

1 Introduction

The Office of Surface Mining Reclamation and Enforcement (OSMRE), Western Region, is preparing an Environmental Impact Statement (EIS) on the Four Corners Power Plant and Navajo Mine Energy Project. The review is conducted in accordance with the National Environmental Policy Act of 1969 (NEPA) as amended, 42 United States Code (USC) 4321–4347; the Council on Environmental Quality’s (CEQ’s) regulations for implementing NEPA, 40 Code of Federal Regulations (CFR) Parts 1500 through 1508; and the U.S. Department of the Interior’s (DOI’s) NEPA regulations, 43 CFR Part 46.

This EIS analyzes the impacts of implementing the following four primary and related actions:

1. Approval of the Navajo Transitional Energy Company (NTEC), Limited Liability Company (LLC) application for a new Surface Mining Control and Reclamation Act (SMCRA) permit for the Pinabete Permit Area, which is located within the existing Navajo Mine Lease Area, to begin operations in 2016 and continue through 2041 in 5-year permit renewal intervals.
2. Renewal of NTEC’s existing SMCRA permit for Areas I, II, III, and portions of Area IV North of the Navajo Mine Lease Area for 5 years.
3. Approval of Arizona Public Service Company (APS) Proposed Four Corners Power Plant (FCPP) lease amendment and right-of-way (ROW) renewals, located on the Navajo Reservation in San Juan County, New Mexico, for 25 years beginning in 2016.
4. ROW renewals for four transmission lines associated with the FCPP.

These actions are collectively referred to as the “Project.” The Proposed Action addressed in this EIS also includes the completion of the various lease renewal approval and permit processes by the cooperating agencies with jurisdiction over the Project.

1.1 Project Background

1.1.1 Navajo Mine

The Navajo Nation granted a 24,000-acre coal lease (Navajo Tribal Coal Lease 14-20-603-2505) in July 1957 to Utah Construction and Mining Company (subsequently BHP Navajo Coal Company [BNCC]). Through a series of subsequent lease revisions and amendments, the lease area was increased to approximately 33,600 acres. The lease agreement granted BNCC the right to mine within the lease area; however, mining cannot occur without a SMCRA permit covering the area of the lease to be mined. The Navajo Nation owns the surface and mineral rights of the entire lease area and the permit areas located within it. On April 29, 2013, the Navajo Nation Council formed the NTEC and on December 30, 2013, NTEC acquired 100 percent of the equity of the Navajo Mine from BNCC (See Section 2.4.1). BHP Billiton New Mexico Coal, Inc. (BBNMC) subsequently established a new subsidiary company, BHP Billiton Mine Management Company (MMCo), for the purpose of managing the operation of Navajo Mine on behalf of NTEC.

NTEC proposes to develop a new approximately 5,600-acre permit area within the existing lease area, known as the Pinabete SMCRA Permit Area. The Pinabete SMCRA Permit Area consists of portions of Area IV North and Area IV South of the Navajo Mine Lease Area. Portions of the Pinabete SMCRA Permit Area fall within the previously approved life of operations permit area, which was approved by OSMRE in 1989 and includes Area IV North. Although Area IV North is included in the previously permitted area, OSMRE must approve a mine plan specifying sequencing and timing of mining before mining can occur there. Thus, for those portions of Area IV North not covered by the existing SMCRA permit and for the remaining portions of the Pinabete SMCRA Permit Area, NTEC seeks a new SMCRA permit. NTEC proposes to conduct mining

operations on an approximately 4,100-acre portion of the proposed Pinabete SMCRA Permit Area. The proposed Pinabete SMCRA Permit Area would include previously permitted but undeveloped coal reserves within Area IV North of the Navajo Mine Lease, and currently unpermitted and undeveloped coal reserves in a portion of Area IV South of the existing Navajo Mine Lease. Development of the Pinabete SMCRA Permit Area and associated coal reserves would use surface mining methods, and based on current projected customer needs, would supply coal to FCPP for up to 25 years beginning in 2016.

In accordance with the regulations at 30 CFR 750.12(c)(1)(ii) and 774.15(a), a valid permit issued pursuant to an approved regulatory program carries with it the right of successive renewal within the boundaries of the existing permit, upon expiration of the permit term. The existing SMCRA permit for the Navajo Mine, including coal resource Areas I, II, III, and portions of Area IV North within the Navajo Mine Lease Area (Federal SMCRA Permit NM-0003F), is administered on a 5-year renewal schedule (30 USC 1256, 30 CFR 773.19). Considering that the permit term would have expired prior to OSMRE's anticipated completion of the EIS and prior to the currently expected March 2015 Record of Decision (ROD), OSMRE administratively delayed Federal Permit NM-0003F allowing NTEC to continue surface coal mining and reclamation operations under the current permit, given that the applicant has met all renewal application requirements and procedures in accordance with 30 CFR 750.12(c)(1)(ii) and 774.15(a). On September 16, 2014, OSMRE notified NTEC that it was administratively delaying its decision on the permit renewal application. Upon completion of the EIS, the subsequent issuance of the ROD for the pending Pinabete SMCRA Permit Application will also address OSMRE's decision on the administratively delayed permit term renewal application for Federal Permit NM-0003F.

1.1.2 Four Corners Power Plant

The FCPP is a coal-fired electric generating station that receives coal solely from the Navajo Mine. FCPP currently has five units which historically generated approximately 2,100 megawatts (MW) of energy, and provided power to more than 500,000 customers in Arizona, New Mexico, California, and Texas. Currently, three units are retired and two units (Units 4 and 5) generate approximately 1,540 MW of energy. APS owns 100 percent of Units 1, 2, and 3. Five utilities jointly own Units 4 and 5 in the following undivided shares:

- APS – 63 percent
- Public Service Company of New Mexico (PNM) – 13 percent
- Salt River Project – 10 percent
- El Paso Electric (EPE) Company – 7 percent
- Tucson Electric Company – 7 percent

APS operates all of FCPP as the operating agent for all the co-owners and owns 63 percent of the total plant capacity. The FCPP is located on lands owned by the Navajo Nation that are held in trust by the DOI. A Lease Agreement between the Navajo Nation and APS, PNM, EPE Company, Salt River Project, Tucson Electric Company, and Southern California Edison was signed in 1960 and indentured the lease of Navajo Nation tribal trust lands for the purpose of constructing and operating the FCPP.

