EXHIBIT 1

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UTAH DEPARTMENT OF
ENVIRONMENTAL QUALITY
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DIVISION OF AIR QUALITY

BEFORE THE UTAH AIR QUALITY BOARD

In Re: Approval Order – PSD Major Modification to Add New Unit 3 at Intermountain Power Generating Station, Millard County, Utah Project Code: N0327-010 DAQE-AN0327010-04	:	REQUEST FOR AGENCY ACTION

FIRST AMENDED REQUEST FOR AGENCY ACTION
OR, IN THE ALTERNATIVE, SECOND REQUEST FOR AGENCY ACTION[1]

Pursuant to Utah Administrative Code R307-103-3(1) and Utah Code § 63-46b-3(3), the Utah Chapter of the Sierra Club and Grand Canyon Trust hereby file their Request for Agency Action with Richard W. Sprott, Executive Secretary of the Utah Air Quality Board. The Sierra Club and Grand Canyon Trust seek review of the October 15, 2004 decision by the Utah Division of Air Quality and the Executive Secretary (collectively "UDAQ") to issue an Approval Order (AO) granting a Prevention of Significant Deterioration (PSD) permit to Intermountain Power Service Corporation (IPSC) to construct and operate an additional 950 megawatt (MW) coal-fired power plant Unit #3 at the Intermountain Power Plant in Millard County, Utah (DAQE-AN0327010-04)(Project Code: N0327-010). Pursuant to Utah Admin. Code R307-103-3(2), R307-103-6(2)(c), and R307-103-3, the Sierra Club and Grand Canyon Trust submit with

[1] Sierra Club and Grand Canyon Trust request that they be allowed to amend their November 15, 2004 Request for Agency Action with the additions indicated herein. In the alternative, the conservation groups file this pleading as a Second Request for Agency Action as an independent Second Request for Agency Action **without** withdrawing their November 15, 2005 Request for Agency Action. A Statement of Standing/Petition to Intervene in Support of Second Request for Agency Action is attached.

proposed IPSC Unit 3 from a subcritical to supercritical pulverized coal fired boiler. On August 17, 2006, DAQ responded that if found "in accordance with Condition 7 of the Approval Order number DAQE-AN0327010-04, a supercritical PC boiler is equivalent to the permitted unit," Letter from Rick Sprott to Doug Hunter, August 17, 2006, thereby approving the project changes. Sierra Club learned of the IPSC request on October 13, 2006 and of DAQ's decision to approve the IPSC request on October 17, 2006 when it received an emailed copy of the August 17, 2006 DAQ approval letter.

DAQ issued its August 17, 2006 letter without first providing public notice and comment on the significant project changes proposed by IPSC to the Unit 3 facility. On November 13, 2006, Sierra Club mailed and emailed a formal request to Rick Sprott, Executive Director of DAQ responding to the project changes for the IPSC Unit 3 facility and requesting that DAQ notify the public of those changes and designate a comment period for the public to respond to those changes. On November 15, 2006 Rick Sprott denied that request.

B. Statement of Reasons

As set forth below and in the Sierra Club and Grand Canyon Trust's comments, UDAQ's approval of IPSC's PSD permit fails to comply with the Clean Air Act, the Utah Air Conservation Act, and the Utah Administrative Code. The Sierra Club and Grand Canyon Trust hereby incorporate and reference their comments dated April 14, 2003, May 20, 2004, June 30, 2004, and July 16, 2004, and the documents submitted in support of those comments.

In addition, the Sierra Club and Grand Canyon Trust sets forth the basis for its request for agency action below:

1. UDAQ Failed to Consider Adequately Integrated Gasification Combined Cycle (IGCC) in its BACT Determination and Failed to Require the Production Process for IPP Unit 3.

Integrated Gasification Combined Cycle (IGCC) is a method of producing electricity by gasifying coal, removing pollutants – including greenhouse gases – before combustion, and then burning the "clean" syngas in a modified combined cycle gas-fired power plant. IGCC is an available, demonstrated, clean coal combustion technology with significant emission reduction benefits.[3] As such, UDAQ is required to evaluate this technology comprehensively as part of its BACT analysis. The agency, however, claims otherwise.

[3] The Sierra Club and Grand Canyon Trust have, in their May 20, 2004 comments on the ITA for the IPP project, detailed the basis for this and other statements regarding the need to evaluate IGCC as part of a proper BACT analysis for IPP. Because the organizations have already referenced and incorporated those comments into their Request for Agency Action, they will not repeat those detailed arguments here.

