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May 21, 2012

Carl Daly
Director, Air Program
Environmental Protection Agency
Region 8
1595 Wynkoop St.
Denver, CO 80202

Re: Bonanza Power Plant Title V Permitting Process

Dear Mr. Daly:

We greatly appreciated the opportunity to meet with you and your staff on May 1, 2012 to discuss the Environmental Protection Agency's ("EPA's") progress in issuing the Clean Air Act Title V Operating Permit for Deseret Power's Bonanza coal-fired power plant.

To reiterate, our primary concern over the Bonanza power plant is that the facility is currently not in compliance with Prevention of Significant Deterioration ("PSD") requirements under the Clean Air Act. Deseret's own records plainly show that in 2000, the company undertook several physical changes (often described as upgrades) at the Bonanza power plant to increase the generating capacity of the facility, which led to a significant increase in nitrogen oxides ("NOx") and most likely sulfur dioxide ("SO_2") and particulate matter less than 10 microns in diameter ("PM_{10}") annual emission rates. This constituted a major modification under PSD. Despite this, Deseret did not apply for or obtain a PSD permit or otherwise ensure compliance with applicable PSD requirements, including best available control technology ("BACT") requirements.

At the time of this major modification, Deseret claimed that there would be no significant emissions increase. However, it is clear that this claim was based on a comparison of pre-construction potential to emit with post-construction potential to emit. In other words, Deseret undertook a "potential to potential" analysis. As EPA is fully aware, an assessment of whether PSD requirements are triggered as a result of a significant emission rate increase must be based on a comparison of actual pre-construction emissions with post-construction potential emissions; in other words, an "actual to potential" analysis. Based on an "actual to potential" analysis, emissions of NOx, and most likely SO_2 and PM_{10}, significantly increased as a result of the 2000 upgrades at the Bonanza power plant.

Our recently submitted notice of intent to enforce this PSD violation under the citizen suit provisions of the Clean Air Act details the basis of our finding that the Bonanza power plant was

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illegally modified under PSD.[1] This notice letter relied on Deseret's own records, as well as EPA records, which plainly show that Deseret erred in not obtaining a PSD permit in conjunction with the 2000 upgrades.

It is therefore our position that the Bonanza power plant is currently out of compliance with an applicable requirement under the Clean Air Act, namely PSD. Under Title V, the EPA has a duty to both ensure that an operating permit assures compliance with all applicable requirements under the Clean Air Act, but also ensure that where a facility is out of compliance, that the operating permit includes a schedule to bring the facility into compliance. Thus, EPA has a duty to remedy this PSD violation through the current Title V permitting process. Meeting this duty should include, at a minimum, an assessment by EPA of PSD applicability at the Bonanza power plant.

Other ongoing PSD violations at the Bonanza power plant include heat input rate violations, hourly NOx emission rate violations, and opacity violations. Our recently submitted notice of intent to enforce these PSD violations under the citizen suit provisions of the Clean Air Act details these compliance issues and we also expect them to be addressed through the Title V permitting process. Of critical importance, we expect EPA to ensure that the Title V Permit is written to assure that Deseret complies with its legally applicable heat input rate assumptions. At a minimum, the Title V Permit must ensure that the Bonanza power plant does not exceed a heat input rate of 4,055 mmBtu per hour.

We look forward to continuing to engage as the permitting process unfolds. Our intent is to clearly convey our expectations and ensure that EPA has the information it needs to issue a legally sufficient Title V Operating Permit for the Bonanza power plant. If there are any questions or concerns in the meantime, please feel free to contact us. Thank you.

Sincerely,

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[1] Although we may independently enforce these violations, this does not permit EPA to forego its duties under Title V of the Clean Air Act.