The Lease Agreement also authorized associated ROWs for ancillary facilities (i.e., transmission lines, water pipelines, access roads) on Navajo Nation tribal trust lands. The 1960 Agreement was amended in 1966 to allow the construction of Units 4 and 5 and in 1985 to encompass additional lands for mining operations. The lease was amended in 1966 to add on Units 4 and 5; 1978 to expand the lease for additional ash disposal areas; 1985 to expand mining operations; and 2011 to allow for Southern California Edison to sell its interest to APS. Also in 2011, APS executed Lease Amendment No. 3 with the Navajo Nation to extend the term of the lease for the FCPP an additional 25 years, to 2041. The lease also serves as the Nations' consent to renew ROWs. This lease amendment is subject to Secretarial approval and evaluated in this EIS.

In August 2012, the U.S. Environmental Protection Agency (EPA) published its Federal Implementation Plan (FIP) for the Best Available Retrofit Technology (BART) at FCPP (40 CFR Part 49.5512), addressing remaining concerns associated with air emissions. EPA approved the FIP under a NEPA exemption for actions taken under the Clean Air Act (CAA). The FIP allowed APS to choose between two options:

- Shut down Units 1, 2, and 3 by January 2014 and install selective catalytic reduction (SCR) devices on Units 4 and 5 by July 2018; or
- Retrofit all five units to meet certain emission rate limits.

The FIP initially required APS to notify EPA of its choice by July 1, 2013. In May 2013, the Arizona Corporation Commission proposed to consider retail competition in the electrical generation market. As a result of the uncertainty introduced by this proposal, APS requested and was granted an extension of the EPA deadline to December 31, 2013. Southern California Edison is required to divest its ownership share of FCPP due to requirements of California Senate Bill 1368 addressing greenhouse gas (GHG) emissions. On December 30, 2013, APS acquired Southern California Edison's share of Units 4 and 5 (720 MW) and Units 1, 2, and 3 were shut down in compliance with the first of the options provided by EPA. The increase in APS's ownership of Units 4 and 5 replaced the generation capacity lost due to the shutdown of APS-owned Units 1, 2, and 3. APS has agreed to assume EPE's obligation to purchase 7 percent ownership share at some point in the future, with NTEC having an option to purchase this stake per the Coal Supply Agreement executed by APS and NTEC (see Section 2.4.2.1). Units 4 and 5 would continue to operate for the duration of the lease agreement to 2041, with the installation and operation of SCR equipment on both units by July 31, 2018. Actions under the CAA, such as EPA's adoption of the FIP, are exempt from NEPA under Federal law (15 USC 793(c)(1)). However, the environmental effects of continued operation of FCPP, including APS's compliance with the FIP, are analyzed in the EIS.

1.1.3 Transmission Lines

Section 1508.25 of CEQ regulations for implementing NEPA discusses the inclusion of connected actions into the scope of the agency's environmental analysis of the effects of a Proposed Action. Actions are considered connected if they:

- (a) are automatically triggered by the Proposed Action and would require their own environmental impact statement,
- (b) cannot or will not proceed unless the Proposed Action is taken previously or simultaneously, or
- (c) are interdependent parts of the larger Proposed Action and depend on the Proposed Action for their justification.

Eight transmission lines distribute electricity generated at the FCPP to the southwestern U.S. Segments of four of these transmission lines require ROW renewals or lease extensions within the next 5 years. Accordingly, because the operation of the four transmission lines primarily depend on the FCPP lease renewal for their utility, and the lease renewal actions fall within the general timeframe of this EIS, these actions are considered connected and are also addressed within this EIS. The portions of the transmission lines included in the analysis are defined based on their primary function. The physical origin of these connected actions is considered the source of the electricity, the FCPP. The physical end point of each connected action is defined as the location where the transmission line segment connects to the larger southwestern U.S. electricity transmission grid and a significant portion of the electricity transmitted is not generated by FCPP.

The four transmission lines that require ROW renewal and are considered connected actions are:

- APS FCPP to Cholla 345-kilovolt (kV) Transmission Line¹
- APS FCPP to Moenkopi 500-kV Transmission Line
- PNM FCPP to San Juan Switchyard 345-kV Transmission Line
- PNM FCPP to West Mesa 345-kV Transmission Line

There are two previous actions on these transmission line segments that influence consideration as a connected action. First, in December 2012 the Bureau of Land Management (BLM) approved the ROW renewal for the segment of the APS FCPP to Cholla line extending from the Navajo Nation tribal trust lands boundary to the Cholla substation. Accordingly, the BLM also satisfied the requirements of NEPA in support of their decision, and the approval extends the ROW to 2041. As such, the connected action analyzed in this EIS for the APS 345-kV transmission line is from FCPP to the Navajo Nation tribal trust lands boundary. Second, APS has requested that OSMRE extend environmental analysis for the APS FCPP to Moenkopi 500-kV transmission line to the boundary of the Navajo Nation tribal trust lands to facilitate future ROW lease renewals. As such, OSMRE is considering the segment from the Moenkopi substation to the Navajo Nation tribal trust lands boundary as a similar action.

1.2 Project Location

The Project components are all located in the Four Corners region of the U.S. in northwestern New Mexico and northeastern Arizona. The Navajo Mine and FCPP are both located in western San Juan County entirely on Navajo Nation tribal trust lands, approximately 13 miles southwest of Fruitland, New Mexico, and 19 miles west of Farmington, New Mexico. Figure 1-1 shows the location of each Project component. Figure 1-2 shows the location of important natural features in the project area with Diné translations and is intended for use by Diné speakers to reference descriptions in this EIS based on Figure 1-1.

