

FACT SHEET

Environmental Groups:

- **To' Nizhoni Ani ("TNA")**, which translates to "Beautiful Water Speaking", is a non-profit organization comprised solely of Black Mesa residents, in particular residents of Piñon, Hard Rock, Forest Lakes, and Big Mountain. TNA provides community education on the impacts of the Kayenta mine and related Navajo Generating Station ("NGS") and mobilizes the Black Mesa community in advocacy for sustainable economic development.
- **Black Mesa Water Coalition ("BMWC")** is a non-profit organization formed in 2001 by the Navajo Nation and Hopi Tribe members. BMWC is dedicated to addressing issues of water depletion, natural resource exploitation, and the building of sustainable healthy Navajo and Hopi communities.
- **Diné Citizens Against Ruining Our Environment ("Diné CARE")** is a non-profit organization that works with Navajo communities affected by energy and environmental issues. Composed entirely of Navajos, Dine CARE strives to maintain ecological relations and empowering the Diné (Navajo for the "People") to protect their communities, their way of life, and their lands.

The Players in the Litigation:

- **Petitioners**
 - Native environmental groups:
 - To' Nizhoni Ani
 - Black Mesa Water Coalition
 - Diné Citizens Against Ruining the Environment
- **Respondents**
 - United States Environmental Protection Agency ("EPA")
 - Gina McCarthy, Administrator of the EPA

Navajo Generating Station ("NGS"):

- NGS is a 2,250 megawatt coal fired power plant
- The plant has three identical 750 MW steam electric generating units
- Located in Page, Arizona
- This plant provides electrical power to customers in Arizona, Nevada, and California
- It also provides 90% of the power for pumping Colorado River water through the Central Arizona Project, which supplies 1.5 million acre feet of water annual to Arizona.
- Owners of the NGS:
 - U.S. Bureau of Reclamation (24.3%)
 - Salt River Project Agricultural Improvement and Power District (21.7%)

- Los Angeles Department of Water and Power (21.2%)
- Arizona Public Service Co. (14%)
- Nevada Energy (11.3%)
- Tucson Electric Power (7.5%)

The Litigation:

- On October 7, 2014, Petitioners filed a Petition for Review in the Ninth Circuit Court of Appeals requesting review of Respondents’ final BART Determination for NGS.
 - NGS is a massive source of NO_x (nitrogen oxide) emissions, which is a pollutant that causes regional haze. Even after the addition of NO_x emission controls in 2011, NGS still emits roughly 20,000 tons of NO_x per year.
 - Regional haze causes visibility impairment in over 11 national parks surrounding NGS.
 - NO_x emissions also cause serious health problems for people near NGS.
 - Clean Air Task Force estimates that pollution from NGS contributes to 16 premature deaths, 25 heart attacks, 300 asthma attacks, and 15 asthma emergency room visits each year, with a total annual health costs of over \$127 million dollars.
- **Statutory Background**
 - As part of the Clean Air Act, Congress established a goal to return visibility in national parks to natural conditions by 2064.
 - In order to meet this goal, the EPA requires BART, or Best Available Retrofit Technology, on stationary sources that produce NO_x emissions.
 - If the coal fired power plant has a total generating capacity in excess of 750 megawatts and is located on tribal lands (such as NGS), the EPA must issue a federal implementation plan that regulates NO_x emission limits consistent with agency guidelines.
- **Procedural Background**
 - In February 2013, the EPA issued a proposed BART Determination for NGS that required installation of Selective Catalytic Reduction (“SCR”) technology on all three units and to meet a NO_x emission limit of 0.055 lb/MMBtu by 2018.
 - In July 2013, the EPA received a BART proposal from a Technical Working Group (“TWG”) that included participants from the U.S. Department of the Interior, the Salt River Project, and others. The TWG did not include native community groups or the Hopi Tribe.
 - The TWG alternative requires closure of 1 unit (or an equivalent reduction in operation) at NGS and set the NO_x emission limit to 0.07 lb/MMBtu for the other 2 units beginning in 2030. This alternative

- does not mandate installation of BART controls within 5 years unlike most other EPA determinations throughout the western United States.
- In August 2014, the EPA accepted the TWG proposal as a “better than BART” alternative despite the fact that it fails to comply with the Clean Air Act and will delay cleanup of regional haze.

The EPA’s Double Standard:

- The U.S Bureau of Reclamation owns a 27% stake in NGS.
- In December 2012, the EPA issued a final BART Determination for the Apache Generating Station, Cholla Power Plants, and Coronado Generating Station in the state of Arizona. This required operators of each unit to comply with NOx emission limits no later than 5 years from the date of its final ruling.. It will also require the plants to install SCR on all units in order to achieve these emission limits.
- In August 2012, the EPA issued a final BART Determination for the Four Corners Power Plant (“FCPP”) giving FCPP two options. One option requires the installation of SCR on all 5 units and NOx emission controls to meet a limit of 0.11 lb/MMBtu within 5 years. Under the other alternative, FCPP was allowed to close 3 units and install controls on the remaining two units within 5 years. On December 31, 2013, the FCPP owners elected to close the three units and install controls on the remaining two
- EPA’s Region 9 issued both the Arizona and FCPP BART Determinations, which is the exact same EPA region that issued the NGS final BART Determination.