To argue that it is not required to evaluate IGCC as part of BACT, UDAQ contends that "the scope of the BACT analysis is limited to control technologies that can be applied to the emission unit proposed by the applicant." Response to Comments at 7, #12. However, UDAQ's interpretation of the BACT analysis requirement is erroneous. Consideration of inherently lower emitting power production processes and techniques such as IGCC is required by Utah Admin. Code R307-101-2, the state regulation defining BACT. Legislative history, EPA guidance, the actions of regulators in other states, and other relevant considerations additionally confirm that because consideration of the process design is a necessary part of the BACT analysis, thorough evaluation of IGCC is mandated.

UDAQ also contends that while it was not required to consider IGCC in its BACT analysis, the evaluation was done. Response to Comments at 7, #12. This analysis – a top-down review comparing the proposed pulverized coal-fired power plant to both circulating fluidized bed and IGCC plants of similar size – is legally and technically inadequate. *See* Appendix I-8 of the NOI. It contains fundamental flaws in both methodology and assumptions, as well as significant mathematical errors. These flaws result in a greatly overstated determination of the cost of IGCC and the amount of pollutants emitted by IGCC. These errors are compounded by an improper method of calculating incremental costs that, when taken together with the other errors, exaggerate the incremental costs of pollution removed by the IGCC plant by two orders of magnitude.

To the extent that UDAQ suggests that it has now revised its review of IGCC for the purposes of BACT, Response to Comments at 8, #14, this revision is inadequate for the purposes of state and federal law. For example, this review was not subject to public notice and comment. Moreover, because the Sierra Club and Grand Canyon Trust have not had the opportunity to assess the revised analysis, they reserve the right to challenge its content. Because UDAQ states that this revised analysis determined IGCC is not appropriate for IPP Unit 3, the conclusions of the evaluation are incorrect.

Finally, as the Sierra Club and Grand Canyon Trust make clear in their May 20, 2004 Comments, the analysis required by law shows that IGCC **is** BACT for IPP Unit 3. This is because IGCC is an available technology, is technically feasible for the IPP project, and is the top ranked control technology. In addition, proper consideration of economic, environmental and energy impacts confirms that IGCC is BACT for IPP Unit 3.

In sum, UDAQ is required to consider IGCC exhaustively as part of its BACT analysis. The existing analysis, presented at Appendix I-8 of the NOI, is fatally flawed. The revised analysis errs in that it concludes IGCC is not appropriate for the IPP Unit 3. As a result, UDAQ has failed its statutory and regulatory duties to examine IGCC adequately and to require the Intermountain Power Service Company to utilize IGCC for its power plant expansion pursuant to a BACT determination. Until UDAQ takes these steps, the AO is illegal and should be rescinded and/or remanded to the agency for proper BACT analysis.

2. UDAQ Failed to Consider Adequately a Supercritical PC Boiler in its BACT Determination and Failed to Require Installation of this Technology for IPP Unit 3.

For essentially the same reasons provided above, UDAQ's consideration of supercritical PC boiler technology is legally inadequate and therefore the AO is fatally flawed. Supercritical boilers are up to 7% or more efficient than subcritical boilers. As a result, they use less fuel and emit less carbon dioxide. Further, such supercritical boilers achieve up to 17% lower emission rates of carbon monoxide (CO), nitrogen oxides (NOx) and sulfur oxides (SOx), as well as up to 15% lower PM emission rates.

Yet, UDAQ argues that it need not analyze this technology as part of its BACT determination. Response to Comments at 8, # 15. The agency's conclusion is flawed. Consideration of inherently lower emitting power production processes and techniques such as supercritical boiler is required by Utah Admin. Code R307-101-2, the state regulation defining BACT. Legislative history, EPA guidance, the actions of regulators in other states, and other relevant considerations additionally confirm that because consideration of the process design is a necessary part of the BACT analysis, thorough evaluation of this technology is mandated.

To the extent that UDAQ suggests that it has now revised its review of supercritical boiler technology for the purposes of BACT analysis, Response to Comments at 8, #15, this revision is inadequate for the purposes of state and federal law. For example, this review was not subject to public notice and comment. Moreover, because the Sierra Club and Grand Canyon Trust have not had the opportunity to assess the revised analysis, they reserve the right to challenge its content. Because UDAQ states that this revised analysis determined that a supercritical boiler is not appropriate for IPP Unit 3, the conclusions of the evaluation are incorrect.

