and Repair of Boiler Tube Leaks to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	139
pre Jan07	R	28	6	07-22	SUPERHEAT ATTEMPERATOR REPL, U 5	Replaces and Upgrades Deteriorated Boiler Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	92
09-08	R	28	7	PWEE	FD FAN MOTOR REPL, U 4	Replaces Deteriorated Spare Motor to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	205
09-18	R	28	8	PWEE	GEN PROT RELAY ADDITION, U 4	Replaces and Upgrades Deteriorated Generator Protective Device to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	206

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09-13	R	28	9	PWEE	IP TURBINE BLADE REPL, U 4	Replaces Deteriorated Turbine Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	(1) This project is not designed or intended to extend the life of one or more generating units beyond the remaining duration of existing contracts governing plant ownership. (2) This project does not increase the generator nameplate capacity of the plant. Project may, however, result in the recovery of a minor amount of capacity, but will not increase capacity beyond nameplate. (3) The plant is already a base load plant.	39	207
09-17	R	28	10	PWEE	LP GENERATOR REWEDGE, U 4	Refurbishes Generator to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	208
09-12	R	28	11	PWEE	LP TURBINE BLADE REPL, U 4	Replaces Deteriorated Turbine Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	(1) This project is not designed or intended to extend the life of one or more generating units beyond the remaining duration of existing contracts governing plant ownership. (2) This project does not increase the generator nameplate capacity of the plant. Project may, however, result in the recovery of a minor amount of capacity, but will not increase capacity beyond nameplate. (3) The plant is already a base load plant.	39	209
09-09	R	28	12	PWEE	REHEAT ISOLATION VALVES, U 4	Facilitates Detection and Repair of Boiler Tube Leaks to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	210
Pending	R	28	13	PWEE	SBAC MOTOR REPL, U 4	Replace Deteriorated Soot Blower Compressor Motor to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	211
pre Jan07	R	28	14	07-21	AUX TURBINE OIL FILTRATION SYS, U 4&5	Upgrades Turbine Controls and Lubrication System to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	90
pre Jan07	R	28	15	06-22R1	HYDROGEN GENERATOR INSTALLATION, U 4&5	Upgrade Generator Hydrogen supply/storage system, to mitigate against forecast Hydrogen supply disruptions, to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	48
pre Jan07	R	28	16	07-25	MAIN TURBINE OIL FILTRATION SYSTEM, U 4	Upgrades Turbine Controls and Lubrication System to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	98
pre Jan07	R	28	17	07-23	REDUNDANT STATOR WATER FLOW MONITOR, U 4&5	Upgrades Generator Cooling Monitoring System to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	94
Pending	R	28	18	PWEE	COAL SAMPLER CONTROLS REPL	Replaces Deteriorated Coal Fuel Handling components to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	243
Pending	R	28	19	PWEE	COAL HANDLING CONTROLS REPL, U 4&5	Replaces Deteriorated Coal Fuel Handling components to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	244
Pending	R	28	20	PWEE	COAL HANDLING REDUNDANT PWR, PHASE II, U 4&5	Upgrades Coal Fuel Handling component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	245
pre Jan07	R	28	21	06-14R1	COAL HNDLG REDUNDANT POWER SUPPL, U 4&5	Upgrades Coal Fuel Handling components to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	41

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pre Jan07	R	28	22	06-10	MAIN FLAME SCANNER UPGRADE, U 4	Replaces and Upgrades Unreliable Boiler Component to sustain plant Reliability and Safety for remaining duration of existing contracts governing plant ownership.	***	39	37
09-24	R	28	23	PWEE	DCS ANALOG MASTER MODULE REPL, U 4	Replaces and Upgrades Deteriorated plant Control System component to sustain Plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	212
Pending	R	28	24	PWEE	DCS FIRMWARE UPGRADE	Upgrades Plant Control System to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	154
09-24	R	28	25	PWEE	DCS POWER SUPPLY REPL, U 4	Replaces Deteriorated Plant Control System components to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	213
pre Jan07	R	28	26	07-32	FIBER OPTIC CABLE UPGRADE	Upgrades Plant Communication System to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	113
09-33	R	28	27	PWEE	LAN SWITCH UPGRADE	Upgrades Plant Communication System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	155
pre Jan07	R	28	28	07-40	AUX STEAM 3110B VALVE REPL, U 4	Replaces Deteriorated Plant Auxiliary Steam System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	129
pre Jan07	R	28	29	07-42	AUX STEAM 3110B VALVE REPL, U 5	Replaces Deteriorated Plant Auxiliary Steam System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	133
09-27	R	28	30	PWEE	4KV SWITCHGEAR PROT RELAY REPL, U 4	Replaces Deteriorated Plant Electrical System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	214
pre Jan07	R	28	31	06-18	ATB BREAKER REPL, 345KV SWYD	Replaces Deteriorated Plant Electrical System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	42
pre Jan07	R	28	32	07-37	ATB BREAKER REPL, PHASE II, 345KV SWYD	Replaces Deteriorated Plant Electrical System component to sustain plant Reliability and Safety for remaining duration of existing contracts governing plant ownership.	***	39	123
pre Jan07	R	28	33	07-39	FC1222 230 KV BREAKER, SWYD	Replaces Deteriorated Plant Electrical System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	127
pre Jan07	R	28	34	07-38	FC556 & 652 500 KV BREAKER, SWYD	Replaces Deteriorated Plant Electrical System component to sustain plant Reliability and Safety for remaining duration of existing contracts governing plant ownership.	***	39	125
Pending	R	28	35	PWEE	SWITCHYARD RELIABILITY UPGRADE, U 4&5	Replaces Deteriorated Plant Electrical System component to sustain plant Reliability and Safety for remaining duration of existing contracts governing plant ownership.	***	39	156
Pending	R	28	36	PWEE	SWITCHYARD UPGRADES DUE TO BHP	Upgrade Plant Electrical System to sustain Reliability of Coal Supply System for remaining duration of existing contracts governing plant ownership.	***	39	166
09-32	R	28	37	PWEE	CONSTR TRANSFORMER SUBSTA REBUILD	Refurbishes Deteriorated Plant Electrical System components to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	167
pre Jan07	R	28	38	07-17	RESERVE TRANSF BREAKER ADDITION, U 4&5	Upgrades Plant Electrical System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	82

