

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

THE MOAPA BAND OF PAIUTE
INDIANS, a federally recognized Tribe of
Indians; SIERRA CLUB, a California non-
profit corporation,

Plaintiffs

v.

NEVADA POWER CO. d/b/a NV ENERGY;
CALIFORNIA DEPARTMENT OF WATER
RESOURCES,

Defendants

2:13-cv-01417-JAD-NJK

**Amended Order Granting Joint Motion to
Approve Settlement**

[ECF 105]

This matter comes before me on the joint motion to approve the settlement agreement between plaintiffs The Moapa Band of Paiute Indians (Moapa Paiute) and the Sierra Club on one hand, and defendants the Nevada Power Company and the California Department of Water Resources (CDWR) on the other.¹ Having reviewed the settlement agreement, the joint motion, the Government’s statement of interest and comments on the proposed settlement,² the pleadings, and the motion to correct a mistake in the order granting the joint motion to approve the settlement (ECF 114),³ and having heard from the parties at oral argument held on the joint motion on October 14, 2015, and being fully advised, I find as follows:

1. This action is a citizen suit under the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.* (CWA) and the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 *et seq.* (RCRA) alleging violations of 33 U.S.C. § 1311 for the unlawful discharge of pollutants and violations of 42 U.S.C. §§ 6972 and 6945 for imminent and substantial endangerment and open dumping at a

¹ ECF 105.

² ECF 110.

³ ECF 117.

1 coal-fired power plant in Moapa, Nevada, that is owned and operated by Nevada Power and was
2 owned in part by CDWR until 2013.

3 2. I have jurisdiction over the subject matter of, and persons in, this action.

4 3. Notice of the proposed settlement agreement required under 33 U.S.C. § 1365(c)
5 and 40 C.F.R. § 135.5 was given to the United States Department of Justice and the United States
6 Environmental Agency on July 24, 2015.

7 4. The United States Department of Justice submitted comments to the court
8 regarding the proposed settlement agreement on September 15, 2015.

9 5. The settlement is appropriate for approval under the CWA and the RCRA.

10 6. The parties are directed to comply with the terms of the settlement agreement that
11 they entered into on July 16, 2015, a copy of which is attached and incorporated by reference into
12 this order as if fully set forth herein.

13 Accordingly, IT IS HEREBY ORDERED that the joint motion to approve settlement
14 **[ECF 105] is GRANTED.**

15 IT IS ORDERED, ADJUDGED, AND DECREED that the claims asserted in this case
16 are **DISMISSED with prejudice. The Clerk of Court is instructed to close this case.** I
17 expressly retain jurisdiction over this action for the purposes of (1) enforcing the settlement
18 agreement between the parties and the terms of that agreement, which has been incorporated into
19 this order by reference, and (2) deciding any applications for attorney's fees and costs.

20 IT IS FURTHER ORDERED that, if the parties subsequently reach a proposed settlement
21 over costs and attorney's fees, they will provide the United States Department of Justice and the
22 United States Environmental Agency with supplemental notice as required by 33 U.S.C. §
23 1365(c) and 40 C.F.R. § 135.5.


24 IT IS FURTHER ORDERED that the Moapa Paiute will notify the court, the United
25 States Department of Justice, the United States Environmental Agency, Nevada Power, and the
26 CDWR if the uses that the supplemental-environmental project (SEP) payments are allotted to
27 change.

28 IT IS FURTHER ORDERED that, after the SEP funds have been disbursed, the Moapa

1 Paiute will notify the court, the United States Department of Justice, the United States
2 Environmental Agency, Nevada Power, and the CDWR how the SEP funds were spent.

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4 IT IS FURTHER ORDERED that the Moapa Paiute and the Sierra Club's request to
5 extend by two weeks (a) the time under LR 54-1 to file a bill of costs, and (b) the time under LR
6 54-16 to move for an award of attorney's fees is **GRANTED**. The Moapa Paiute and Sierra Club
7 will have until **Thursday, November 12, 2015**, to file their bill costs and motion for attorney's
8 fees.

9 Dated this 4th day of December, 2015

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12 Jennifer A. Dorsey
13 United States District Judge
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