Rather, evaluation of supercritical boilers is required, as this technology, although inferior to IGCC, is an available technology, is technically feasible for the IPP project, and is a better ranked control technology than that currently proposed for Unit 3. In sum, UDAQ is required to consider supercritical boiler technology exhaustively as part of its BACT analysis. The revised analysis errs in that it has not been subject to public comment and it concludes this technology is not appropriate for the IPP Unit 3. As a result, UDAQ has failed its statutory and regulatory duties to examine supercritical boiler technology adequately and to require the IPSC to utilize a supercritical boiler pursuant to a BACT determination. Until UDAQ takes these steps, the AO is illegal and should be rescinded and/or remanded to the agency for proper BACT analysis.

3. UDAQ Erroneously Failed to Address Carbon Dioxide and Other Greenhouse Gas Emissions.

In approving the construction and operation of IPP Unit 3, UDAQ did not address or set limits on carbon dioxide (CO_2) or other greenhouse gas emissions from the new unit. Typically, coal-fired boilers emit significant greenhouse gases. Yet, UDAQ declined to address greenhouse

emissions, based on its belief that it has no legal or regulatory duty to limit or control these emissions. Response to Comments at 9, #16. UDAQ's understanding of Utah law is misguided.

Pursuant to the Clean Air Act and Utah Air Quality Act and their implementing rules, the State of Utah is obligated to regulate greenhouse gases. Further, pursuant to the definition of BACT, Utah Admin. Code R307-101-2, the agency is required to consider environmental impacts, such as greenhouse gas emissions, when determining BACT for a facility. Because UDAQ did not address, set limits on, or factor greenhouse emissions into its BACT analysis, the agency has failed its statutory and regulatory duties. Until UDAQ takes these steps, the AO is illegal and should be rescinded and/or remanded to the agency for proper consideration and regulation of these gases.

4. UDAQ Did Not Properly Set Sulfur Dioxide (SO_2) Emission Limits.

In authorizing IPP Unit 3, UDAQ did not properly set emission limits for sulfur dioxide. The final Unit 3 AO imposes SO_2 limits of 0.10 lb/MMBtu (24-hr block average) and 0.09 lb/MMBtu (30 day rolling average). The administrative record does not support these limits, and UDAQ's adoption of these limits lacks support in the administrative record.

For example, these emission limits and corresponding control efficiencies are not reflective of the maximum degree of emissions reduction that can be achieved by the proposed SO2 control equipment, as required by the Utah definition of BACT. Utah Admin. Code R307-101-2 & R307-401-6(1). As Intermountain Power Service Company states in their NOI, such controls can achieve 98% SO_2 reduction. At best, the 0.10 lb/MMBtu SO_2 limit would equate to a 92% reduction in SO_2 emissions. Thus, the emission levels are too low.

UDAQ further suggests that it is purposefully setting relaxed SO_2 emission limits so that the source can meet them on a continuous basis. Again, this reasoning is not supported by law or fact. First, the record confirms that Unit 3 will be able to meet appropriately more stringent standards routinely – the control equipment is designed to do just that. Second, UDAQ admits that the SO_2 control efficiency necessary to meet the Unit 3 emission standards is **lower** than the efficiency of existing well-controlled sources, such as IPP Units 1 and 2. Indeed, the two existing IPP units are meeting 94.5% removal efficiency with a lower sulfur-content coal than the worst case "design coal" for Unit 3. Third, UDAQ bases a Unit 3 emission limit on worst case sulfur content. This means that the source, which will likely be burning cleaner coal the majority of the time, will be able to meet stricter emission limits.

UDAQ must include SO_2 removal efficiency requirements in the AO. This is because the SO_2 BACT emission limits are based on worst case uncontrolled SO_2 emissions. An efficiency requirement would ensure proper operation and maintenance of the scrubber regardless of the sulfur content in the coal and even when lower sulfur content coal is burned. Control efficiency requirements are further warranted because operation of IPP Unit 3 will adversely impact visibility at nearby Class I areas, including Capitol Reef National Park, where SO_2 increment violations are occurring. As a result of these concerns, the removal efficiency requirement

should reflect, at the very least, what the wet scrubber can achieve – at a minimum 94.5% SO_2 removal efficiency.

Thus, UDAQ's relaxed SO_2 BACT emission requirements are not grounded in law or fact and are too lenient. Similarly, the agency's decision not require both emission limits **and** removal efficiency requirements is erroneous. As a result, the AO is illegal and should be rescinded and/or remanded to the agency for proper consideration and regulation of SO_2.