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pre Jan07	R	28	39	02-19R1	#4 XFMR T541 REPL, SWYD	Replaces Deteriorated Plant Electrical System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	13
pre Jan07	R	28	40	07-41	345/500 KV XFMR BUSHING REPL	Replaces Aging Plant Electrical System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	131
Pending	R	28	41	PWEE	345/230 KV XFMR BUSHING REPL, 230/345	Replaces Aging Plant Electrical System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	131
Pending	R	28	42	PWEE	AUX TRANSFORMER SPARE, U 4&5	Replace Deteriorated Spare Transformer to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	169
Pending	R	28	45	PWEE	RIVER STATION XFMR BUSHING REPL	Replaces Aging Plant Electrical System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	131
08-11	R	28	46	PWEE	TYPE U XFMR BUSHING REPL, U 4&5	Replaces Aging Plant Electrical System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	131
pre Jan07	R	28	47	06-03	VEHICLE 2006 4C, 1/2 TON PICK-UP	Maintains Reliability/Functionality of Plant Vehicle Fleet to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	25
pre Jan07	R	28	48	07-02	NEW & REPL TOOLS, 2007	Maintains Reliability/Functionality of Plant Tooling to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	52
09-02	R	28	49	PWEE	NEW & REPL TOOLS, AFTER 2007	Maintains Reliability/Functionality of Plant Tooling to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	151
Pending	R	28	50	PWEE	OPERATOR HANDHELD READER TOOL SYS	Upgrades Functionality of Plant Tooling to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	141
pre Jan07	R	28	51	07-03	VEHICLE REPL, 2007	Maintains Reliability/Functionality of Plant Vehicle Fleet to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	54
09-03	R	28	52	PWEE	VEHICLE REPL, AFTER 2007	Maintains Reliability/Functionality of Plant Vehicle Fleet to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	157
pre Jan07	R	28	53	05-06	AIR COMPRESSOR VSI, U 4&5	Install Air Compressor Condition Monitoring equipment (vibration supervisory instrumentation) to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	21
pre Jan07	R	28	54	07-35	PBX UPGRADE	Upgrades Plant Communication System to sustain plant Reliability and Worker Safety for remaining duration of existing contracts governing plant ownership.	***	39	119
Pending	R	28	55	PWEE	WAN UPGRADE	Upgrades Plant Data Communication System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	142
Pending	R	28	56	PWEE	MICROWAVE/PHONE SYSTEM UPGRADE	Upgrades Plant Communication System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	170

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pre Jan07	R	28	57	03-04	TRAINING FACILITY	Facilitate training of apprentices, hired to replace baby-boomer generation retirements, to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	15
Pending	R	28	58	PWEE	U4&5 MAINTENANCE BUILDING UPGRADE	Enlarges Plant Maintenance Building, commensurate with increased maintenance required due to added equipment for air pollution control and plant waste handling, to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	246
pre Jan07	R	28	59	06-01	MISC CAP, ENGR ELECTRONIC FILING COMMON	Funds Various Small Capital Projects to Maintain Plant Facilities to sustain plant Reliability for the remaining duration of existing contracts governing plant ownership.	***	39	24
pre Jan07	R	28	60	07-18	BOILER MAINT TRACKING SOFTWARE, U 4&5	Upgrades Plant Maintenance Data Analysis Capabilities to sustain the Reliability of this aging plant for remaining duration of existing contracts governing plant ownership.	***	39	84
pre Jan07	R	28	61	07-33	DATA HISTORIAN REPL	Upgrades Plant's Computerized Data Storage, Retrieval and Analysis Capabilities to sustain the Reliability of this aging plant for remaining duration of existing contracts governing plant ownership.	***	39	115
Pending	R	28	62	PWEE	ELECTRONIC DOCUMENTATION UPGRADE	Upgrades Plant Document Storage, Retrieval and Analysis Capabilities to sustain the Reliability of this aging plant for remaining duration of existing contracts governing plant ownership.	***	39	158
pre Jan07	R	28	63	07-31R0	MAXIMO SOFTWARE UPGRADE	Updates Plant's Computerized Maintenance Work Management System Software to sustain plant maintenance effectiveness and productivity for the remaining duration of existing contracts governing plant ownership.	***	39	111
Pending	R	28	64	PWEE	PERFORMANCE MONITORING SYSTEM	Upgrades Plant Operations Data Trending and Analysis Capabilities to sustain the Reliability of this aging plant for remaining duration of existing contracts governing plant ownership.	***	39	143
pre Jan07	R	28	65	07-28	PLANT RTU REPLACEMENT, U 4&5	Replaces Deteriorated Plant Control System components to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	104
pre Jan07	R	28	66	07-29	SMARTSIGNAL PRED COND MONITOR	Upgrades Plant Equipment Condition Monitoring System to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	106
pre Jan07	R	28	67	07-20	STATOR LEAK MONITORING SYS, U 4&5	Upgrades Generator Monitoring System to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	88
pre Jan07	R	28	68	07-01	MISC CAP EXPEND, 2007 COMMON	Funds Various Small Capital Projects to Maintain Plant Facilities to sustain plant Reliability for the remaining duration of existing contracts governing plant ownership.	***	39	50
pre Jan07	R	28	69	07-24	B INDUCED DRAFT FAN VSI REPL, U 4&5	Replace Deteriorated Fan Condition Monitoring equipment (vibration supervisory instrumentation) to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	96
09-07	R	28	70	PWEE	SPARE CIRC WATER PUMP MOTOR, U 4&5	Funds purchase of Spare Motor to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	39	171

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Pending	E	1		PWEE	OVERFIRE AIR NOX ABATEMENT U5	Modifies Boiler Fuel.Combustion System to Comply with forecast future revisions to Air Pollution Permit/Regulations to allow continued operation of plant for the remaining duration of existing contracts governing plant ownership. Scope and timing of regulatory/air permit revisions is still not certain.	***	44	172
08-07	E	2		PWEE	OVERFIRE AIR NOX ABATEMENT U4	Modifies Boiler Fuel Combustion System to Comply with forecast future revisions to Air Pollution Permit/Regulations to allow continued operation of plant for the remaining duration of existing contracts governing plant ownership. Scope and timing of regulatory/air permit revisions is still not certain.	***	45	215
Pending	E	3		PWEE	DYNAMIC CLASSIFIER MODIFICATION, U 4	Modifies Boiler Fuel Combustion System to Comply with forecast future revisions to Air Pollution Permit/Regulations to allow continued operation of plant for the remaining duration of existing contracts governing plant ownership. Also improves plant fuel efficiency. Scope and timing of regulatory/air permit revisions is still not certain.	***	45	216
Pending	E	4		PWEE	DYNAMIC CLASSIFIER MODIFICATION, U 5	Modifies Boiler Fuel Combustion System to Comply with forecast future revisions to Air Pollution Permit/Regulations to allow continued operation of plant for the remaining duration of existing contracts governing plant ownership. Also improves plant fuel efficiency. Scope and timing of regulatory/air permit revisions is still not certain.	***	46	247
pre Jan07	E	5		07-07R0	SO2 CONTROLS REPL, U 5	Replaces and Upgrades Deteriorated Control System on plant Air Pollution Scrubbers, in order to sustain plant operation in compliance with air permits/regulations, for the remaining duration of existing contracts governing plant ownership.	***	46	64
09-23	E	6		PWEE	SO2 CONTROLS REPL, U 4	Replaces and Upgrades Deteriorated Control System on plant Air Pollution Scrubbers, in order to sustain plant operation in compliance with air permits/regulations, for the remaining duration of existing contracts governing plant ownership.	***	48	217
09-20	E	7		PWEE	SCRUBBER OUTLET DUCT LINER REPL, U 4	Replaces Deteriorated Component on Plant Air Pollution Control System to sustain system operability as needed to comply with Air Permit pollution limits.	***	49	218
pre Jan07	E	8		07-09	BAGHOUSE DUST SUPPRESSION, U 4&5	Construct Baghouse Dust Suppression System, in order to facilitate compliance with the Plant's new air pollution permit.	***	49	68
pre Jan07	E	9		07-10R0	BAGHOUSE TURNING VANES REPL, U 5	Replace and Upgrade Deteriorated Baghouse Turning Vanes, in order to sustain compliance with the Plant's new air pollution permit, for the remaining duration of existing contracts governing plant ownership.	***	51	70
pre Jan07	E	10		06-20R2	ASH LANDFILL AND HAUL ROAD, U 4&5 Phase 1	Construct New Ash Landfill and Haul Road on Plant site, as existing disposal site fills to capacity, to allow continued disposal of plant dry ash wastes at least cost for the duration of existing contracts governing plant ownership.	***	51	44
Pending	E	11		PWEE	DRY ASH LAND FILL, U 4&5 Phase 2	Expand Ash Landfill on Plant site, as existing disposal site fills to capacity, to allow continued disposal of plant dry ash wastes at least cost for the duration of existing contracts governing plant ownership.	***	52	248

