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Governor and Attorney General Press EPA to Follow Federal Law on Desert Rock Permit

New Mexico Criticizes EPA for Failing to Meet Clean Air Act Requirements in Permitting Process for Power Plant

(Santa Fe, N.M.) The New Mexico Environment Department and the state Attorney General's Office filed comments today opposing a proposed consent decree between the U.S. Environmental Protection Agency and Desert Rock Energy Co. that will require EPA to make a decision on the air quality permit for the Desert Rock coal-fired power plant by July 31.

The state also filed a motion yesterday to intervene in the case to ensure EPA fulfills all statutory requirements under the Clean Air Act prior to issuing a permit for the facility in the four corners region.

"Intervening in this lawsuit is the right thing to do to protect New Mexicans from a hasty permit decision by the Bush Administration," Governor Richardson said. "Arriving at a decision by July 31 will shortcut consideration of the hazardous air pollution, mercury, and carbon dioxide emissions from this coal-fired power plant. These emissions will have real effects on the people of New Mexico, their environment and the state's wildlife. These impacts must be evaluated carefully."

Governor Richardson also directed his Energy and Environmental Policy Advisor Sarah Cottrell and New Mexico Environment Department Secretary Ron Curry to travel to San Francisco on Wednesday to meet with EPA Regional Administrator Wayne Nastri to discuss the state's objections to the plant.

"EPA's refusal to include all of the Clean Air Act requirements as part of the permitting process is an abdication of the agency's statutory obligations and threatens the environmental health of the residents in the state and surrounding region," Secretary Curry said. "In a region where prominent landmarks such as Shiprock and the Chuska and Carrizo mountain ranges are already shrouded in clouds of pollutants, Desert Rock will contribute to visibility problems in the national parks and wilderness areas throughout the Four Corners area."

The state's comments on the Consent Decree point out that EPA has failed to complete several analyses under the Clean Air Act and will not be able to do so prior to July 31. Those analyses include the best available control technology for small particulate matter (PM2.5) and carbon dioxide emissions.

Desert Rock will emit more than 10 million tons a year of carbon dioxide, adding to the 28 million tons a year already emitted by San Juan Generating Station and Four Corners Power Plant. The facility as planned will adversely impact air quality, exacerbate existing environmental problems and negatively impact scarce surface

and ground water resources. EPA also has not completed a maximum available control technology analysis for hazardous air pollutants such as mercury and lead. Desert Rock's mercury emissions will contribute to the already high mercury levels in the Four Corners area where there are fish consumption advisories for rivers and lakes throughout New Mexico and Colorado.

A Georgia court remanded a coal-fired power plant permit last month for failing to set carbon dioxide emission limits. In addition, the EPA Environmental Appeals Board is about to make a decision on the same issue for the Deseret power plant on the Uintah and Ouray Indian Reservation in Utah.

PM2.5 has been a regulated pollutant under the Clean Air Act for years and recent court decisions have required modeling and best available control technology analysis for this pollutant, which poses significant health risks.

EPA has not evaluated appropriate offsets for the Desert Rock plant to help the state address the impacts of this designation. San Juan County and surrounding areas are on the verge of being designated as nonattainment for ozone.

EPA has yet to respond to thousands of public comments submitted on the Desert Rock permit application and is obligated to do so prior to issuing the permit.

The technology as proposed by the company fails to consider real technological advances and does not take into account the needs of climate change policy.

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