

**KAIBAB BAND OF PAIUTE INDIANS
SIERRA CLUB
WESTERN RESOURCE ADVOCATES
NATIONAL PARKS CONSERVATION ASSOCIATION
GRAND CANYON TRUST
NATURAL RESOURCES DEFENSE COUNCIL
ENVIRONMENTAL DEFENSE
CENTER FOR BIOLOGICAL DIVERSITY
RAINFOREST ACTION NETWORK
NEVADA CONSERVATION LEAGUE
PROGRESSIVE LEADERSHIP ALLIANCE OF NEVADA (PLAN)
SEVIER CITIZENS FOR CLEAN AIR AND WATER, INC.
CITIZENS FOR DIXIE'S FUTURE
DEFEND OUR DESERT
WILD EARTH GUARDIANS
NATIONAL WILDLIFE FEDERATION
UTAH PHYSICIANS FOR A HEALTHY ENVIRONMENT
POST CARBON SALT LAKE
UTAH COUNTY CLEAN AIR COALITION
BRISTLECONE ALLIANCE
GREAT BASIN RESOURCE WATCH
PUBLIC RESOURCE ASSOCIATES
UTAH MOMS FOR CLEAN AIR
CLEAN AIR TASK FORCE**

April 24, 2008

By Fax and U.S. Priority mail

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**Re: Toquop Energy Project-Supplemental Draft Environmental Impact
Statement and Draft PSD permit comment letter- change in water
source**

Dear Ms. Peterson and Mr. Moore:

In light of recent developments, the purpose of this letter is to provide supplemental written comments on the Bureau of Land Management's ("BLM") Draft Environmental Impact Statement ("DEIS" or "2007 DEIS") for Sithe Global's ("Sithe")

proposed Toquop Energy Project (“TEP”, “Toquop”, or “Toquop Project”) in Lincoln County, Nevada.

By means of background, the 2003 Final Environmental Impact Statement and 2007 Draft Environmental Impacts Statement state that Toquop Energy would lease water rights from Vidler Water Company and Lincoln County to operate the Toquop Energy Project. *See, 2003 Final EIS at p. 4-76 and 2007 DEIS at p. 2-4.* The proposed source of the water would be a well field located in the Tule Desert.

However, on March 28, 2008 the Desert Valley Times Online reported that Vidler Water Company and Lincoln County cancelled their agreement to provide water to the Toquop Energy project. *See, attachment hereto.* In the article, Sithe Global Power spokesperson Fran Maisano states that, “negotiations are going on for additional water resources.” In that same article, representatives of the Virgin Valley Water District and Southern Nevada Water District both indicated that they would not be providing water to the Toquop Energy Project. *See, attached.*

The NEPA regulations require that a supplement to a draft EIS be prepared when there are substantial changes with the proposed action or if new circumstances or information becomes available that is relevant to the proposed action and environmental concerns. 40 C.F.R. §1502.9(c). As a result of the new developments at TEP, the 2003 and 2007 EIS’s are no longer accurate or complete with regard to the water source for the Toquop Project. As such, the undersigned request that the Toquop Energy Project DEIS be reissued after the new source of water is definitively identified. Once the new water source for TEP is identified, we request that all associated environmental impacts be discussed and analyzed in a re-issued draft EIS. We have already provided comments on the scope of such a water source analysis in our previous comment letters, which are incorporated herein by reference.

Moreover, the change in the proposed water source for TEP also means that the State of Nevada must not issue the Clean Air Act Prevention of Significant Deterioration (“PSD”) air permit at this time. The basis for this conclusion is that the Clean Air Act’s PSD regulations provide:

Environmental impact statements. Whenever any proposed source or modification is subject to action by a Federal Agency which might necessitate preparation of an environmental impact statement pursuant to the National Environmental Policy Act (42 U.S.C. 4321), review by the Administrator conducted pursuant to this section shall be coordinated with the broad environmental reviews under that Act and under section 309 of the Clean Air Act to the maximum extent feasible and reasonable. 40 C.F.R. § 52.21(s).

This provision, 40 C.F.R. § 52.21(s), equally applies to the State of Nevada pursuant to their October 19, 2004 Agreement for Delegation with EPA and pursuant to NAC 445B.221(3). The State of Nevada cannot rationally coordinate its PSD review with an inadequate EIS. For example, in considering the Best Available Control

Technology for sulfur dioxide from the main boiler and for PM10 and PM 2.5 from the cooling towers, the permitting authority is required to consider the environmental impacts of various control options such as dry versus wet Flue Gas Desulfuration (FGD) and wet versus dry versus hybrid wet/dry cooling towers. The EIS would provide the State of Nevada with important information in its consideration of these environmental impacts.

However, an inadequate EIS would not provide the State with adequate information for its consideration. In addition, when determining whether the source will cause or contribute to a violation of the PM10 NAAQS or increment, the PM10 emission rate from the cooling towers will be dictated by the water quality. However, without knowing the source of the water, one can obviously not know the water quality. Therefore, until the project proponent has secured an adequate and permanent source of water, and the BLM has properly considered that source of water in a supplemental EIS, the State of Nevada must not issue the final PSD permit. Accordingly, we request that the State of Nevada re-issue a draft PSD permit after analyzing the impacts of the new source of water for the plant.

In conclusion, the BLM may not issue a final EIS for the Toquop Energy Project without analyzing the environmental impacts associated with a new water source and providing the public with the right to comment on such impacts. Likewise, the State of Nevada may not issue a final PSD permit for the same reasons.

Please notify each of the undersigned groups of the availability of the re-issued DEIS and draft PSD permit. Thank you for your attention to our concerns.

Sincerely,

s/ Charles Benjamin

Charles Benjamin

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Attachment

Supplemental comment letter and attachment submitted on the behalf of:

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