FOUR CORNERS CAPITAL FORECAST 2007-2011
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Owner Approval Status	GRC id	GRC id	GRC id	APS Work Order	Capital Project	Purpose of Project	Basis for EPS Non-Applicability	SCE GRC Page References Direct Testimony	SCE GRC Page References Work Papers
09-22	E	12		PWEE	FLY ASH BENEFICIATION AREA IMPROV, U 4&5	Increases percentage of Plant Ash Waste that can be Sold as a Concrete Additive, reducing size of new ash landfills that station must construct as existing landfills reach capacity over remaining duration of existing contracts governing plant ownership.	***	52	173
pre Jan07	E	13		06-21	THICK UNDERFL TO LINED ASH IMPOUND, U 4-5	Modifies existing Air Pollution Scrubber waste processing equipment, commensurate with recent increase in Plant Air Pollution (i.e., SOX) capture requirements, and increased costs of landfilling dry wastes, in order to facilitate continued legal disposal of plant ash wastes for the remaining duration of existing contracts governing plant ownership.	***	53	46
09-21	E	14		PWEE	5268' LIFT LINED ASH IMPOUNDMENT, U 4-5	Construct New Lined Ash Impoundment, as existing impoundment fills to capacity, in order to allow continued legal disposal of plant slurry wastes (wet ash and scrubber sludge), for the duration of existing contracts governing plant ownership.	***	54	249
Pending	E	15		PWEE	WASTE PROCESSING SYSTEM IMPROV, U 4&5	Replaces and Upgrades Plant Waste Processing System Control System to facilitate continued processing of plant wastes for remaining duration of existing contracts governing plant ownership.	***	55	174
Pending	E	16		PWEE	INTAKE STRUCTURE MODIFICATIONS, U 4&5	Modify Plant Water Intake Structure to comply with new regulations.	***	57	144
Pending	E	17		PWEE	RIVER STATION 316B REG MODIF	Modify Plant Water Intake Structure to comply with new regulations.	***	57	250
pre Jan07	E	18	1	07-15	MERCURY CEMS, U 4&5	Install a Mercury Air Pollution Monitoring System, as required by the Plant's new air pollution control permit.	***	57	80
Pending	E	18	2	PWEE	SO2 PROCESS IMPROVEMENTS, U 4&5	Upgrade Plant Air Pollution Scrubber commensurate with increased air pollution removal required by the Plant's New Air Pollution Permit.	***	57	251
pre Jan07	E	18	3	06-11	STACK FLOW MEASUREMENT REPL, U 4&5	Upgrades Plant Air Pollution Monitoring System to assure compliance with air pollution measurement and reporting requirements for remaining duration of existing contracts governing plant ownership.	***	57	39
Pending	E	18	4	PWEE	BAGHOUSE MAINTENANCE BLDG, U 4&5	Replace deteriorated baghouse maintenance building to facilitate ongoing compliance with plant air pollution control requirements.	***	57	145
08-09	E	18	5	PWEE	ABSORBER MODULE BLOW DOWN MODIF, U4	Upgrade Plant Air Pollution Control System Component in order to facilitate ongoing compliance with air pollution control requirements.	***	57	146
08-09	E	18	6	PWEE	ABSORBER MODULE BLOW DOWN MODIF, U5	Upgrade Plant Air Pollution Control System Component in order to facilitate ongoing compliance with air pollution control requirements.	***	57	219
Pending	E	18	7	PWEE	U4&5 SO2 CONTROL BUILDING REMODEL	Upgrade Plant Air Pollution Control System Maintenance Facilities in order to facilitate ongoing compliance with air pollution control requirements.	***	57	252
Pending	E	18	8	PWEE	DEW POINT MONITORING EQUIP REPL, U 4&5	Install Instrumentation to facilitate compliance with Stack Opacity Limits in Plant's New Air Pollution Permit, and also helps to prevent moisture damage to plant smoke stack.	***	57	176
pre Jan07	E	18	9	07-36	EPA EDR SOFTWARE UPGRADE	Modify Plant Air Emissions Monitoring System computer operating system as required by new regulations.	***	57	121

