UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

FEB 19 2015

Ref: 8P-AR

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Gene Grindle, Plant Manager
Bonanza Plant
Deseret Power
12500 East 25500 South
Vernal, UT 84078

Re: Request for Confirmation that Deseret is Seeking An Administrative Permit Amendment

Dear Mr. Grindle:

We are sending this letter to follow up on a notation made in the Motion filed on behalf of the Company by Hunton & Williams with the Environmental Appeals Board on January 27, 2015. Enclosed is a copy of the Motion for your reference. The footnote on page one of the Motion indicates that the permit applicant and owner of Permit No. V-UO-000004-00.00 should be the "Deseret Generation & Transmission Co-operative." In light of the footnote, we are writing to seek confirmation that the Company is requesting EPA to process an administrative permit amendment under 40 CFR 71.7(d) to make this change to the permit. Upon receiving confirmation from the Company that an administrative permit amendment is requested, we will proceed accordingly.

If you have any questions concerning this matter, please feel free to contact me at (303) 312-6416, or Mike Owens of my staff at (303) 312-6440.

Sincerely,

Carl Daly, Director
Air Program

Enclosure

JAN 28 2015
mcx
EBORC

BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

In re:	
Deseret Power Electric Cooperative, Bonanza Power Plant, Permit No. V-UO-000004-00.00	Appeal Nos. CAA 15-01; CAA 15-02

UNOPPOSED MOTION OF DESERET GENERATION & TRANSMISSION CO-OPERATIVE FOR LEAVE TO PARTICIPATE AS INTERVENOR AND TO RESPOND TO THE PETITIONS

Permittee Deseret Generation & Transmission Co-operative ("Deseret")[1] respectfully asks the Environmental Appeals Board ("Board") for leave to participate as intervenor in the above-captioned proceeding in response to the Petitions submitted by WildEarth Guardians and Sierra Club (collectively, "Petitioners") on January 7, 2015. The Petitions challenge the Title V Operating Permit issued by Environmental Protection Agency Region 8 ("EPA") for Deseret's Bonanza Power Plant, located on land deemed to lie within the undiminished boundaries of the Uintah & Ouray Indian Reservation in eastern Utah. Petitioners have requested that the Board remand the Title V permit to EPA with instructions to include additional requirements and/or to vacate the permit. Counsel for Deseret has conferred with counsel for Petitioners and EPA. All parties do not oppose this Motion.

The Board's practice is to allow permit holders to intervene in and respond to third-party challenges to their permits. Although EPA's Part 71 regulations governing Title V permit appeals do not explicitly address intervention by a permittee, the Board "typically allow[s] permittees not already a party to the proceeding to participate as intervenors." EAB Practice

[1] Deseret notes that the Title V permit at issue here—and, as a result, the caption of this case—incorrectly identifies "Deseret Power Electric Cooperative" as the permit applicant. Deseret Generation & Transmission Co-operative is the permit applicant and the owner of the Bonanza Power Plant.

Manual at 48 n.50 (citing cases); *see, e.g.*, *In re: BP America Production Co.*, CAA Appeal No. 10-04 at 1 (EAB Dec. 20, 2010) (granting permittee leave to participate in third-party Title V permit appeal). Indeed, EPA recently revised its regulations governing appeal of final permit decisions under 40 C.F.R. § 124.19 to specifically provide a mechanism for a permittee to respond to a petition for review of its permit. 78 Fed. Reg. 5281, 5286 (Jan. 25, 2013); 40 C.F.R. § 124.19(b)(3). Here, Deseret should be permitted to intervene in these appeals on the following grounds.

1. Deseret has a direct and substantial interest in this appeal because Deseret is the owner of the Bonanza Plant and is the permit holder. Deseret's interests could be impaired by the outcome of this appeal if, as Petitioners request, new or additional obligations are imposed or the permit is vacated. Deseret's interests that could be impaired by this appeal include, among others, its large financial investment in the Bonanza Plant, its commitment to Deseret employees who work at the Bonanza Plant, and Deseret's many contractual obligations regarding the Bonanza Plant.

2. Deseret's participation in this proceeding will provide information and a perspective that would not be presented by the other parties to this appeal. Deseret has intimate knowledge of the Bonanza Plant, its construction and operation over time, its permitting history under both EPA and the Utah Division of Air Quality, and the ruggedized rotor project that EPA approved for the Bonanza Plant in 2001. This information may be relevant to Petitioners' claims on appeal that Deseret's Title V permit does not address all applicable requirements for the Bonanza Plant.

3. Although both EPA and Deseret will vigorously defend EPA's Title V permit decision, Deseret's economic and other interests in the Bonanza Plant differ from those of the

public represented by EPA. In similar cases, courts have found that it is "on its face impossible" for a government agency to adequately represent both the general interests of the public and the private interests of affected individuals. *Utahns for Better Transp. v. U.S. Dep't of Transp.*, 295 F.3d 1111, 1117 (10th Cir. 2002) (internal quotation marks omitted). Here, Deseret's participation is necessary to adequately represent its own interests in defending against the Petitions.

4. No party will be prejudiced by Deseret's participation in these appeals. Deseret would participate and respond on the schedule established by the Board for EPA.

WHEREFORE, Deseret respectfully requests that the Board grant it leave to participate as intervenor in the above-captioned appeals and to file a response to the Petitions.

Respectfully submitted,

/s/ Makram B. Jaber

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Counsel for Deseret Generation & Transmission Co-operative

Dated: January 27, 2015

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of January, 2015 the foregoing Unopposed Motion of Deseret Generation & Transmission Co-Operative for Leave to Participate as Intervenor and to Respond to the Petitions, in the matter of *In re: Deseret Power Electric Cooperative, Bonanza Power Plant, Permit No. V-UO-000004-00.00*, Appeal Nos. CAA 15-01; CAA 15-02, was filed electronically with the Clerk of the Environmental Appeals Board using the EAB eFiling System, and that a copy of the foregoing was served by United Parcel Service on each of the following parties in this matter:

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Counsel for Deseret Generation & Transmission Co-operative

Dated: January 27, 2015