UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
RESEARCH TRIANGLE PARK, NC 27711

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

Dear Honorable Leader:

The purpose of this letter is to provide you with information about the U.S. Environmental Protection Agency's (EPA) development of new source performance standards (NSPS) for greenhouse gas (GHG) emissions from new and modified fossil fuel-fired electric utility steam generating units (EGUs) or "power plants" and emission guidelines for GHG emissions from existing fossil fuel-fired EGUs and to invite you to consult should you believe that your Tribe could be affected by these standards.

The proposed NSPS would be issued under authority of Clean Air Act (CAA) section 111(b) to establish requirements for new or modified sources. In addition, for pollutants not regulated under other parts of the CAA, EPA must establish emission guidelines under CAA section 111(d). States or Tribes, where they choose to, use the emission guidelines to develop plans for reducing emissions from existing sources. These guidelines include targets based on demonstrated controls, emission reductions, costs and expected timeframes for installation and compliance, and can be less stringent than the requirements imposed on new sources.

Today's letter notifies you that EPA will develop NSPS and emission guidelines under CAA section 111 that will reduce GHG emissions from EGUs. Under a settlement agreement announced by EPA on December 23, 2010, the proposed regulations would be issued by July 26, 2011, and after considering any public comments received concerning the proposed regulations, final regulations would be issued by May 26, 2012.

EPA recently proposed new air toxics rules that address emissions of hazardous air pollutants from power plants. The proposed NSPS and emission guidelines will cover the same types of sources. The proposed regulations would apply to EGUs capable of combusting more than 250 million British thermal units per hour (MMBtu/hr) heat input of fossil fuel. An "electric utility steam generating unit" is any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 megawatts electric (MWe) output to any utility power distribution system for sale. For example, an industrial source on a reservation could include a boiler that generates electricity to sell to a power distribution system. As long as that boiler meets the capacity and output criteria above, that boiler would be an EGU subject to the proposed regulations. If that same boiler

generates electricity for use on the industrial site, the source would not be an EGU subject to the proposed regulations. Fossil fuel means natural gas, petroleum, coal, and any form of solid, liquid, or gaseous fuel derived from such material for the purpose of creating useful heat. The regulations would not apply to natural gas combined cycle systems or stationary combustion turbines. The regulations would, however, apply to integrated gasification combined cycle (IGCC, i.e, "coal gasification") units. The category of EGUs that would be subject to the proposed regulations for GHG emissions includes investor-owned units as well as units owned by the Federal or Tribal governments, municipalities, and cooperatives, among others.

Because the standards will apply to all EGUs located within or near Indian country, the Agency believes it is important to offer consultation with federally-recognized tribes. EPA expects the proposed rule to *improve* environmental protection within Indian country and nationwide. However, to ensure that your lands and interests are protected, we are prepared to consult with you or your designee should you desire. If you would like to initiate government-to-government consultation with EPA, please contact Laura McKelvey at (919) 541-5497. Due to the court-imposed deadline, however, we kindly request that you notify EPA of your request for consultation by April 8, 2011.

We request your input to assure that we develop the best rule possible. We endeavor to conduct our efforts with sensitivity to the needs and culture of your tribe and with attention to the potential impact of our actions. We look forward to receiving your input.

Sincerely,

P. Tsirigotis

Peter Tsirigotis
Director
Sector Policies and Programs Division

cc: Tribal Environmental Staff