



New Mexico State Senate

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SENATOR LYNDIA M. LOVEJOY

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February 19, 2011

Ben Shelly, President
The Navajo Nation
Window Rock, AZ 86515

The Honorable Ben Shelly:

As a State Senator representing 16 Navajo chapter communities in District 22 and as a member of the Navajo Nation, I write this letter in response to the Arizona Public Service (APS) lease extension for the Four Corners Power Plant that was approved by the Navajo Nation Council on February 15, 2011.

The Honorable Speaker, Johnny Naize, states “[N]umerous hours of negotiation were spent to create a fair revised agreement for the Navajo People.” The lease extension will guarantee a meager annual payment of \$7 million for TWENTY-FIVE (25) years. Before you put your signature to the Council approved APS lease, I urge you to seriously evaluate the impression that this is a “FAIR” agreement for the Navajo People. Are you willing to veto this measure and return it to the Council to ask, “Is this the best you can do? Please bring forward a better deal.”

For decades, our People have been presented offers by the federal government and large corporate businesses that were gleamed as “fair” and “beneficial” to our People. Time and time again, our leaders approved these important agreements only to realize disenchanting and disappointing results. The most recent in memory would be the Peabody leases which is now recognized as egregiously disadvantageous and exploitative to our People, yet it was initially approved by our leaders with fan fair.

I believe this agreement falls in the same category. This past year, APS reported a net profit of \$251,225,000. Seven million dollars, the highlighted and boasted annual payments to the Nation, equates to 0.027% of that net profit. We are blessed with the fact that we have natural resources located on Dine’Tah to use for development and growth to benefit our People.

Arizona Public Service will be in the region even at a higher royalty rate than was negotiated. They already committed to purchasing Southern Cal Edison's share in the plant and began negotiations with BHP for coal, all before the decision came from the Council. They have committed to an expanding energy portfolio, they have expanded their energy markets and with the closure of plants in the northern regions of the United States along with the difficulty in building new plants, APS is well situated to engage in a meaningful and equal royalty dialogue with the Nation and the People.

Yet, this corporation has pressured the Council by giving the Nation a deadline of March 2011 to approve the lease. If the Nation were an equal partner in these negotiations, then why was the Council persuaded to a March 2011 deadline and why was it implied that failure to act would result in the loss of Navajo jobs?

What was the need for the established rush to approve this lease when APS still needs to secure approvals to buy out the newer units from Edison? Additionally, an APS senior vice-president stated, "[T]here will be no layoffs at the plant" when he was talking about the purchase of Edison's interest in the two new units and this predated the vote of the Council. In the same release pointed out by APS, it asserted that the plant "[M]eets or exceeds all current state and federal environmental regulations..." As such, what was the justification for the rushed vote if APS has established its intent and desire to secure Edison's interest while maintaining job levels and while exceeding governmental regulations? Was the Council told differently by APS?

Placing the Council on a deadline, which limited real and substantive dialogue on royalty rates with the overarching threat of lost jobs, may have been an effective strategy by APS, but it exacerbates the fact that, although sovereign, the Nation will yield and relent to extorted pressure to the detriment of what is beneficial to our People, especially younger generations to come.

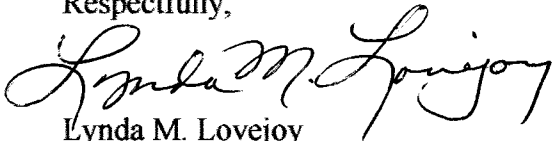
In their effort to become environmentally friendly, APS has expanded to the solar energy market and is expanding to a third solar park. As a basis of negotiation, did the Nation insist that APS consider locating its next solar park on Navajo? By making a 25-year binding commitment with an established lease record (since 1963), I believe the Nation should have been in a position to insist on some practical concessions with APS. If the Council was able to have APS disclose their financial data adjusted for the effects of inflation, the calculated lease price should have been based according to indexes that value the Nation's land asset on an upward incremental rate scale as opposed to a flat price for the number of years it agreed to, and it would provide for a more transparent representation.

President Shelly, I ask you: Is 0.027% of APS's net profit fair for the natural wealth of our Dine People considering the physiological harm the plant is causing on our People and the physical

harm it is causing our land. If one partner in a negotiation is frightened by the imposition of another party, is that truly a dialogue begun and ended in Hozho?

In our debates, I recall you repeating clearly that you would “Play with the big boys” and you would establish a negotiation standpoint that would assure our People are treated fairly in negotiations. I call upon you to make this the defining point to embrace your rhetoric and lead the People to a true foundation with fair and honest negotiations that can be seen to benefit our People as opposed to allowing a corporation to exploit them under the guise of benefit.

Respectfully,

A handwritten signature in cursive script that reads "Lynda M. Lovejoy". The signature is written in black ink and is positioned above the printed name.

Lynda M. Lovejoy
New Mexico State Senator