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Owner Approval Status	GRC id	GRC id	GRC id	APS Work Order	Capital Project	Purpose of Project	Basis for EPS Non-Applicability	SCE GRC Page References Direct Testimony	SCE GRC Page References Work Papers
Pending	E	18	10	PWEE	HUMATE SILO & SLAKING EQUIP, U 4&5	Upgrades Plant Air Pollution Scrubbing Equipment to reduce NOX and Mercury pollution, in anticipation of further reductions being required by regulatory changes.	***	57	177
pre Jan07	E	18	11	07-14	WASTE PROCESSING CONTROLS REPL, U 4&5	Replace and Reconfigure Control System for the Existing Plant Air Pollution Scrubber Sludge Processing and Disposal System, commensurate with changes to the sludge treatment and disposal process, in order to assure continued legal disposal of plant wastes, for the duration of the existing contracts governing plant ownership.	***	57	78
08-14	E	18	12	PWEE	ASH POND 6 CLOSURES	Funds legally compliant closure of ash/sludge disposal ponds which have been filled to capacity.	***	57	159
pre Jan07	E	18	13	07-12R0	5258' LIFT LINED ASH IMPOUNDMENT, U 4&5	Construct New Lined Ash Impoundment, as existing impoundment fills to capacity, in order to allow continued legal disposal of plant slurry wastes (wet ash and scrubber sludge), for the duration of existing contracts governing plant ownership.	***	57	74
Pending	E	18	14	PWEE	THICKENER AUTOMATIC POLYMER INJECT, U 4&5	Upgrades Plant Waste Processing System commensurate with other changes being made to this system associated with the Plant's New Air Permit and with changes to plant's landfill and sludge waste disposal challenges.	***	57	178
Pending	E	18	15	PWEE	HYDROBIN AREA UPGRADE, U 4&5	Upgrades Plant Waste Processing System commensurate with other changes being made to this system associated with the Plant's New Air Permit and with changes to plant's landfill and sludge waste disposal challenges.	***	57	179
09-30	E	18	16	PWEE	NPDES HAUL ACCESS ROAD	Modify Plant Roadway System in order to facilitate compliance with Plant's New Air Pollution Permit Fugitive Dust control requirements.	***	57	147
pre Jan07	E	18	17	07-30	POND CHLORIDES CONTROL UPGRADES	Provides an Alternative Process and Equipment to manage Air Pollution Scrubber System Chloride Levels, given the deterioration of the existing evaporation ponds, in order to sustain air pollution scrubbing system performance for the duration of existing contracts governing plant ownership.	***	57	108
09-29	E	18	18	PWEE	NPDES DECANT CELL UPGRADES	Upgrades Plant waste handling system to facilitate compliance with Fugitive Dust Emissions limits in Plant's New Air Permit.	***	57	220
08-19	E	18	19	PWEE	500KV YARD STEP-UP TRANSF OIL BERM, U 4&5	Construct Oil Spill mitigation measures to facilitate Fire Mitigation and compliance with oil spill regulations.	***	57	148
pre Jan07	E	18	20	07-26	SPCC CONTAIN OF OIL TANKS, U 4&5	Construct Oil Spill mitigation measures to facilitate compliance with regulations.	***	57	100
Pending	S	1		PWEE	PLANT FIRE WTR UNDGRND PIPE REPL	Replace Deteriorated Fire Water System Component to sustain plant worker Safety.	***	59	160
Pending	S	2		PWEE	POTABLE WATER SYSTEM REPL	Replace deteriorated plant potable water system to sustain worker safety.	***	60	253
pre Jan07	S	3		05-05R1	GSU & AUX XFMR FIRE WALL/OIL CONTAIN, U 4&5	Upgrade Plant's Fire Mitigation provisions to sustain plant Safety and Reliability for remaining duration of existing contracts governing plant ownership.	***	61	19
Pending	S	4		PWEE	HIGH ENERGY PIPING, U 4	Replace Deteriorated Steam Piping to sustain plant worker safety.	***	61	221
pre Jan07	S	5		07-34	LAYDOWN YARD LIGHTING	Improve Plant Lighting to sustain plant worker safety.	***	61	117

FOUR CORNERS CAPITAL FORECAST 2007-2011
NOV. 24, 2008

Owner Approval Status	GRC id	id	id	APS Work Order	Capital Project	Purpose of Project	Basis for EPS Non-Applicability	SCE GRC Page References Direct Testimony	Work Papers
pre Jan07	S	6		07-27	COLD REHEAT #2 PIPE SUPPORT, U 5	Upgrade Plant Piping System component to sustain plant worker safety.	***	61	102
THE FOLLOWING PROJECTS REFLECT THE "UNALLOCATED FUTURE PROJECTS" MENTIONED ABOVE AND HAVE SINCE BEEN IDENTIFIED AS CAPITAL PROJECTS SINCE THE TIME OF THE									
postGRC	R	N	1	07-44	LP TURB 4TH STAGE BUCKET REPL, UNIT 5	Replaces Failed Turbine Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	(1) This project is not designed or intended to extend the life of one or more generating units beyond the remaining duration of existing contracts governing plant ownership. (2) This project does not increase the generator nameplate capacity of the plant. Project may, however, result in the recovery of a minor amount of capacity, but will not increase capacity beyond nameplate. (3) The plant is already a base load plant.	none	none
postGRC	R	N	2	07-45	LP TURB A&B 4TH STAGE BUCKET REPL, UNIT 4	Replaces Deteriorated Turbine Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	(1) This project is not designed or intended to extend the life of one or more generating units beyond the remaining duration of existing contracts governing plant ownership. (2) This project does not increase the generator nameplate capacity of the plant. Project may, however, result in the recovery of a minor amount of capacity, but will not increase capacity beyond nameplate. (3) The plant is already a base load plant.	none	none
postGRC	R	N	3	08-01	MISC CAP EXPEND, 2008, COMMON	Funds Various Small Capital Projects to Maintain Plant Facilities to sustain plant Reliability for the remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	4	08-05	LP (A) TURBINE BUCKET REPLACEMENT, U5	Replaces Deteriorated Turbine Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	(1) This project is not designed or intended to extend the life of one or more generating units beyond the remaining duration of existing contracts governing plant ownership. (2) This project does not increase the generator nameplate capacity of the plant. Project may, however, result in the recovery of a minor amount of capacity, but will not increase capacity beyond nameplate. (3) The plant is already a base load plant.	none	none
postGRC	E	N	5	08-06	COAL SYS TRIPPER DECK DUST ELIMIN, 4&5	Install two Dust Collectors to eliminate Fugitive Dust to facilitate compliance with the Plant's New Air Permit.	***	none	none
postGRC	E	N	6	08-10	COAL BELT DUST ELIMINATION, 4&5	Install a Spray System to mitigate Fugitive Dust to facilitate compliance with the Plant's New Air Permit.	***	none	none
postGRC	R	N	7	08-12	TURB TWIP & EXTRACTION UPGRADE, U5	Replaces & Upgrades Deteriorated Turbine Components to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	8	08-13	UNDERGRND COOLING WATER SYSTEMS, 4&5	Replaces Deteriorated underground Cooling water piping to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	9	08-15	HOGBACK SUB U TYPE BUSHING REPL, COM	Replaces and Upgrades Deteriorated Plant Electrical System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	10	08-16	PLANT RADIO UPGRADE, COM	Replaces and Upgrades Plant Radio Systems in order to meet Federal Communication Commission requirements.	***	none	none
postGRC	R	N	11	08-20	LWI Canal Crossing Reroute & Replacement	Replaces Deteriorated Plant Piping System component to sustain plant Reliability and avoid future NPDES violations for remaining duration of existing contracts governing plant ownership.	***	none	none

