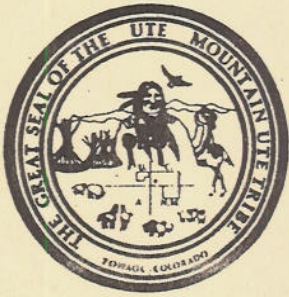


US EPA ARCHIVE DOCUMENT



UTE MOUNTAIN UTE TRIBE

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March 11, 2009

Carol Rushin
Acting Regional Administrator
UE EPA Region 8, Mail Code 8RA
1595 Wynkoop St.
Denver, CO 80202

Dear Administrator Rushin,

I have reviewed data and information pertaining to the attainment of national ambient ozone standards for the area surrounding the Ute Mountain Ute Reservation in southwest Colorado. Specifically, I have read the document produced in partnership between the State of Colorado and the Southern Ute Tribe, entitled "Technical Support Document For Recommended 8-Hour Ozone Designations, January 15, 2009." At this time, the Ute Mountain Ute Tribe agrees with the State of Colorado and the Southern Ute Tribe that southwest Colorado, including the Ute Mountain Ute Reservation, should be designated as in attainment with the national standards.

I commend both entities that prepared the document referenced above. It is well researched and well written to easily understand the existing data that have been collected to make this designation. As we develop our own air permitting program and someday an air quality monitoring program, we will call upon the expertise of those involved in these issues in our area.

I need to point out one discrepancy that I have observed as a result of correspondence with the State of New Mexico and because of the Ute Mountain Ute Tribe's land ownership next to the San Juan Generating Station in San Juan County, NM. The report written by the State of Colorado described upgrades currently being undertaken at the San Juan Generating Station to reduce emissions. It is their perception in their report that these upgrades will reduce emissions. Based on the correspondence I have received from the State of New Mexico regarding the permits for these upgrades, there is no documented expectation for decreases in emissions of NOx or Voc's, nor are there any regulatory requirements being imposed by the State of New Mexico to seek reductions in emissions as a result of these upgrades. The reasons that I felt compelled to point this out in the context of this designation are two-fold:

First, we live in a rural area with a low population density yet we have days throughout the year when the regional haze in the San Juan River Valley is as thick the haze over Denver. This

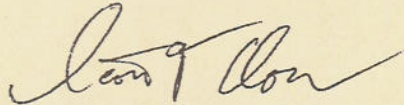
extends from the location of the two Northern New Mexico power plants north past the Abajo Mountains in Southern Utah. During sustained high pressure system weather we can barely see the Shiprock from Towaoc, a mere 30 miles away. The Tribe does not understand why the current upgrades at a facility that is notorious for its pollution, in a non-attainment area, are not required by law or by EPA- promulgation of the Clean Air Act to reduce their emissions of NOx or VOC's.

Second, we understand that EPA Region 6 and the State of New Mexico are responsible for regulating the San Juan Generating Station, and that technically it is out of your jurisdiction in Region 8. Still, there is a trust responsibility on behalf of the EPA nationally to communicate between regions and impose requirements on delegated states to protect air quality over Indian Country. As we also implored EPA Region 8 to comment about the down-wind effects of the proposed Desert Rock Power Plant (permitted by EPA Region 9), we also now implore EPA Region 8 to consider how close the data indicate we are to nonattainment in this corner of Colorado and to communicate with both EPA Region 6 and EPA Region 9 to mitigate this pollution.

The Ute Mountain Ute Reservation is a beautiful place and a land of vast natural resources. The economic impact of the degradation of air quality will have multiple impacts on the Tribe. The Tribe's tourism businesses will suffer from the regional haze that is apparently only going to get worse. The Tribal Park Enterprise provides ecotourism combined with archeological expeditions. What will these be like in 20 years? Also, as air assimilation capacity decreases, how will this affect the Ute Mountain Ute Tribe's ability to develop its own natural resources, such as oil and gas? The only economic benefit that we see from the degradation of air quality here is the potential to sell carbon credits when the Tribe develops its renewable resources.

Thank you for your time and the opportunity to provide our input on the ozone attainment for southwest Colorado. We look forward to working with you and your staff in protecting air quality on the Ute Mountain Ute reservation of Colorado, New Mexico and Utah.

Sincerely,



Scott Clow

Environmental Programs Director

Cc: Monica Morales, EPA Region 8, Air Planning Unit
James Temte, Southern Ute Tribe Air Quality Program Director
Mike Silverstein, State of Colorado, Air Quality Division, Planning and Policy Program
Manager