



E. SCOTT PRUITT
ADMINISTRATOR

October 30, 2017

Mr. George W. Bilicic
Vice Chairman of Investment Banking
Global Head of Power, Energy and Infrastructure
Head of Midwest Investment Banking
Lazard Frères & Co. LLC
300 North LaSalle Street
Chicago, Illinois 60654

Dear Mr. Bilicic:

I am writing in response to your September 22, 2017, letter requesting clarification to the Alternative B operative scenario described in the U.S. Environmental Protection Agency's final rule titled *Approval of Air Quality Implementation Plans; Navajo Nation; Regional Haze Requirements for Navajo Generating Station*, 79 FR 46514 (August 8, 2014, codified at 40 CFR 49.5513).

Recognizing the importance of the Navajo Generating Station as a constant source of affordable energy and economic stability to the Kayenta Mine workers, the Navajo and Hopi Tribes and surrounding Arizona communities, the Alternative B pathway was developed to enable compliance flexibilities in the event of new ownership. As expressed in the letter, your understanding of Alternative B and its triggering elements is generally correct and consistent with the implementation plan. Each issue raised in your letter with additional clarifying information is discussed further below.

1. *Ownership.* Alternative B addresses future new ownership by a party outside of the stakeholder group at the time the Federal Implementation Plan was imposed. As such, if either the Los Angeles Department of Water and Power or NV Energy does not exit NGS as planned, or either entity sells to a party other than an existing owner or the Navajo Nation, then the Alternative B pathway applies.
2. *Environmental Impact Study.* Implementation of the Regional Haze requirements for NGS in accordance with the Federal Implementation Plan would not trigger review under the *National Environmental Policy Act*, so no Environmental Impact Study is required.
3. *Compliance flexibility.* While Alternative B does not require Unit 1, 2 or 3 to close, it does mandate that NGS comply with two emission caps for oxides of nitrogen (NO_x)

that apply over 2009-2029 and 2009-2044. The FIP does not specify how the caps must be met; rather, it requires annual emission reduction plans that:

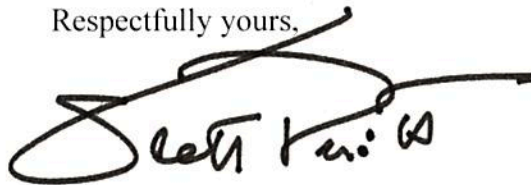
“...shall identify emission reduction measures *that may include, but are not limited to*, the installation of advanced emission controls, a reduction in generation output or other operating strategies determined by the owner/operator.” (Emphasis added)¹

Therefore, under Alternative B, meeting the emission caps without the installation of new emission controls is permissible under the provisions of the Federal Implementation Plan.

4. *NOx emission caps.* As indicated in the Final Rule, the 2009-2029 NOx Cap is 416,865 tons and the 2009-2044 NOx Cap is 494,899.
5. *Operational limit.* Under all Alternatives, the operator must permanently cease conventional coal-fired electricity generation by all units at NGS by December 22, 2044.
6. *Notice.* The owners must notify the EPA of the applicable alternative by December 1, 2019. This notification could be in the form of a letter and should provide the specifications for the applicability of Alternative B.

I look forward to continuing to work with you and other administrative partners to provide additional clarity or technical support for a smooth transition under new ownership.

Respectfully yours,

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", with a large, stylized flourish above the name.

E. Scott Pruitt

¹ See 40 CFR 49.5513(j)(4)(iv)(A). Similar requirements apply to the 2030-2044 period under 40 CFR 49.5513(j)(4)(iv)(B). In addition, the requirement to submit annual emission-reduction plans under Alternative B must also be incorporated into the Part 71 Operating Permit for NGS (40 CFR 49.5513(j)(4)(iv)(C)).