FOUR CORNERS CAPITAL FORECAST 2007-2011
NOV. 24, 2008

Owner Approval Status	GRC id	GRC id	GRC id	APS Work Order	Capital Project	Purpose of Project	Basis for EPS Non-Applicability	SCE GRC Page References Direct Testimony	SCE GRC Page References Work Papers
postGRC	R	N	12	08-21	500kV Breaker Replacement, 345/500 kV Swyd	Replaces Deteriorated Plant Electrical component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	13	08-22R0	XFMR T627 REPL, 4C 345/500KV (ALLOC 7)	Replaces Deteriorated Transformer to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	14	08-23	XFMR 1AA DGA Monitors, 345/500 kV Swyd	Install Monitors on aging Plant Electrical System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	15	08-24	Data Communications Link	Replace existing ground cable with wireless data link to reduce telecom costs.	***	none	none
postGRC	R	N	16	09-01*	MISC CAP EXPEND, 2009	Funds Various Small Capital Projects to Maintain Plant Facilities to sustain plant Reliability for the remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	S	N	17	09-06R0*	O2 DECK HOIST STRUCTURE, 4&5	Modify existing O2 Deck Monorail Craneway to improve plant Safety and Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	18	09-10*	SUPERHEATER ATTEMPERATOR REPL, 4	Replaces and Upgrades Deteriorated Boiler Component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	19	09-11*	BOILER WATER PARTICLE MONITORING, 4&5	Replaces & Upgrades Deteriorated Corrosion monitoring system to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	20	09-14*	TURBINE TWIP & EXTRACTION UPGDE, 4	Replaces & Upgrades Deteriorated Turbine Components to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	21	09-15*	TURBINE SUPERVISORY INSTRUMENTATION REPL, 4	Replaces Main Turbine Supervisory Instrumentation System to improve performance and sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	E	N	22	09-19*	BAGHOUSE TURNING VANES REPL, 4	Replace and Upgrade Deteriorated Baghouse Turning Vanes, in order to sustain compliance with the Plant's new air pollution permit, for the remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	23	09-26*	AUX TURBINE PROTECTION UPGRADE, 4	Replaces and Upgrades Aux Turbine Control System to improve performance and sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	24	09-28*	TURBINE ENCLOSURE BRIDGE CRANE CONTROLS UPGDE, 4&5	Replaces Deteriorated Turbine Enclosure Bridge Crane Controls to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	25	09-31*	RIVERSTATION SWRG & MCC REPL	Replaces Deteriorated Plant Electrical System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	26	09-34*	VIDEO SCOPE REPL	Replaces Deteriorated video equipment used for troubleshooting Plant components to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	27	09-35*	#8 XFMR T542 REPL, 4C 230/345KV (ALLOC 2)	Replaces Deteriorated Transformer to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none

FOUR CORNERS CAPITAL FORECAST 2007-2011
NOV. 24, 2008

Owner Approval Status	GRC id	GRC id	GRC id	APS Work Order	Capital Project	Purpose of Project	Basis for EPS Non-Applicability	SCE GRC Page References Direct Testimony	SCE GRC Page References Work Papers
postGRC	R	N	28	09-36*	TRANSFORMER PROT RELAY ADDN, 4C 230/345KV	Upgrades Plant Electrical System component to improve plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	29	09-37*	500 KV CCVT REPL, 4C 500KV (ALLOC 4)	Replaces Deteriorated Plant Electrical System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	30	09-38*	DIGITAL FAULT RECORDER REPL, 4C 345 SWYD	Replaces Deteriorated Plant Electrical System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	31	09-39*	DIGITAL FAULT RECORDER REPL, 4C 500KV SWYD	Replaces Deteriorated Plant Electrical System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	32	09-40*	FC834 SWITCH REPL, 4C 345KV (ALLOC 5)	Replaces Deteriorated Plant Electrical System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none
postGRC	R	N	33	09-41*	XFMR T542 DGA MONITORS,ALLOC 2,4C 230/345KV	Install Monitors on aging Plant Electrical System component to sustain plant Reliability for remaining duration of existing contracts governing plant ownership.	***	none	none

