

To: molly.cagle@bakerbotts.com[molly.cagle@bakerbotts.com]
From: Dravis, Samantha
Sent: Mon 3/6/2017 7:11:05 PM
Subject: FW: Resending - EPA Request regarding Cholla removed.txt
Cholla NFRM prepublication version.docx
2017_0113 Cholla Final Action Fact Sheet.docx

Ms. Cagle,

David Schnare sent me your note – I wanted to let you know that this has been sent to the Office of Federal Register today. Please let me know if you have any further questions.

Best,

Samantha

From: molly.cagle@bakerbotts.com [mailto:molly.cagle@bakerbotts.com]
Sent: Monday, March 6, 2017 12:07 PM
To: Schnare, David <schnare.david@epa.gov>
Cc: jeffrey.allmon@pinnaclewest.com
Subject: Resending - EPA Request regarding Cholla
Importance: High

David,

First, thank you for your work on the Transition Team. I can't imagine how long your days are. Second, thank you for agreeing to take a look at this matter related to the Cholla Power Plant ("Cholla") in northern Arizona. The January 20th regulatory freeze has resulted in a hold being placed on the final rule containing the Best Available Retrofit Technology ("BART") reassessment for the Cholla facility, and without that reassessment, the owners will have to shut Cholla down in December 2017. The final rule cannot take effect unless and until it is published in the Federal Register. When the reassessment takes effect, the owners will have certainty as to the viability of existing contracts for the purchase of coal and can operate Cholla for many more years to come. Under the circumstances, you can

probably appreciate that the lingering uncertainty about the fate of the plant's BART reassessment is unnerving for the plant owners and its hundreds of employees. Given that EPA already has signed off on the environmental side of the Cholla BART reassessment, it seems clear that expeditiously allowing this rule to take effect is consistent with President Trump's repeated statements to preserve coal facilities and jobs in the USA.

Issue

On January 13, 2017, then U.S. EPA Administrator Gina McCarthy signed a final rule approving a source-specific SIP revision for the coal-fired Cholla plant near Winslow, Arizona (attached for reference). This action finalized a state BART determination for Cholla based upon a reassessment of circumstances surrounding future operation of the plant in compliance with the Regional Haze Rule (i.e., the "Cholla BART Reassessment"). Without this reassessment, Cholla would be required to install selective catalytic reduction ("SCR") controls on Units 3 and 4 on or before December 5, 2017 or cease operation, pursuant to a 2012 Regional Haze Federal Implementation Plan ("FIP"). At this time, the owners will NOT be able to install SCR controls at Cholla by the current deadline. Hence, if the 2017 Cholla BART Reassessment final rule is not allowed to take effect, this coal-fired facility will be required to close. In addition, further delays in formal publication of the 2017 final rule creates lingering regulatory uncertainty as to the future of the Cholla plant before the Arizona state utility commission.

Our Ask

Arizona Public Service Company ("APS"), (my client) as operating agent and co-owner of the Cholla facility, requests that U.S. EPA publish the 2017 federal rule, which approves the source-specific Regional Haze SIP for Cholla, in the Federal Register as soon as possible. Publication of the final rule is a necessary prerequisite for the rule to take effect.

Additional Facts

We are prepared to meet with you in DC or to set up a conference call to discuss

the details of the Cholla BART reassessment, but the “sum up” version of the story is:

- Beginning in 2008, APS undertook a project to voluntarily reduce emissions of NO_x, SO₂ and PM at Cholla through the installation and upgrade of Low NO_x Burners (“LNB”), SO₂ scrubbers, and baghouses for PM. In 2011, the Arizona Department of Environmental Quality (“ADEQ”) proposed the approval of these voluntary pollution control measures as BART for Cholla.
- On December 5, 2012, EPA promulgated a final action approving in part and disapproving in part a Regional Haze SIP submitted by ADEQ containing the Department’s 2010 BART determination. See 77 Fed. Reg. 72,512 (Dec. 5, 2012). The Agency identified what it believed were significant flaws in the way ADEQ identified BART for NO_x at Cholla. As such, EPA promulgated a FIP for Cholla imposing a far-lower NO_x emission limit (i.e., 0.055 lb/MMBTU)—which could only be achieved through installation of SCR controls—and required compliance by December 5, 2017.
- In order to avoid application of the 2012 EPA BART FIP for Cholla, which would have made continued operation of the plant uneconomical, Cholla’s owners committed to the following specific actions:
 - o Permanently close Cholla Unit 2 by April 1, 2016 (which has already occurred);
 - o Operate existing pollution controls at the plant; and
 - o By April 30, 2025, permanently cease coal burning at all Cholla units, with the option to convert the units to natural gas later that year (subject to a 20% capacity factor).
- Based on a state reassessment of BART requirements for Cholla that relied upon these commitments, on October 22, 2015, ADEQ submitted a revision to the Arizona Regional Haze SIP intended to replace the 2012 BART FIP.
- On January 13, 2017, U.S. EPA published a final rule approving the Arizona Regional Haze SIP revisions that included the Cholla BART Reassessment and withdrawing the 2012 FIP.

I am attaching a copy of EPA's final Fact Sheet for the Cholla BART Reassessment, and the rule, which is ready for publication in the Federal Register so that it may take effect.

Please let me know what additional information you need, or if we should meet with you or others within the Agency to talk further about our circumstances.

Best,

Molly Cagle

Molly Cagle

Partner

Baker Botts L.L.P.

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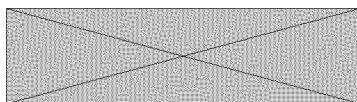
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