The Navajo Mine lease, granted in July 1957 to BNCC's Predecessor, Utah Construction and Mining Company, is located just south of the San Juan River at Fruitland, New Mexico, and extends in a southerly direction for approximately 24 miles. The Navajo Mine SMCRA permit is congruent with the lease on the northern portions of the mine extending south for approximately 18 miles from the San Juan River. The northern portion of the lease is narrow (1 mile) but the southern portion widens to approximately 6 miles. The lease is subdivided into six administrative areas known as Areas I, II, III, IV North, IV South, and V. The Pinabete SMCRA Permit Area consists of portions of Area IV North and Area IV South of the Navajo Mine lease.

The FCPP is located at the end of San Juan County Road 6675 and near the Navajo Mine Lease Area's northwestern edge. It lies in the northwest quarter of Section 36, Township 29 North, Range 16 West.

The portion of the FCPP to Cholla 345-kV transmission line that is analyzed in this EIS runs 138.5 miles southwest from the FCPP across Navajo Nation tribal trust lands to the Reservation boundary near Joseph City, Arizona.

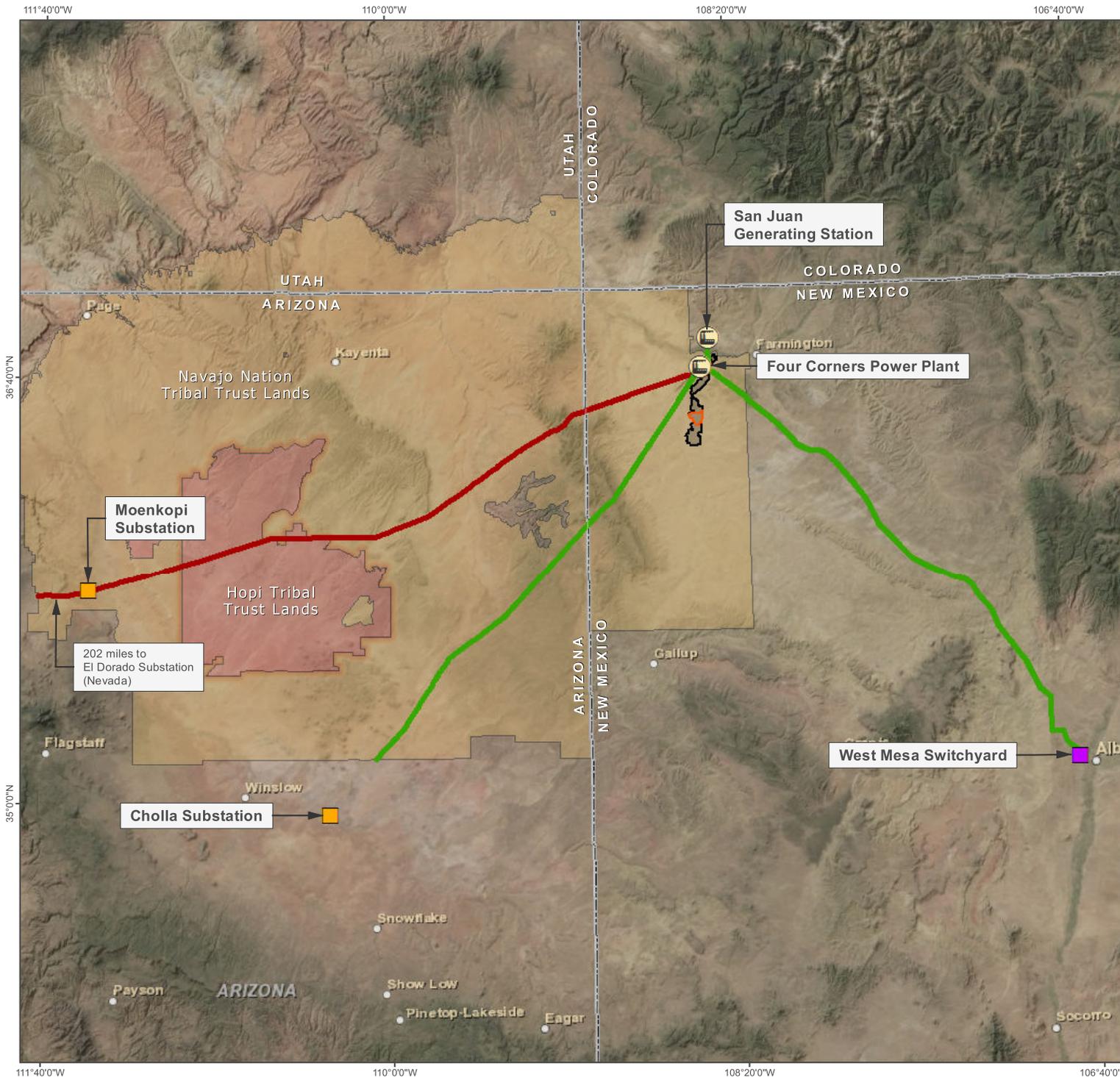
The portion of the FCPP to Moenkopi 500-kV transmission line that is analyzed in this EIS runs 179 miles west across Navajo Nation tribal trust lands, Hopi tribal trust lands, and Navajo Nation allotted trust lands to Moenkopi Substation and then another 14 miles to the edge of the Navajo Nation Reservation boundary. Allotted trust lands are lands held in trust by the U.S. Federal Government (i.e., Bureau of Indian Affairs [BIA]) on behalf of individual Navajo tribal members. These individual Navajo members are not signatories to Lease Amendment No. 3 and, therefore, the segments of the Moenkopi transmission line that traverse allotted trust lands will not be addressed in BIA's Record of Decision.

¹ The FCPP to Cholla 345-kV line consists of two parallel transmission lines that occupy one 315-foot ROW for approximately 85 miles, separate into two 195-foot ROWs for approximately 40 miles, and then converge into a single 315-foot ROW for approximately 10 miles before crossing the border outside of Navajo Nation tribal trust lands.

