

# U.S. EPA Environmental Appeal Board: Indian Tribe Notice of Appeal Addressing Renewal of Coal-Fired Power Plant Clean Air Act Title V Permit



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01/05/2024

The UTE Indian Tribe of the Uintah and Ouray Reservation (“Tribe”) filed a January 3rd Notice of Appeal (“Appeal”) challenging a decision by Region 8 of the United States Environmental Protection Agency (“EPA”) to renew the federal Clean Air Act Operating Permit (i.e., Title V Permit) for Deseret Generation and Transmission Co-operative Bonanza Power Plant (“Bonanza Plant”).

The Appeal was filed before the U.S. EPA Environmental Appeals Board.

The Appeal describes the Bonanza Plant as a 500-megawatt coal-fired power plant. It is stated to be owned and operated by Deseret Power Electric Cooperative (“Deseret Power”). The Bonanza Plant is located in Indian Country within the Tribe’s Uintah and Ouray Reservation in Utah. Consequently, the Tribe states that the relevant land is subject to concurrent Tribal and federal civil regulatory jurisdiction.

The Appeal provides the Tribe’s view of the chronology of the Bonanza Plant’s Clean Air Act permitting process from its initiation in 1981 of a Prevention of Significant Deterioration Permit. Referenced are what are described as substantial physical modifications from 1998 through 2000 to increase the facility’s capacity and extend its life. These are stated to have included upgrades for ruggedized rotor installation. The Appeal asserts that such modifications resulted in actual, significant increases in air pollution that not only exceeded regulatory limits, but also posed a real and immediate threat to the Tribe’s human health and the environment.

The Tribe also asserts that despite Clean Air Act Title V requirements that the Bonanza Plant was allowed to operate on the Tribe’s Reservation without a Title V Permit for over 14 years. A Title V Permit is stated to have been issued in 2014. This Permit was appealed to the Environmental Appeals Board by WildEarth Guardians and Sierra Club. This challenge is stated to have involved alleged noncompliance with required Prevention of Significant Deterioration Best Available Control Technology. Such appeals were resolved in a 2015 Settlement Agreement which is stated to have not included the Tribe.

The Title V Permit was renewed in a December 4, 2023, decision by Region 8 of EPA.

The Tribe’s Appeal brief arguments include:

- EPA's Continued Disregard of Tribal Health and Environmental Concerns Violated the Federal Trust Responsibility, EPA's Own Policies, and Constituted an Abuse of Discretion
- EPA Has Failed to Comply with the Executive Branch's Executive Orders on Environmental Justice and EPA's Own Policies and Process
- The Failure of EPA to Notify the Tribe of an Investigation into the Bonanza Plant Until After the Final Permit Was Issued is an Abuse of Discretion and Violation of EPA's Trust Responsibilities

A copy of the Appeal can be downloaded [here](#).