5. UDAQ Failed to Require Coal Chemistry Data.

IPSC's permit application did not contain precise coal chemistry data due to the fact that the corporation had not identified the actual coal to be burned at IPP Unit 3. The failure to include coal chemistry data prevents an accurate determination of percent removal efficiency limits, short term emission rates, and total mass emissions of pollutants such as mercury. Moreover, the description of the coal type and coal quality in the permit application is often vague and conflicting. Thus, reliance on such information by UDAQ is arbitrary and capricious. In the event IPSC plans to blend coal, the final permit should contain a coal quality/coal blending requirement. UDAQ wrongfully deleted such a provision from an earlier draft of the permit.

In summary, the permit application was fatally flawed by failing to include coal quality and/or coal blending information. The application also contained internally inconsistent information on coal quality. UDAQ erroneously issued a final permit without adequate coal quality data. For these reasons, the AO is illegal and should be rescinded and/or remanded to the agency.

6. UDAQ Failed to Require Use of Continuous Opacity Monitoring Data to Ensure Compliance with the Visible Emissions BACT Limit.

In the AO, UDAQ required that visible emissions from all baghouses (including the Unit 3 main boiler stack) shall not exceed 10 percent opacity. AO, Condition 12. UDAQ specified that opacity observations shall be conducted according to 40 C.F.R. Part 60, Appendix A, Method 9, which is a manual method of measuring opacity requiring a certified opacity inspector to be present. No frequency for Method 9 observations is specified. Such unspecified monitoring is not sufficient to ensure continuous compliance with the opacity limit. This source will be equipped with a continuous opacity monitoring system (COMS), Condition 23 of the AO, and thus UDAQ must require the use this COMS to ensure continuous compliance with the visible emissions BACT limit as stated in 40 C.F.R. §§ 60.47a through 60.49a. Because UDAQ did not, the AO is illegal, and should be rescinded and/or remanded to the agency to ensure continuous compliance with the visible emission limit.

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BEFORE THE UTAH AIR QUALITY BOARD

In Re: Approval Order – the Sevier Power Company 270 MW Coal-Fired Power Plant, Sevier County Project Code: N2529-001 DAQE-AN2529001-04	:	REQUEST FOR AGENCY ACTION

REQUEST FOR AGENCY ACTION

Pursuant to Utah Administrative Code R307-103-3(1) and Utah Code § 63-46b-3(3), the Utah Chapter of the Sierra Club and Grand Canyon Trust hereby file their Request for Agency Action with Richard W. Sprott, Executive Secretary of the Utah Air Quality Board. The Sierra Club and Grand Canyon Trust seek review of the October 12, 2004 decision by the Utah Division of Air Quality and the Executive Secretary (collectively "UDAQ") to issue an Approval Order (AO) allowing the Sevier Power Company[1] to construct and operate a 270 MW coal-fired power plant in Sigurd, Sevier County, Utah (DAQE-AN2529001-04)(Project Code: N2529-001). Pursuant to Utah Admin. Code R307-103-3(2), R307-103-6(2)(c), and R307-103-3, the Sierra Club and Grand Canyon Trust submit with this Request for Agency Action a Statement of Standing/Petition to Intervene and the supporting affidavits of Cindy Roberts, Howard Cherry, and Brian Cass.

I. Permit Number and Date of Mailing

As mentioned above, Sierra Club and Grand Canyon Trust are contesting the Approval Order signed by Richard W. Sprott, Executive Secretary of the Utah Air Quality Board, on October 12, 2004 to authorize the construction and operation of the Sevier Power Company 270 MW Coal-Fired Power Plant in Sigurd, Utah (DAQE-AN2529001-04)(Project Code: N2529-001). According to UDAQ, the date of mailing of the AO is October 12, 2004.

[1] According to UDAQ, NEVCO Energy Company, LLC, is the parent company of the Sevier Power Company.

Sierra Club and Grand Canyon Trust have been involved throughout the permitting process for the proposed Sevier Power Company power plant. On October 17, 2003, Sierra Club and Grand Canyon Trust submitted extensive comments on the proposed project in advance of the public comment period, detailing the permitting requirements pertaining to the permit application. The Sierra Club and Grand Canyon Trust participated in a UDAQ public hearing held in Richfield, Utah on March 18, 2004. In addition, on April 9, 2004 and within the designated public comment period, Sierra Club and Grand Canyon Trust submitted extensive comments on the UDAQ Intent to Approve the Sevier Power Company permit. Following the re-opening of the comment period, Sierra Club and Grand Canyon Trust supplemented its April 9, 2004 comments with additional comments dated June 30, 2004 and July 16, 2004.