Four Corners Power Plant and Navajo Mine Energy Project

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Figure 1-1
Regional Location and Project Components



PROJECT FACILITIES

- Power Plant 
- Substation 
- Switchyard 

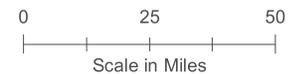
PROJECT BOUNDARIES

- Navajo Mine Lease Area 
- Proposed Pinabete SMCRA Permit Boundary 

TRANSMISSION LINES

- 345kV 
- 500kV 

Note: The FCPP to Cholla Substation transmission line consists of two parallel transmission lines that occupy the same right-of-way for approximately 85 miles before separating into two rights-of-way for another 40 miles and converging into a single right-of-way for 10 miles before leaving the Navajo Nation.

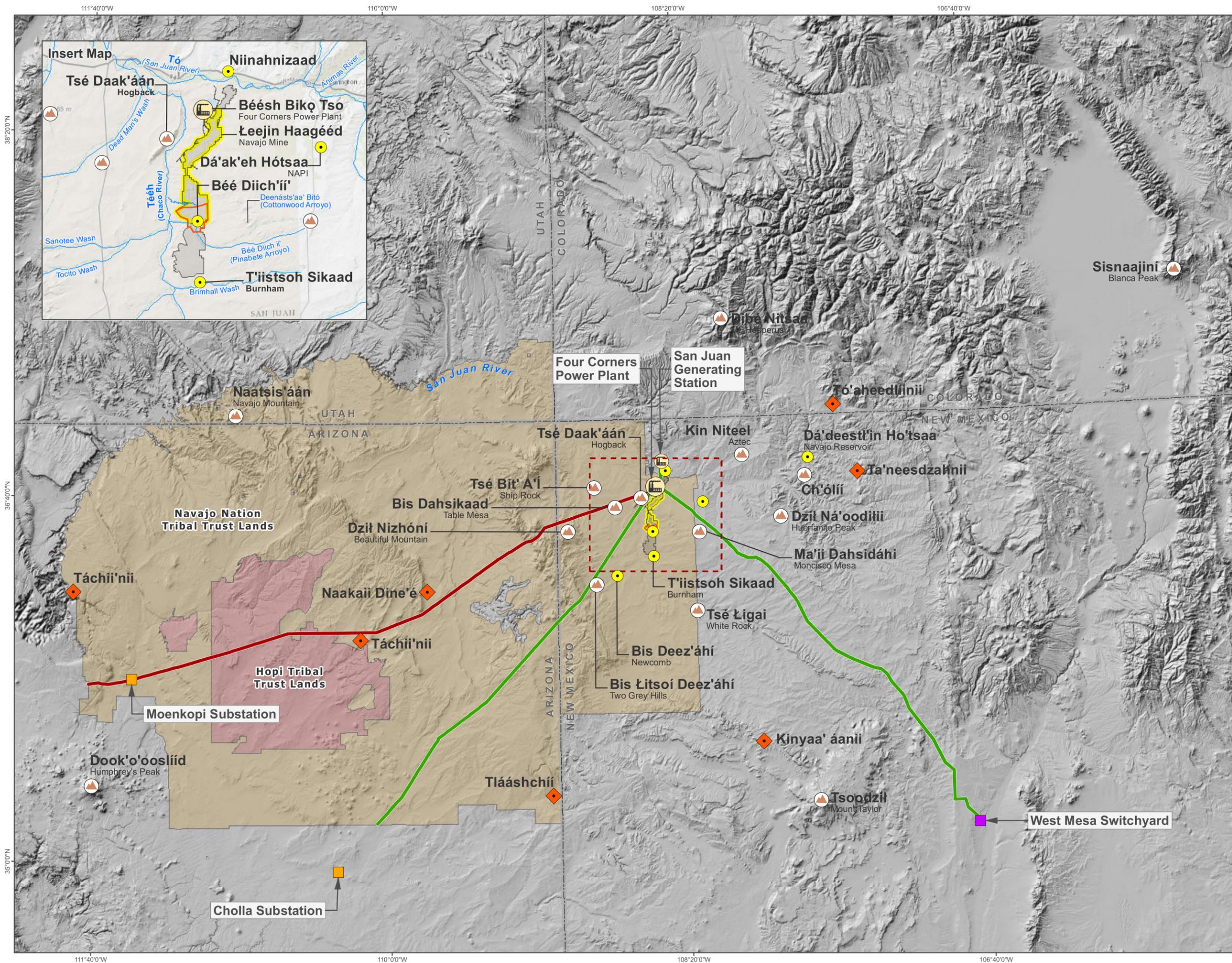


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Four Corners Power Plant and Navajo Mine Energy Project

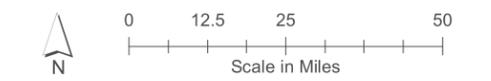
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Figure 1-2
Natural Features with Diné Translations



- PROJECT FACILITIES**
- Four Corners Power Plant
 - Substation
 - Switchyard
- TRANSMISSION LINES**
- 345kV
 - 500kV
- PROJECT BOUNDARIES**
- Navajo Mine Lease and ROWs
 - Navajo Mine SMCRA Permit Boundary
 - Proposed Pinabete SMCRA Permit Boundary
- NATURAL FEATURES**
- Locale
 - Mountain Peak
 - Navajo Clan
- TRIBAL LAND TRUSTS**
- Hopi Tribal Trust Lands
 - Navajo Nation Tribal Trust Lands

Note: The FCPP to Cholla Substation transmission line consists of two parallel transmission lines that occupy the same right-of-way for approximately 85 miles before separating into two rights-of-way for another 40 miles and converging into a single right-of-way for 10 miles before leaving the Navajo Nation.



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The FCPP to San Juan Switchyard 345-kV transmission line runs 10.2 miles due north from the FCPP to San Juan Switchyard.

