

**TESTIMONY BY MARY FRONTCZAK, ESQ.
PEABODY**

**“CONGRESSIONAL FIELD HEARING – THE I.R.S. AND THE E.P.A. –
BUREAUCRATS OUT OF CONTROL?”**

**August 22, 2013
Mesa, Arizona**

INTRODUCTION

Congressman Gosar and distinguished members of the panel, my name is Mary Frontczak. I am the Senior Vice President and General Counsel for Peabody Energy-Americas. Thank you for the opportunity to address the Environmental Protection Agency's (EPA's) proposal to require the installation of new, hugely expensive, and unnecessary environmental controls at Navajo Generating Station (NGS) near Page, Arizona. If I may, I would ask that my full written statement and supporting materials be made part of the record.

The cost to install the controls that EPA has proposed could be as high as \$1.1 billion in capital costs, and \$20 million per year in annual operating expenses. The sole justification EPA relies upon for requiring these controls is to improve visibility in and around the Grand Canyon, but, as I will discuss, the federal government's own study states that, at best, all the research to date is inconclusive about whether EPA's or others' proposal will have any effect on the visibility there or near other allegedly affected areas. When another coal-fueled plant in Nevada was closed for the same reasons seven years ago, experts [quote] “found virtually no evidence [that closing the plant] improved visibility in the Grand Canyon.” [unquote]

PEABODY

By way of background, Peabody owns and operates the Kayenta Mine in Northeast Arizona, which provides approximately 8 million tons of low-sulfur coal to operate the NGS's three 750 megawatt coal-fueled generators. The Kayenta Mine is the sole source of coal to NGS. NGS is unique in many respects, most importantly because it was created by Congress as a part of the Central Arizona Project and the U.S. Department of Interior is entitled to 24.3% of the power it produces for the benefit of the people of Arizona and the Central Arizona Project (CAP).

THE NGS AND KAYENTA MINE ARE CRITICAL TO THE NAVAJO NATION AND HOPI TRIBE AND THE STATE OF ARIZONA

Let me now speak to how critical NGS is to all aspects of the Arizona economy. The economics of NGS to the Navajo Nation, as a prime example, are overwhelming. NGS employs more than 500 workers, the vast majority of whom are Navajos, and in 2012, provided approximately \$52 million per year in wages and benefits, mostly to Native American workers. It also pays \$3 million per year in lease payments to the Navajo Nation, which may increase to \$43 million per year in lease payments under the recently renegotiated lease.

The Kayenta Mine's economic impact is similarly significant. The mine employs approximately 400 workers, mostly (98 percent) Native Americans and provides \$52 million in annual wages and benefits, and approximately \$50 million to the Navajo Nation in 2012 in lease and business payments, taxes and scholarships, and water fees and payments to the Navajo Tribal Electric Authority.

The Kayenta Mine also provides significant revenues to the Hopi Tribe by providing \$16 million per year in coal royalties, and water fees, and \$180,000 per year in scholarships.

Further, approximately 55 percent of the Navajo Nation's general fund budget and 80 percent of the Hopi Tribe's general fund budget are derived directly from mining operations on their respective reservations.

NGS is part of the coal-fueled electric generation fleet that supplies more than 36 % of the electric energy resources needed by Arizona residents and businesses and keeps energy and water costs significantly lower than other states with whom Arizona competes for jobs and growth. As a result, the economic impact of any new regulation to the State of Arizona could easily approach tens of billions of dollars when calculated over the next 30 years.

THERE WILL BE NO PERCEPTIBLE IMPROVEMENTS IN VISIBILITY

EPA's January 2013 proposed rule requiring expensive controls and further reductions in NOx emissions threaten the enormous benefits I have just outlined.

The Clean Air Act's goal is to prevent and remediate manmade visibility impairment in Class I areas. The implementing regulations, entitled the Regional Haze Rule, require EPA to fully consider and evaluate mandatory factors when determining Best Available Retrofit Technology or "BART."

Between 2009 and 2011, NGS voluntarily installed combustion controls at a cost of \$45 million. These controls satisfy the BART requirement and no other equipment or other controls are required. These voluntarily installed controls reduced NOx emissions by

40% to levels below the presumptive limits in the regional haze rules. But EPA is demanding more with no proven benefit.

CONCLUSION

Because it is a part of and essential to the operation of the CAP, and because water is vital to Arizona's economy and way of life, NGS and Kayenta Mine have been instrumental to and intimately involved in the growth and economic development of the State of Arizona. It is clear and irrefutable that EPA's proposal to require the installation of selective catalytic reduction and possibly other controls at a cost of up to \$1.1 billion will have a significant adverse impact on the entire State of Arizona and its Indian tribes, NGS, and the Kayenta Mine. And all of those costs, as firmly established by the existing record, will not have any benefit.

We therefore urge Congress to demand that EPA refrain from adopting any new regulations that would prevent the operation of all NGS units at full capacity using coal to the end of its operational life.

Thank you again for the opportunity to be here today, and I will be happy to answer any of your questions.