Appendix B

FOUR CORNERS - CO-OWNER APPROVED PROJECTS TO DATE - NOVEMBER 24, 2008

PROJECTS APPROVED AT TIME OF 2009 GRC FORECAST IN MID-2007

Mid-2007 Cost Forecast for these Projects

Work Order	Capital Project Description	In Service	$1,000 Nominal Work Order Level 100% Share Total	SCE Share	SCE Total	Date Approved	E&O Cmte	Coord Cmte
02-19R1	#4 XFMR T541 REPL, SWYD (repl w/ 08-17)	2009	5,000	0.0346	173	4/10/2002	X	
03-04	TRAINING FACILITY	2007	664	0.3476	238	8/14/2002	X	
05-04R1	MAIN FLAME SCANNER UPGRADE, U 5	2008	2,379	0.4800	1,142	10/9/2006	X	
05-05R1	GSU & AUX XFMR FIRE WALL/OIL CONTAIN, U 4&5	2007	1,589	0.4800	763	4/5/2006		X
05-06	AIR COMPRESSOR VSI, U 4&5	2007	461	0.4800	221	9/15/2004	X	
05-13	GSU TRANSFORMER T633 & T634 REPL, U 5	2008	3,837	0.4800	1,842	9/15/2004	X	
06-01	MISC CAP, ENGR ELECTRONIC FILING COMMON	2007	25	0.3476	9	11/16/2005	X	
06-03	VEHICLE 2006 4C, 1/2 TON PICK-UP	2007	8	0.3476	3	8/16/2005	X	
06-05	LOWER BOILER REPLACEMENT, U 5	2008	18,495	0.4800	8,878	8/29/2005	X	
06-06	PENDANT RH & OUTLET HEADER REPL, U 5	2008	14,581	0.4800	6,999	8/29/2005	(a)	X
06-07	2ND STAGE PENDANT SUPHTR REPL, U 5	2008	11,187	0.4800	5,370	11/16/2005	(a)	X
06-08	HP TURBINE & CONTROLS REPL, U 5	2008	15,104	0.4800	7,250	8/29/2005	(a)	X
06-09R1	GSU TRANSFORMER T631 REPL, U 4	2008	3,186	0.4800	1,529	10/9/2006	X	
06-10	MAIN FLAME SCANNER UPGRADE, U 4	2007	1,498	0.4800	719	8/16/2005	X	
06-11	STACK FLOW MEASUREMENT REPL, U 4&5	2007	672	0.4800	322	8/16/2005	X	
06-14R1	COAL HNDLG REDUNDANT POWER SUPPL, U 4&5	2007	488	0.4800	234	8/15/2005	X	
06-18	ATB BREAKER REPL, 345KV SWYD	2007	2,335	0.1200	280	8/16/2005	X	
06-20R2	ASH LANDFILL AND HAUL ROAD, U 4&5 Phase 1	2007	7,554	0.4800	3,626	12/6/2006	(a)	X
06-21	THICK UNDERFL TO LINED ASH IMPOUND, U 4-5	2007	3,406	0.4800	1,635	11/16/2005	X	
06-22R1	HYDROGEN GENERATOR INSTALLATION, U 4&5	2007	385	0.4800	185	6/14/2006	X	
07-01	MISC CAP EXPEND, 2007 COMMON	2007	230	0.3476	80	10/9/2006	X	
07-02	NEW & REPL TOOLS, 2007	2007	150	0.3476	52	10/9/2006	X	
07-03	VEHICLE REPL, 2007	2007	204	0.3476	71	10/9/2006		X
07-04R0	PENDANT RH & OUTLET HEADER REPL, U 4	2010	18,981	0.4800	9,111	10/9/2006		X
07-05R0	HP TURBINE & CONTROLS REPL, U 4	2010	16,231	0.4800	7,791	10/9/2006		X
07-06R0	2ND STAGE PENDANT SUPHTR REPL, U 4	2010	14,081	0.4800	6,759	10/9/2006		X
07-07R0	SO2 CONTROLS REPL, U 5	2008	4,939	0.4800	2,371	10/9/2006		X
07-08	COAL PIPE REPL, U 5	2008	4,000	0.4800	1,920	10/9/2006	(a)	X
07-09	BAGHOUSE DUST SUPPRESSION, U 4&5	2008	2,356	0.4800	1,131	10/9/2006		X
07-10R0	BAGHOUSE TURNING VANES REPL, U 5	2008	2,204	0.4800	1,058	10/9/2006		X
07-11	AIR PREHEATER H/C BASKET REPL, U 5	2008	2,000	0.4800	960	11/15/2006		X
07-12R0	5258' LIFT LINED ASH IMPOUNDMENT, U 4&5	2009	1,861	0.4800	893	10/9/2006		X
07-13	LP GENERATOR FIELD REWIND, U 5	2008	1,828	0.4800	877	10/9/2006	X	
07-14	WASTE PROCESSING CONTROLS REPL, U 4&5	2007	1,676	0.4800	804	10/9/2006		X
07-15	MERCURY CEMS, U 4&5	2008	1,033	0.4800	496	10/9/2006		X
07-17	RESERVE TRANSF BREAKER ADDITION, U 4&5	2007	367	0.4800	176	10/9/2006	X	
07-18	BOILER MAINT TRACKING SOFTWARE, U 4&5	2008	353	0.4800	169	10/9/2006		X
07-19	GEN PROT RELAY REPLACEMENT, U 5	2008	249	0.4800	120	10/9/2006		X
07-20	STATOR LEAK MONITORING SYS, U 4&5	2007	220	0.4800	106	10/9/2006		X
07-21	AUX TURBINE OIL FILTRATION SYS, U 4&5	2007	220	0.4800	106	10/9/2006		X
07-22	SUPERHEAT ATTEMPERATOR REPL, U 5	2008	185	0.4800	89	10/9/2006		X
07-23	REDUND STATOR WATER FLOW MONITOR, U 4&5	2007	180	0.4800	86	10/9/2006		X
07-24	B INDUCED DRAFT FAN VSI REPL, U 4&5	2007	171	0.4800	82	10/9/2006		X
07-25	MAIN TURBINE OIL FILTRATION SYSTEM, U 4	2007	120	0.4800	58	10/9/2006		X
07-26	SPCC CONTAIN OF OIL TANKS, U 4&5	2007	91	0.4800	44	10/9/2006		X
07-27	COLD REHEAT #2 PIPE SUPPORT, U 5	2008	89	0.4800	43	10/9/2006		X
07-28	PLANT RTU REPLACEMENT, U 4&5	2007	80	0.4800	38	10/9/2006		X
07-29	SMARTSIGNAL PRED COND MONITOR	2007	1,180	0.3476	410	10/9/2006		X
07-30	POND CHLORIDES CONTROL UPGRADES	2008	748	0.3476	260	10/9/2006		X
07-31R0	MAXIMO SOFTWARE UPGRADE	2007	511	0.3476	178	10/9/2006		X
07-32	FIBER OPTIC CABLE UPGRADE	annual	350	0.3476	122	10/9/2006		X
07-33	DATA HISTORIAN REPL	2007	347	0.3476	121	10/9/2006		X
07-34	LAYDOWN YARD LIGHTING	2007	289	0.3476	100	10/9/2006		X
07-35	PBX UPGRADE	2007	100	0.3476	35	10/9/2006		X
07-36	EPA EDR SOFTWARE UPGRADE	2007	57	0.3476	20	10/9/2006		X
07-37	ATB BREAKER REPL, PHASE II, 345KV SWYD	2008	2,100	0.1200	252	10/9/2006		X
07-38	FC556 & 552 500 KV BREAKER, SWYD	2008	1,200	0.3200	384	10/9/2006		X
07-39	FC1222 230 KV BREAKER, SWYD	2007	255	0.4800	122	10/9/2006		X
07-40	AUX STEAM 3110B VALVE REPL, U 4	2007	285	0.4800	137	10/9/2006		X
07-41	345/500 KV XFMR BUSHING REPL	2007	1,325	0.4800	636	1/9/2007	X	
07-42	AUX STEAM 3110B VALVE REPL, U 5	2008	300	0.4800	144	1/9/2007	X	
SUB-TOTAL PAGE 1			176,020		79,827			

CORRECTIONS TO OCTOBER 10, 2008 VERSION OF TABLE

The Date Approved shown for many projects in the October 10, 2008 version of this table reflects the date of the E&O Meeting where these Projects were presented to the Plant Owners for Approval. The revised Date Approved herein reflects the dates which Arizona Public Service recently provided to SCE based on APS's record of the date the Plant Owners signed their Approval for these Projects.

(a) Date Approved is based on initial owner approval, which in some cases for some owners was the E&O Member. In some cases, some Coordinating Committee signatures were not obtained until a later date.