The FCPP to West Mesa 345-kV transmission line runs 136 miles southeast from the FCPP to the Rio Puerco Switchyard and then another 20 miles to the West Mesa Switchyard, northwest of Rio Rancho, New Mexico, where it interconnects with the larger southwestern U.S. electricity transmission grid. The West Mesa transmission line traverses Navajo Nation tribal trust lands up until the Reservation boundary and then passes through private and allotted trust lands held in trust by the U.S. Federal Government for individual Navajo tribal members.

1.3 Purpose and Need for Proposed Action

The purpose of the Proposed Action is to allow continued operations at the Navajo Mine and FCPP and operation of the associated transmission lines. The Proposed Action would be accomplished in a manner consistent with Federal Indian trust policies, including, but not limited to, a preference for tribal self-determination and promoting tribal economic development for all tribes affected by the Proposed Action.

The Proposed Action is needed to:

- Continue the generation and transmission of long-term, reliable, and uninterrupted baseload electrical power for the residential, industrial, and other customers of the FCPP owners using existing generation and fuel resources.
- Continue to provide coal to the FCPP, which receives coal exclusively from the Navajo Mine.
- Continue operation and maintenance of existing electric transmission lines and related facilities (including switchyards and substations) that serve to transmit the electric energy generated at FCPP. These transmission lines also serve as a generation and transmission hub that enables efficient use and reliable transmission of existing generation resources. These resources include, in addition to FCPP-generated power, power generated from hydroelectric, renewable resources, nuclear, and other fossil fuels. The operation of the transmission lines also facilitates electric grid reliability in the western U.S. and region-wide reserve sharing agreements necessary to respond to system emergencies.
- Provide for tribal self-determination and promote tribal economic development from the energy and mining sector for the Navajo Nation and Hopi Tribe.

1.4 Agency Authority and Actions

The Project includes several components that require approvals, ROW renewals, or permits by Federal agencies and/or the Navajo Nation or Hopi Tribe. Some of these approvals, renewals, or permits require a NEPA review before they can be approved. This EIS is intended to satisfy the NEPA requirements of these actions. In addition to this NEPA review, these Federal Actions require two other consultations: Section 7 of the Endangered Species Act (ESA), and Section 106 of the National Historic Preservation Act (NHPA). These consultations are being implemented in parallel to the NEPA process. Each Federal and Tribal agency's authorities and action(s) are described below and summarized in Table 1-1.

Table 1-1 Federal and Tribal Authorities and Actions

Agency	F CPP and Associated Facilities	Navajo Coal Mine	Power Transmission Lines
OSMRE	None	Approve, approve with conditions, or disapprove the Pinabete SMCRA Permit application; approve or disapprove the request to renew the existing Navajo Mine SMCRA permit.	None
BIA	Approve, approve with conditions, or disapprove the APS Lease Amendment No. 3.	Approve, approve with conditions, or disapprove the realignment of portions of Burnham Road; approve, approve with conditions, or disapprove the ROW renewal for two additional access roads.	Approve, approve with conditions, or disapprove ROW renewals for APS and PNM transmission lines on tribal trust lands ¹
BLM	None	Issue a decision on the Pinabete Mine Plan to ensure maximum economic recovery of coal.	Approve or disapprove ROW renewal for PNM FCPP to West Mesa transmission line. Consult with OSMRE to identify and evaluate potential impacts to cultural resources under NHPA Section 106.
U.S. Army Corps of Engineers (USACE)	None	Approve or disapprove MMCo application for an Individual permit under Section 404 of the Clean Water Act (CWA).	None
EPA	Ensure that emissions from the FCPP comply with the CAA during modification of Title V Operating Permit and Title IV Acid Rain Permits. Approve or disapprove a renewed National Pollutant Discharge Elimination System (NPDES) permit under Section 402 of the CWA.	Approve or disapprove a new source NPDES permit application for the Pinabete Permit under Section 402 of the CWA.	None
U.S. Fish and Wildlife Service (USFWS)	Issue Biological Opinion (BO) for Federally listed species under Section 7 of the ESA.	Issue BO for Federally listed species under Section 7 of the ESA.	Issue BO for Federally listed species under Section 7 of the ESA.
Navajo Nation	Consult with OSMRE to identify and evaluate potential impacts on cultural resources under Section 106 of NHPA and biological resources under Section 7 of the ESA; issue CAA Title V permit.	Consult with OSMRE to identify and evaluate potential impacts on cultural resources under Section 106 of NHPA and biological resources under Section 7 of the ESA; review and comment on the SMCRA permit application; issue CWA Section 401 water quality certification.	Consult with OSMRE to identify and evaluate potential impacts on cultural resources under Section 106 of NHPA and biological resources under Section 7 of the ESA.

Agency	FCPP and Associated Facilities	Navajo Coal Mine	Power Transmission Lines
Hopi Tribe	None	None	Consult with OSMRE to identify and evaluate potential impacts on cultural resources under Section 106 of NHPA and biological resources under Section 7 of the ESA.
National Park Service (NPS)	Review potential impacts to National Parks in the region.	None	PNM ROW across NPS lands are perpetual. Consult with OSMRE to identify and evaluate potential impacts to cultural resources under NHPA Section 106.

Notes:

¹ BIA Western Region has jurisdiction over the portion of the FCPP to Moenkopi 500-kV transmission line that traverses Hopi tribal trust lands, while BIA Navajo Region has jurisdiction for all other project-related ROWs.

1.4.1 Lead Agency – Office of Surface Mining Reclamation and Enforcement

OSMRE is the Lead Agency directing EIS preparation for the Project. OSMRE will approve, or disapprove, the Pinabete SMCRA permit application to allow coal mining activities; including development of associated coal processing facilities, conveyance systems, and infrastructure; and reclamation activities in parts of Area IV North and Area IV South of the existing Navajo Mine Lease Area. OSMRE also will approve or disapprove the permit application to renew the existing SMCRA permit (NM-0003F) for the Navajo Mine, which was administratively delayed in 2014.