On October 12, 2004, Richard W. Sprott, Executive Secretary of the Utah Air Quality Board, signed an AO authorizing construction and operation of the proposed Sevier Power Company 270 MW circulating fluidized bed (CFB) coal-fired power plant. According to the Approval Order, the operation of the power plant would allow air emissions increases, in tons per year, of: 177.4 of PM-10; 1066.6 of NO_x; 233.9 of SO_2; 1278.6 of CO, and 53.4 of VOCs, and 24.7 of HAPs. With the AO, UDAQ released a memorandum titled "Response to Comments received on Sevier Power Company," authored by John D. Jenks, Environmental Engineer.

B. Statement of Reasons

As set forth below and in Sierra Club and Grand Canyon Trust's comments, UDAQ's approval of Sevier Power Company PSD permit fails to comply with the Clean Air Act, the Utah Air Conservation Act, and the Utah Administrative Code. Sierra Club and Grand Canyon Trust hereby incorporate and reference their comments dated October 17, 2003, April 9, 2004, June 30, 2004, and July 16, 2004, and the documents submitted in support of those comments.

In addition, the Sierra Club and Grand Canyon Trust sets forth the basis for its request for agency action below:

1. UDAQ Failed to Address Carbon Dioxide and Other Greenhouse Gas Emissions.

The Sevier Power Company estimates that the proposed power plant has the potential to emit 2.2 million tons of carbon dioxide (CO_2) and 1,640 tons of nitrous oxide (N_2O) each year. Both CO_2 and N_2O are greenhouse gases. N_2O has a global warming potential 296 times that of CO_2. N_2O is of significant concern because circulating fluidized bed boilers, such as the one being proposed by the Sevier Power Company, emit significantly more N_2O than conventional pulverized coal boilers.

UDAQ did not address these or other greenhouse emissions during the permitting process based on its belief that "UDAQ has no legal or regulatory authority to limit or control these emissions." Response to Comments at 29 (#83). However, UDAQ notes that "greenhouse gas emissions are potentially an area of concern." Id. Pursuant to the Clean Air Act and Utah Air Quality Act and its implementing rules, the State of Utah has the legal obligation to regulate

greenhouse gases. Further, pursuant to the definition of "best available control technology" (BACT), Utah Admin. Code R307-101-2, Utah is required to consider other environmental impacts, such as greenhouse gas emissions, when determining BACT for a facility. Because UDAQ did not undertake this consideration, the Sevier Power Company permit should be declared illegal, should be rescinded, and/or should be remanded to UDAQ to properly consider and regulate these pollutants in a PSD permit.

2. UDAQ Failed to Consider Adequately Integrated Gasification Combined Cycle in its BACT Determination for Sevier Power Company Facility.

Integrated Gasification Combined Cycle (IGCC) is a method of producing electricity by gasifying the coal, removing pollutants – including greenhouse gases – before combustion, and then burning the "clean" syngas in a modified combined cycle gas-fired power plant. IGCC is an available, demonstrated clean coal combustion technology with significant emission reduction benefits. As such, UDAQ is required to evaluate this technology comprehensively as part of its BACT analysis. To justify its failure to undertake this analysis, UDAQ suggests that "BACT is used as a control technology after selection of the process to be so controlled." Response to Comments at 30 (#84). UDAQ concludes that requiring the consideration of IGCC as part of the BACT analysis is "redefining the source." Id.

UDAQ's legal conclusion regarding the requirements of the BACT analysis is erroneous. Consideration of inherently lower emitting power production processes and techniques such as IGCC is required pursuant to Utah Admin. Code R307-101-2, which defines BACT. As the rule makes clear, consideration of the process design is a necessary part of the BACT analysis. Sevier Power Company did not consider IGCC in its BACT analysis for its proposed power plant, and UDAQ did not evaluate IGCC in its BACT review or determination. Therefore, the Sevier Power Company permit should be declared illegal, should be rescinded, and/or remanded to the agency for proper BACT analysis.

3. UDAQ Failed to Provide Adequate Justification for Not Requiring Sevier Power Company to Meet the Most Stringent NO_x BACT Limits Proposed or Required for Other CFB Boilers.

UDAQ determined that a NO_x emission limit of 0.10 lb/MMBtu, 24-hour rolling average, represents BACT for the proposed CFB boiler. However, NO_x BACT emissions limits for other power plants, including several proposed CFB boilers, are more stringent that the rate proposed for the power plant. Selective Catalytic Reduction (SCR) has been determined to be the Best Available Control Technology for NO_x for most recently permitted coal-fired power plants. Yet, UDAQ failed to provide a reasoned justification for not requiring or evaluating more stringent NO_x emission limits, or installation of SCR, in its BACT determination. Therefore, the Sevier Power Company AO should be declared illegal, should be rescinded, and/or remanded to the agency for proper BACT analysis.