FOUR CORNERS - CO-OWNER APPROVED PROJECTS TO DATE - NOVEMBER 24, 2008

ADDITIONAL PROJECTS APPROVED TO DATE SINCE TIME OF 2009 GRC FORECAST

Mid-2008 Cost Forecast for these Projects

	Work Order	Capital Project Description	In Service	$1,000 Nominal Work Order Level 100% Share Total	SCE Share	SCE Total	Date Approved	E&O Cmte	Coord Cmte
1	07-44	LP TURB 4TH STAGE BUCKET REPL, UNIT 5	2008	5,614	0.4800	2,695	4/23/2007		X
1	07-45	LP TURB A&B 4TH STAGE BUCKET REPL, UNIT 4	2008	6,865	0.4800	3,295	6/6/2007		X
1	08-01	MISC CAP EXPEND, 2008, COMMON	2008	150	0.3476	52	8/14/2007	X	
	08-02	TOOLS, NEW & REPLACEMENT, COMMON	2008	175	0.3476	61	8/14/2007	X	
	08-03	VEHICLE REPL , 2008	2008	179	0.3476	62	8/14/2007	X	
	08-04	GSU TRANSFORMER T629 REPL, 4	2009	3,824	0.4800	1,836	8/14/2007	X	
1	08-05	LP (A) TURBINE BUCKET REPLACEMENT, U5	2008	3,250	0.4800	1,560	8/14/2007	X	
1	08-06	COAL SYS TRIPPER DECK DUST ELIMIN, 4&5	2009	403	0.4800	193	8/14/2007	X	
	08-07	OVERFIRE AIR NOX ABATEMENT, 4 (Engr Only)	TBD	1,505	0.4800	722	8/14/2007	X	
	08-08	IP TURBINE BUCKET REPL, UNIT 5	2008	1,393	0.4800	669	8/14/2007	(a)	X
	08-09	ABSORBER MODULE BLOWDOWN UPGDE, 4&5	2009	1,180	0.4800	566	8/14/2007	X	
1	08-10	COAL BELT DUST ELIMINATION, 4&5	2009	1,059	0.4800	508	8/14/2007	X	
	08-11	GE U TYPE BUSHING REPL, U4&5	2009	740	0.4800	355	8/14/2007	X	
1	08-12	TURB TWIP & EXTRACTION UPGRADE, U5	2009	800	0.4800	384	8/14/2007	X	
1	08-13	UNDERGRND COOLING WATER SYSTEMS, 4&5	2010	381	0.4800	183	8/14/2007	X	
	08-14	ASH POND 6 CLOSURES	annual	143	0.3476	50	8/14/2007	X	
1	08-15	HOGBACK SUB U TYPE BUSHING REPL, COM	2008	105	0.3476	36	8/14/2007	X	
1	08-16	PLANT RADIO UPGRADE, COM	2008	60	0.3476	21	8/14/2007	X	
	08-18R1.1**	PLANT PERIM SECUR UPGDE, 4C 345/500 SWYD (now 9-42,-43,-44)	annual	2,650	0.4800	1,272	8/14/2007	X	
	08-19	STEP UP XFRMR OIL BERMS 345/500 SY	2008	133	0.4800	64	8/14/2007	X	
1	08-20	LWI Canal Crossing Reroute & Replacement	2008	119	0.3476	41	4/14/2008	X	
1	08-21	500kV Breaker Replacement, 345/500 kV Swyd	2008	1,200	0.3200	384	7/8/2008		X
1	08-22R0	XFMR T627 REPL, 4C 345/500KV (ALLOC 7)	2009	4,650	0.4800	2,232	7/8/2008		X
1	08-23	XFMR 1AA DGA Monitors, 345/500 kV Swyd	2008	200	0.4800	96	6/12/2008	X	
1	08-24	Data Communications Link	2008	77	0.3476	27	9/3/2008	X	
1	09-01*	MISC CAP EXPEND, 2009	2009	175	0.3476	61	8/12/2008	X	
	09-02*	NEW & REPL TOOLS, 2009	2009	150	0.3476	52	8/12/2008	X	
	09-03*	VEHICLE REPL , 2009	2009	287	0.3476	100	8/12/2008	X	
	09-04*	COAL PIPE REPL, 4	2010	9,736	0.4800	4,673	8/12/2008	(a)	X
	09-05R0*	AIR PREHEATER H I C BASKET REPL, 4	2010	6,350	0.4800	3,048	8/12/2008	(a)	X
1	09-06R0*	O2 DECK HOIST STRUCTURE, 4&5	2009	1,100	0.4800	528	8/12/2008	X	
	09-07*	SPARE CIRCULATING PUMP MOTOR, 4&5	2009	1,166	0.4800	560	8/12/2008	X	
	09-08*	FD FAN SPARE MOTOR REPL, 4&5	2009	411	0.4800	197	8/12/2008	X	
	09-09*	REHEAT ISOLATION VALVES, 4	2010	626	0.4800	300	8/12/2008	X	
1	09-10*	SUPERHEATER ATTEMPERATOR REPL, 4	2010	194	0.4800	93	8/12/2008	X	
1	09-11*	BOILER WATER PARTICLE MONITORING, 4&5	2009	105	0.4800	50	8/12/2008	X	
	09-12*	LP (B) TURBINE 2ND STAGE BUCKET REPL, 4	2010	1,580	0.4800	758	8/12/2008	X	
	09-13*	IP TURBINE BUCKET REPL, 4	2010	620	0.4800	298	8/12/2008	X	
1	09-14*	TURBINE TWIP & EXTRACTION UPGDE, 4	2010	898	0.4800	431	8/12/2008	X	
1	09-15*	TURBINE SUPERVISORY INSTRUMENTATION REPL, 4	2010	647	0.4800	311	8/12/2008	X	
	09-16*	HP GENERATOR FIELD REWIND, 4	2010	3,567	0.4800	1,712	8/12/2008	X	
	09-17*	LP GENERATOR STATOR REWEDGE, 4	2010	1,261	0.4800	605	8/12/2008	X	
	09-18*	GENERATOR PROTECTION RELAY REPL, 4	2010	236	0.4800	113	8/12/2008	X	
1	09-19*	BAGHOUSE TURNING VANES REPL, 4	2010	4,700	0.4800	2,256	8/12/2008	X	
	09-20*	SCRUBBER OUTLET DUCT LINER REPL, 4	2010	3,269	0.4800	1,569	8/12/2008	X	
	09-21*	5268' LIFT LINED ASH IMPOUNDMENT, 4&5	2010	2,485	0.4800	1,193	8/12/2008	X	
	09-23*	SO2 CONTROLS REPL, 4	2010	3,560	0.4800	1,709	8/12/2008	X	
	09-24*	DCS PWR SUPPLY & AMM HARDWARE REPL, 4	2010	1,400	0.4800	672	8/12/2008	X	
	09-25*	COMPUTER PREDICTIVE/PERF TOOLS, 4&5	2009	1,200	0.4800	576	8/12/2008	X	
1	09-26*	AUX TURBINE PROTECTION UPGRADE, 4	2010	793	0.4800	381	8/12/2008	X	
	09-27*	4KV SWITCHGEAR PROTECTIVE RELAY REPL, 4	2010	717	0.4800	344	8/12/2008	X	
1	09-28*	TURBINE ENCLOSURE BRIDGE CRANE CONTROLS UPGDE, 4&5	2009	442	0.4800	212	8/12/2008	X	
	09-29*	NPDES DECANT CELL UPGRADES	annual	1,827	0.3476	635	8/12/2008	X	
	09-30*	NPDES HAUL ACCESS ROAD	2009	605	0.3476	210	8/12/2008	X	
1	09-31*	RIVERSTATION SWRG & MCC REPL	2010	1,776	0.3476	617	8/12/2008	X	
	09-32*	CONSTRUCTION SUBSTATION REPL	2009	717	0.3476	249	8/12/2008	X	
	09-33*	LOCAL AREA NETWORK SWITCH UPGDE	annual	900	0.3476	313	8/12/2008	X	
1	09-34*	VIDEO SCOPE REPL	2009	82	0.3476	29	8/12/2008	X	
1	09-35*	#8 XFMR T542 REPL, 4C 230/345KV (ALLOC 2)	2011	5,600	0.0346	194	8/12/2008	(a)	X
1	09-36*	TRANSFORMER PROT RELAY ADDN, 4C 230/345KV	2009	300	0.0346	10	8/12/2008	X	
1	09-37*	500 KV CCVT REPL, 4C 500KV (ALLOC 4)	2009	300	0.3200	96	8/12/2008	X	
1	09-38*	DIGITAL FAULT RECORDER REPL, 4C 345 SWYD	2009	240	0.1200	29	8/12/2008	X	
1	09-39*	DIGITAL FAULT RECORDER REPL, 4C 500KV SWYD	2009	120	0.3200	38	8/12/2008	X	
1	09-40*	FC834 SWITCH REPL, 4C 345KV. (ALLOC 5)	2009	95	0.1200	11	8/12/2008	X	
1	09-41*	XFMR T542 DGA MONITORS,ALLOC 2,4C 230/345KV	2009	72	0.0346	2	8/12/2008	X	
	SUB-TOTAL PAGE 2			97,165		42,602			
	TOTAL			273,184		122,430			

CORRECTIONS TO OCTOBER 10, 2008 VERSION OF TABLE - SEE FOOTNOTES ON PAGE 1

1 These Projects were Not Specifically Identified at the time of the 2009 GRC Forecast.
However, GRC Forecast includes an "Unallocated Future Projects" line item to fund such additional projects as they arise.