1.4.2 Cooperating Agencies

As defined in NEPA regulations, Section 1508.5, "cooperating agency" means any Federal agency other than a lead agency, which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal Action significantly affecting the quality of the human environment. A State or local agency of similar qualifications, or when the effects are on a reservation, an Indian Tribe, may by agreement with the lead agency become a cooperating agency. There are eight Cooperating Agencies on this EIS, and each either has an action that is addressed within this document or is providing technical assistance to the OSMRE in the development of this EIS. This EIS satisfies these agencies' requirements to comply with NEPA. The analysis provided herein will also be used by each agency to inform their resulting decisions.

1.4.2.1 Bureau of Indian Affairs

The BIA has five actions:

- To approve, approve with conditions, or disapprove APS' proposed Lease Amendment No. 3 for the FCPP, pursuant to 25 USC 415. The Navajo Nation has signed Lease Amendment No. 3, after Navajo Nation Tribal Council approval.
- To approve, approve with conditions, or disapprove the proposed realignment of Burnham Road's ROW within the Navajo Mine Lease Area.
- To approve or not approve the ROW renewals for a 0.86-mile mining access road in Area III of the Navajo Mine SMCRA Permit, and a 1.32-mile access road from FCPP to the Navajo Mine Lease Area.

- To issue, issue with conditions, or not issue renewed ROW pursuant to 25 USC 323 to APS for the FCPP, switchyard, and ancillary facilities; a 500-kV transmission line and two 345-kV transmission lines; and for ancillary transmission line facilities, including Moenkopi Substation, an associated 12-kV transmission line, and an access road.
- To issue, issue with conditions, or not issue renewed ROW pursuant to 25 USC 323 to PNM for two existing 345-kV transmission lines.

1.4.2.2 Bureau of Land Management

The BLM's action is to approve or disapprove the revised Mine Plan for the proposed maximum economic recovery of coal reserves. Additionally, they must approve or disapprove ROW renewal segments of the PNM FCPP to West Mesa 345 kV transmission line. BLM has also consulted with OSMRE to identify and evaluate potential impacts to cultural resources under Section 106 of the NHPA.

1.4.2.3 U.S. Army Corps of Engineers

The U.S. Army Corps of Engineers (USACE) has verified the APS delineation and determined that a Section 404 permit is not required at FCPP. USACE followed the isolated approved jurisdiction determination processes in consultation with the EPA and determined there are no jurisdictional waters that would be impacted within the FCPP study area under the Proposed Action. The USACE's action with regard to the Navajo Mine Pinabete SMCRA Permit area (including the realignment of Burnham Road) is to approve or disapprove MMCo's permit application for a Section 404 Individual Permit for impacts to jurisdictional waters of the U.S. under the Clean Water Act (CWA).

1.4.2.4 U.S. Environmental Protection Agency

EPA Region IX's action with regard to the Navajo Mine Pinabete SMCRA Permit area is to approve or disapprove MMCo's permit application for a new source Section 402 National Pollutant Discharge Elimination System (NPDES) Industrial Permit associated with the mining and reclamation operations and coal preparation facilities. The determination as to whether this application constitutes a new source permitting action subject to NEPA is determined by the criteria set forth in 40 CFR Part 122.29(b). The EPA has determined the mine expansion to be a new source. The EPA published a public notice with this determination on January 31, 2013.

In its Final Rule, dated August 2012, EPA issued the FIP for BART at FCPP. CAA actions are exempt from NEPA under the Energy Supply and Environmental Coordination Act of 1974; as a result of this exemption, EPA did not conduct a NEPA analysis of the FIP. EPA Region IX's action with regard to the FCPP is to approve or disapprove the FCPP's permit application to renew the Section 402 NPDES Industrial Permit associated with the facility.

1.4.2.5 U.S. Fish and Wildlife Service

The U.S. Fish and Wildlife Service (USFWS) action is to prepare a Biological Opinion (BO) for the Project under ESA Section 7. As Lead Agency, OSMRE is required to consult with USFWS prior to making any decision regarding this Project. The ESA consultation is being conducted concurrent with the NEPA process.

1.4.2.6 The Navajo Nation

For the FCPP, the Navajo Nation has consulted with OSMRE and BIA to identify and evaluate potential impacts to cultural resources under Section 106 of NHPA and special status species under Section 7 of the ESA. The Navajo Nation will issue CAA Title V permit.

For the Navajo Mine Pinabete SMCRA Permit area, the Navajo Nation has consulted with OSMRE and BIA to identify and evaluate potential impacts to cultural resources under Section 106 of NHPA and

special status species under Section 7 of the ESA. They have also reviewed and commented on the SMCRA permit application, and will issue a CWA Section 401 water quality certification.

The Navajo Nation has consulted with OSMRE and BIA to identify and evaluate potential impacts to cultural resources under Section 106 of NHPA and special status species under Section 7 of the ESA as they relate to the transmission line ROW approvals.

The Navajo Nation is responsible for administering Diné Law on their tribal trust lands.²

1.4.2.7 The Hopi Tribe

The Hopi Tribe has consulted with OSMRE and BIA to identify and evaluate potential impacts to cultural resources under Section 106 of NHPA as they relate to the transmission line ROW approvals.

1.4.2.8 National Park Service

The National Park Service (NPS) has no formal action but has cooperated in this EIS in order to provide their technical expertise. NPS has reviewed potential impacts to National Parks in the region, particularly with respect to air quality and Prevention of Significant Deterioration (PSD) requirements. NPS has also consulted with OSMRE to identify and evaluate potential impacts to cultural resources under Section 106 of the NHPA.

