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4. MINING AND WATER: Meetings on Black Mesa Project turn fractious

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Opponents of continued coal mining operations at the Black Mesa and Kayenta mines in northeast Arizona tried to press their concerns during a series of public meetings sponsored by the Interior Department's Office of Surface Mining Reclamation and Enforcement (OSM) this month. But the groups, including environmental organizations and Native American tribal factions, report being frustrated by limitations to the format of a dozen meetings held this month in various Arizona locations.

The meetings were to take public comment on the adequacy of a draft environmental impact statement for the Black Mesa Project.

Those frustrations spilled over during both an initial meeting in Window Rock on Jan. 2 and the final session in Flagstaff on Jan. 11, when participants verbally confronted OMS staff over the public process for vetting the project to expand and consolidate mining operations, rebuild a coal-slurry pipeline and secure an alternative source of water on tribal lands.

The Black Mesa mine in 2005 produced 4.6 million tons of coal for electric generation. The neighboring Kayenta mine produced another 8 million tons. Photo courtesy of the U.S. Geological Survey.

Opponents question the need to proceed with the project review, given that the Mohave Generating Station, which was the main user of Black Mesa coal, has been closed. They also contend that federal government officials are paying lip service to their concerns.

"OMS refuses to hold public hearings," charged Enei Begaye, executive director of the Black Mesa Water Coalition. Instead of a public opportunity to provide comments in an open forum, she said, project opponents were presented with a media presentation and no opportunity to question officials about the project. "People were disappointed," she told *Land Letter* this week. "They thought they would have an opportunity for people to hear their concerns about the EIS and concerns about whether officials are actually hearing what we have to say."

The tensions were a replay of confrontations experienced two years ago, when OSM began the scoping process for the environmental review of the project.

OSM Southwest branch chief Rick Holbrook concurred that the meetings became contentious but told *Land Letter* the incident stemmed from "misplaced expectations" on the part of some participants. "They expected a debate on the political aspects of the project, and that wasn't what it was at all," he said. "We were there to obtain public comments on the adequacy of the draft EIS, and whether we'd covered all the important elements."

Holbrook said that other public sessions "went fine" and the agency was able to collect relevant comments. OSM will continue to accept written comments on the draft EIS through Feb. 6, he said.

The Black Mesa Project facilities cover nearly 65,000 acres on Navajo and Hopi tribal lands, about 25,000 acres are on lands for which the Navajo Nation holds exclusive rights to surface and mineral interests and 40,000 acres for which interests are shared by the two tribes. Peabody has operated the mines since the 1970s via three contiguous leases and various easements granted by the tribal governments and approved by the Bureau of Indian Affairs.

The **proposed project** entails revisions to the existing operational plan and upgrades that would expand the area of mining operations by some 20,000 acres into currently unpermitted tribal lands, create new rights-of-way and easements, construct a coal-washing facility, and rebuild the slurry pipeline. Essentially, both Black Mesa and Kayenta mines would be combined under a single plan, and their operations extended to 2026. The project would also involve construction of new wells and operation of a new 120-mile pipeline across tribal lands that would draw as much as 6,000 acre-feet per year of water from the Coconino aquifer (C-aquifer), to replace the existing source at the Navajo aquifer (N-aquifer).

The Coconino aquifer, which lies below the Navajo aquifer, is an acceptable substitute by tribal leaders because it is rechargeable and could provide addition water for tribal community use (*Land Letter*, April 20, 2006).

Water for tribal use an issue

While the mining/slurry operations use about 6,000 acre-feet of water, the proposal contemplates directing another 5,600 acre-feet per year for tribal uses, via a distribution system that is not part of the current EIS project. George Hardeen, spokesman for the Navajo Nation, said that the ability to tap the C-aquifer for local uses is an essential component of the plan because the N-aquifer has

diminished substantially. Navajo Nation President Joe Shirley Jr. "would not have supported the development without the communities getting water," Hardeen said.

In addition he said, if the Navajo tribe does not begin to use the water from the C-aquifer, the tribe could lose quantification rights for the future.

The mine has also been a major source of revenue and jobs for the tribes, Hardeen said. When Black Mesa mine closed, about 200 tribal members lost their jobs. According to Peabody Energy, the mining operations provided the tribes with over $100 million each year. In 2005, Black Mesa mine sold 4.6 million tons of coal to Mohave operators for about $30 million, according to company financial reports.

Although the various parties have been in litigation over several issues related to the coal contracts and water supplies, Hardeen said the tribal government's position remains unchanged -- it would like both the mine and power plant to resume operations.

That position has put the tribal government at odds with several factions, including the Black Mesa Water Coalition and the Black Mesa Trust, which oppose continued mining and commercial use of water sources beneath the Black Mesa. One big problem with the proposal is that it would maintain access to the N-aquifer. "Our N-aquifer is the only source of drinking water for the Navajo and Hopi," said Vernon Masayesva, executive director of the Black Mesa Trust. He believes the environmental process is just a way to justify reopening the mines and the power plant, while continuing to take tribal water supplies. "They've already made a decision to go ahead," he claimed.

The Black Mesa mining operations have long been contentious within the tribal communities. The coal mines, operated by the Peabody Energy Company under long-term leases, is the source of fuel for Southwestern utility power plants, including the now closed Mohave Generating Station near Laughlin, Nev. In addition, water used to create coal slurry that was piped some 273 miles to the plant, was drawn from beneath the Black Mesa.

When the utilities that own Mohave decided to shutter the plant in December 2005 rather than install air quality controls as had been promised in a legal settlement with the Sierra Club and other environmental groups, the mine operations were suspended.

However, one of the power plant owners, Phoenix-based utility Salt River Project, is trying to revive the plant. "We'd like to get it back up and running," SRP spokesman Scott Harrelson told *Land Letter*.

The Mohave Generating Station shut operations in Dec. 2005. Some utility owners still hope to resume operations, which would also restart the Black Mesa mine. Photo courtesy of Salt River Project.

Although other co-owners, including Southern California Edison, have decided against trying to resume operations, Harrelson said, "We still see a value in the project." The utility is trying to form a new ownership group that can raise the money to resume operations.

The total price tag would be about $1 billion, Harrelson said, including rebuilding the slurry line, securing the new source of water and adding required air-quality controls. He did not have a specific breakout of costs but said the scrubbers and other pollution control equipment would be "about half" of the total.

Peabody spokeswoman Beth Hunter clarified that the Kayenta mine is still operating to provide fuel for the Navajo Generating Station near Page. The Black Mesa mine operation has been suspended, and the current environmental review is part of a permitting process for the slurry line reconstruction and water facilities that are necessary should the Mohave power plant be brought back on-line. Peabody continues discussions with SRP and other plant owners about that, she said. Even at the earliest, the power plant could not resume operations before 2010, according to company financial reports.

There are also ongoing negotiations with the tribes regarding several issues, including water rights and jobs, but SRP's Harrelson could not comment on them.

Rebuilding of the Mohave Generating Station is not part of the Black Mesa Project, and OSM said it does not have a role in many of the other aspects of the project, including the proposed local water system drawing on C-aquifer. "That's fundamentally a tribal decision," said OSM's Holbrook. "They have some real estate decisions to make."

Although the Black Mesa Trust has urged an extension of the public comment period with additional public hearings, Holbrook said written comments will be accepted until Feb. 6. After compiling comments and responses, he expects a final EIS to be issued mid-summer.

Click here to access the Black Mesa Project EIS and related documents.

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