Appendix C

APPENDIX C

DECLARATION OF JOHN F. DAYTON

I, John F. Dayton, have personal knowledge of the facts contained herein and if called to testify under oath could and could testify as follows:

1. I have been continually employed by Southern California Edison Company ("SCE") from April 17, 1975 to the present date. My business address is 300 No. Lone Hill Ave., San Dimas, CA 91773. My present capacity is as the Manager of Business Planning & Development within the Power Production Department of Southern California Edison Company. In this capacity, I am responsible for management of Edison's Peaker Power Plants and several support services organizations within the Power Production Department. I also provide management oversite for regulatory and environmental activities within the Power Production Department and I'm responsible for the oversite of Edison's interest in the Four Corners Project and serve as a committee member on the Four Corners E&O Committee.
2. I graduated from California State Polytechnic University at San Luis Obispo in 1975 with a B. S. in Mechanical Engineering. In 1979, I received my professional engineering registration in Mechanical Engineering. I joined SCE in 1975. I have held positions in the Engineering and Construction and Power Production Departments. I have held my current position since August, 2003.
3. I make this declaration in support of SCE's Comments on Assigned Commissioner and Administrative Law Judge's Ruling Entering Additional Information Into the Record and Seeking Comments.

4. Appendix A is a matrix containing a list of capital projects at Four Corners and the basis for Emissions Performance Standard non-applicability. The statements in Appendix A are true and correct to the best of my knowledge.

5. Appendix B is an updated table of Four Corners co-owner approved projects, as of November 21, 2008. This table contains corrections to the October 15, 2008 version of the table submitted to the California Public Utilities Commission in response to data requests from the Commission and the Administrative Law Judge. The corrected table reflects revised approval dates recently provided to SCE. The statements in Appendix B are true and correct to the best of my knowledge.

6. Appendix D, filed under separate cover, contains relevant portions of SCE's General Rate Case Workpapers that are referenced in the matrix in Appendix A. The statements in Appendix D are true and correct to the best of my knowledge.

I declare the foregoing to be true and correct under penalty of perjury under the laws of the State of California. Executed this 24th day of November, 2008.

John F. Dayton

EXHIBIT C

EARTHJUSTICE

ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, DC INTERNATIONAL

VIA ELECTRONIC MAIL

August 29, 2011

Jared Blumenfeld, Regional Administrator
U.S. EPA Region 9
75 Hawthorne Street
San Francisco, CA
Email: blumenfeld.jared@epa.gov

Re: EPA-R09-2010-0683: Source Specific Federal Implementation Plan for Implementing Best Available Retrofit Technology for Four Corners Power Plant: Navajo Nation

Dear Mr. Blumenfeld:

This letter constitutes the Noticing Parties'[1] response to Arizona Public Service's ("APS") November 24, 2010 settlement offer to you seeking to resolve the company's Clean Air Act compliance issues at the Four Corners Power Plant ("FCPP"). APS's offer letter implicates a number of matters in which the Noticing Parties has been actively involved. As a result, full and timely resolution of these issues cannot occur without the Noticing Parties' input and consent. For example, as referenced in APS's offer letter, the company seeks to resolve the New Source Review ("NSR") liability arising from the Noticing Parties' May 2010 notice of intent to sue APS. It also seeks certainty with respect to its regional haze obligations; the Noticing Parties been actively involved in this regulatory process as well, both in the form of written comments and by participating in public hearings. As you know, any formal settlement of APS's New Source Review claims, as well as EPA's final action on regional haze, will be subject to judicial review. In addition, any settlement that is contingent upon state approvals of APS's proposed purchase of Southern California Edison's share of FCPP implicates Sierra Club's intervention in those various state sale proceedings. For these practical reasons alone, it serves administrative economy to include the Noticing Parties in any ongoing or future discussions related to APS's offer. In short, an inclusive dispute resolution process is more likely to lead to the certainty that both EPA and APS seek with respect to the company's above-described Clean Air Act obligations.

The broader context for this facility is similarly compelling and weighs in favor of inclusive negotiations. FCPP is one of the largest sources of industrial pollution in the country.

[1] This coalition of clients includes: Dine Citizens Against Ruining Our Environment (Diné CARE), To' Nizhoni Ani, Sierra Club, and National Parks Conservation Association ("NPCA"). These groups sent a notice of intent to sue APS, along with the other owners of Units 4 and 5 of the Four Corners Power Plant, on May 5, 2010 under the Clean Air Act.

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It also happens to be located on the Navajo Nation reservation. The air quality and environmental justice stakes in the outcome of EPA's discussions with APS are undeniable. And, because the Noticing Parties are a coalition of conservation and environmental justice interests, their participation would offers greater dimension to your discussions.

Moreover, the Noticing Parties hold the firm belief that a negotiated settlement between all parties to the above-described disputes is achievable. From the Noticing Parties' perspective, a basic outline of such as settlement is as follows:

1) An enforceable commitment to retire Units 1-3 within a mutually-agreed upon timeframe;

2) Pollution reductions at Units 4-5 beyond those currently contemplated by EPA's BART proposal, that would include specific limits for nitrogen oxides, particulate matter, sulfur dioxide, ammonia slip, and sulfuric acid mist that would become effective within a mutually agreed-upon timeframe.

3) Appropriate mitigation under the California Environmental Quality Act, to be located within in the Navajo Nation, which may also serve as a supplemental environmental project, in lieu of penalties, under the Clean Air Act.

This is a reasonable framework for resolving the various Clean Air Act liabilities surrounding the Four Corners Power Plant described above. Given the local interest in any supplemental environmental project, along with the EPA's required public input process, early inclusion of the Noticing Parties in the development of any mitigation/supplemental environmental project is likely to create a more efficient process. For these reasons, we urge the EPA to bring the Noticing Parties to the table in any ongoing negotiations with APS regarding its November 24, 2010 settlement offer. We are confident that an inclusive approach to these discussions will lead to a better, and more certain, outcome for all.

In light of the above, we look forward to hearing from you soon. Please feel free to contact me at 510-550-6725 or at speesapati@earthjustice.org with any questions or concerns. Thank you for your attention to this matter.

Sincerely,

/s/

Suma Peesapati, Staff Attorney
Earthjustice

On behalf of:

Diné CARE
To' Nizhoni Ani
National Parks Conservation Association
Sierra Club

Cc: Makram Jaber, Hunton & Williams, LLP (via email)
Jason Kim, Hunton & Williams, LLP (via email)