1.5 Public Participation

1.5.1 Scoping Process

In accordance with the CEQ's regulations for implementing NEPA and the DOI's NEPA regulations, OSMRE issued a Notice of Intent to prepare an EIS in the Federal Register on July 18, 2012 (77 FR 42329). The scoping period began on July 18, 2012, and ended November 1, 2012. In addition, notices of the scoping period and scoping meetings were published in 13 local newspapers. Notification fliers were posted at appropriate community centers, post offices, libraries, grocery stores, gas stations, trading posts, town halls, and other gathering places throughout the Four Corners region to further reach community members and remote locations where interested stakeholders potentially resided. The notification flier provided the scoping meeting locations, dates, and times and provided information on how to submit comments. A public service announcement announcing the dates and times of the local scoping meetings was distributed to 31 local radio stations. It was translated and recorded in Navajo and Hopi. During the public scoping period, OSMRE hosted nine scoping meetings to inform interested parties of the Project and provide opportunity for comment on the scope of the environmental document. Scoping meetings were held in Hotevilla, Arizona; Cortez, Colorado; Burnham, New Mexico; Fruitland, New Mexico; Farmington, New Mexico; Shiprock, New Mexico; Durango, Colorado; Window Rock, Arizona; and Albuquerque, New Mexico, from August 9 through 18, 2012. All meetings were held in an open house format, where informational stations discussing varying aspects of the Project were located throughout the venue and topic experts were available to answer questions. During all scoping meetings, opportunity to comment in written or oral form was provided; translation services were provided for both Navajo and Hopi speakers. Written, oral, and video comments were also received via email, fax, and the U.S. Postal Service mail. OSMRE received a total of 539 comments during the scoping period.

² It is worth noting that in 2007 the Navajo Nation developed legislation (1 Navajo Nation Code §§ 201-206) that codified Diné Law. Diné Law explains the origin of the Navajo people and their relationship with the Earth. This Navajo law is considered cultural in nature and lacks any measurable and enforceable regulatory standards that could be technically applied to measure effects; therefore, Diné Law is not used as a regulatory framework in this EIS. Further information on Diné Law, related to the use of the Hogan at the Navajo Mine for traditional Navajo ceremonies for purposes of mitigating adverse impacts to the natural world from resource extraction, can be found on page 4.11-17.

1.5.1.1 Summary of Comments

Figure 1-3 depicts the relative and total number of comments per topic received during the public scoping period. Some of the concerns and questions the public expressed include (in no specific order):

- Concerns about air quality, water quality, and public health.
- Support for the economic benefits from the operation of the FCPP and Navajo Coal Mine.
- Support for open house style meetings and the way in which information was presented and communicated.
- Preference for public meeting format instead of open house style meetings.
- Opposition to coal as a source of energy; support for alternative energy sources.
- Support for APS and BNCC's contributions to local communities.
- Concern about proximity of transmission lines to residents and sacred Native American sites.
- Inadequacy of disposal of coal fly ash.
- Inquiries about public access to air and water quality data collected by the applicants.

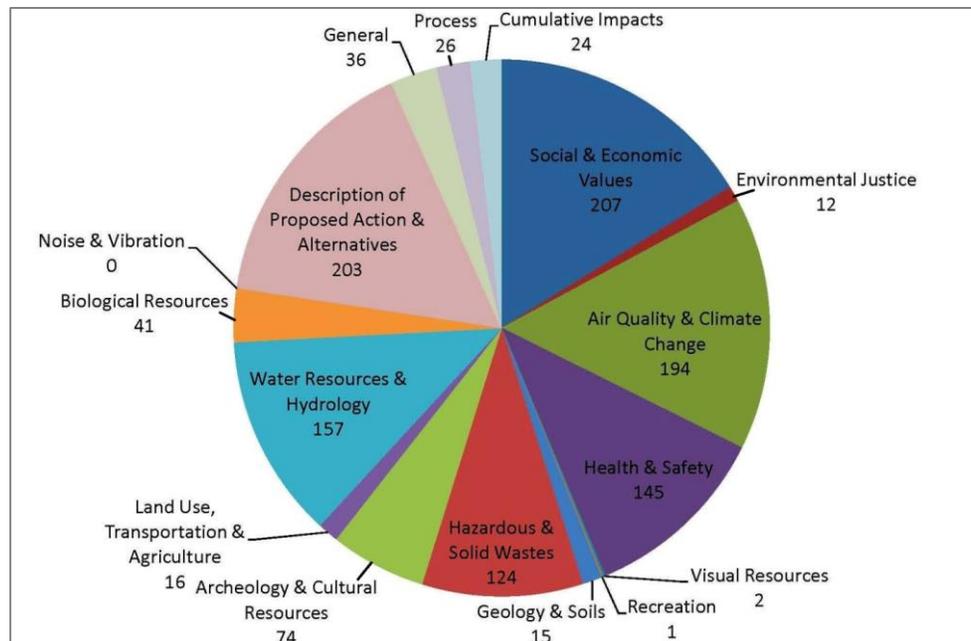


Figure 1-3 Distribution of Scoping Comments Received by Topic

1.5.1.2 Summary of Issues

Based on the scoping comments, OSMRE developed several issues for analysis in the EIS. Issues are potential outcomes of the project that can lead to an adverse effect. The scoping process identified several issues, as follows:

- The potential for the project to adversely affect air quality.
- The potential for the project to adversely affect water quality.
- The potential for the project to adversely affect public health.

- Continuance of economic benefits from the operation of the FCPP and Navajo Coal Mine.
- Consideration of alternative energy sources.
- The potential for adverse effects of transmission line maintenance on residents and sacred Native American sites.
- The potential for adverse effects from the disposal of coal fly ash.

1.5.2 Public Meetings

The public comment period for the Four Corners Power Plant and Navajo Mine Energy Project Draft EIS began March 28, 2014 when a Notice of Availability (NOA) was published in the Federal Register that announced the availability of the Draft EIS and comment period for the Four Corners Power Plant and Navajo Mine Energy Project Draft EIS. This NOA initiated a 61-day public comment period, which was scheduled to end on May 27, 2014, and was later extended 31 days until June 27, 2014. OSMRE published a revision on May 16, 2014 to the Federal Register notice published March 28, 2014, to announce the 31-day extension of the Draft EIS public comment period.

In addition to the Federal Register notice, the public review period was announced via publication in 13 local newspapers and notification fliers posted in appropriate community centers, post offices, libraries, grocery stores, gas stations, trading posts, town halls, and other gathering places throughout the Four Corners region to further reach community members and remote locations where interested stakeholders potentially resided. Moreover, a public service announcement announcing the dates and times of the local public meetings was distributed to 31 local radio stations. It was translated and recorded in Navajo and Hopi. Efforts to notify the public, government agencies, elected officials, and media about the open house public meetings were conducted in accordance with NEPA and the Public Involvement Plan developed for the Four Corners Power Plant and Navajo Mine Energy Project EIS.

During the public review period, OSMRE held nine open house public meetings between April 30, 2014 and May 9, 2014. The purpose of the public meetings was to provide an opportunity for the public and other agencies to learn about and comment on the proposed actions and environmental analysis presented in the Draft EIS. The public meetings also served to satisfy the public involvement and noticing requirement for Section 106 of the NHPA. Interested parties were provided an opportunity to provide written and oral comments related to the Draft EIS.

1.5.2.1 Summary of Comments Received

During the Draft EIS public comment period, 50 oral comments and 4,531 written comments were received, including the comments received at the public meetings. Figure 1-4 depicts the relative number of comments per topic received during the public comment period. The comments received reflected the same themes as the scoping comments received in 2012. Some of the concerns and questions expressed by the public include (not prioritized):

- Opposition to coal as a source of energy; support for alternative energy sources.
- Support for APS and BHP Billiton's contributions to local communities.
- Concern about disposal of coal combustion residuals (CCRs) and impacts to water resources.
- Questions clarifying statements in the description of proposed action and alternatives.
- Inquiries about public access to air and water quality data collected by APS and BNCC.
- Requests for a public health study.
- Concerns about mercury deposition and impacts related to consumption of fish.
- Support for the economic benefits from the operation of the FCPP and Navajo Coal Mine.

- Support for open house style meetings and the way in which information was presented and communicated.
- Preference for public hearing format instead of open house style meetings.
- Concerns about the social costs of coal combustion.
- Requests to recirculate the Draft EIS.
- Requests to translate the Draft EIS into Navajo and/or Hopi.

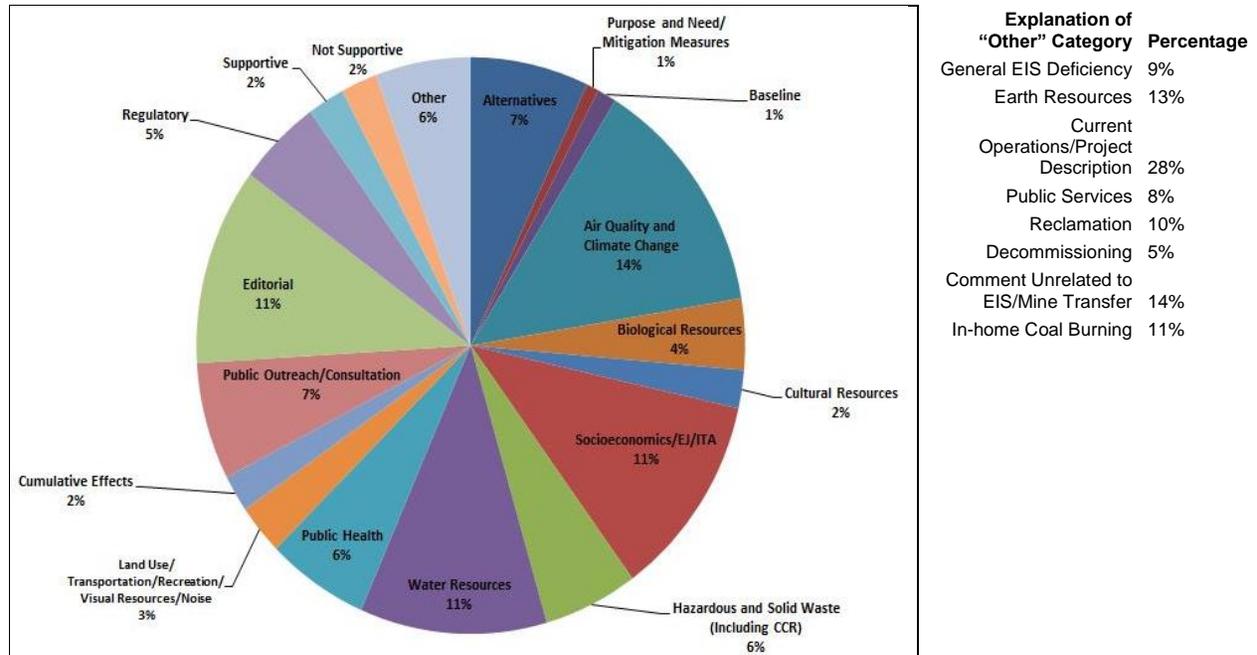


Figure 1-4 Distribution of Draft EIS Comments Received by Type

1.6 Organization of this EIS

This EIS contains the following seven sections:

- **Section 1** introduces the EIS, discussing pertinent background information; and describes the purpose of and need for the Proposed Action, public participation (scoping process), and EIS organization.
- **Section 2** describes the current operation of the Navajo Mine SMCRA Permit Area, FCPP, and transmission lines. The environmental effects of continuing operations are evaluated in this EIS.
- **Section 3** describes the alternatives considered in this EIS, including the Proposed Action and the No Action Alternative.
- **Section 4** describes the Project's environmental and regulatory setting per resource. It also describes the baseline conditions and potential environmental impacts of the alternatives and recommends measures to avoid or reduce impacts. Unavoidable adverse impacts, and potential cumulative impacts of the alternatives when considered with other past, current, and reasonably foreseeable future projects are also described.

- **Section 5** discusses consultation and coordination conducted during preparation of this EIS with other Federal, state, local, and tribal agencies.
- **Section 6** lists the names, education, and experience of persons who helped prepare the EIS and the subject areas for which each preparer was responsible.
- **Section 7** provides a glossary of technical terms used throughout the EIS.
- **Section 8** provides a complete list of all references used to prepare the EIS.

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