



United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
Western Region Office
1999 Broadway, Suite 3320
Denver, CO 80202-3050



NM-0003G

DEC 29 2015

Certified Mail Return Receipt Requested

Mr. Clark Moseley
Chief Executive Officer
Navajo Transitional Energy Company (NTEC)
P.O. Box 1749
Window Rock, Navajo Nation (Arizona), 86515

Re: *Approval of Area IV North Permit Revision Application*
Navajo Mine Federal Permit NM0003G
OSMRE Project Tracking Code: NM-0003-F-R-03 & NM-0003-F-0029¹
OSMRE ARMS² Mail Numbers: 11/02/18-01, 11/05/02-23, 11/07/14-08, 11/09/28-01,
11/11/18-01, 11/11/21-05, & 11/12/14-08

Dear Mr. Moseley:

Please be advised that the Office of Surface Mining Reclamation & Enforcement (OSMRE) has completed its review and processing of the Area IV North Permit Revision Application for Navajo Transitional Energy Company's (NTEC's) Navajo Mine. This application was initially proposed in a submittal from BHP Navajo Coal Company (BNCC) dated February 15, 2011. In accordance with the federal regulations at 30 CFR 750.12 (c)(3)(ii) (B), OSMRE had defined this proposal action to be a 'significant' permit revision application; and had processed the application accordingly.

In a letter dated March 18, 2011, OSMRE informed BNCC that the revision application was administratively complete; and posted an electronic copy of the permit application on the OSMRE Western Region internet website as a pending permitting action. BNCC subsequently initiated the publication of notices within local newspapers, of the availability of the permit revision application for public review and comment. As confirmed in BNCC's correspondence to OSMRE dated May 10, 2011, containing copies of Affidavits of Publication, these notices appeared in the Navajo Times Newspaper on March 24 and 31, 2011, and on April 7 and 14, 2011; and on March 26, April 2, April 9, and April 16, 2011, in the Gallup Independent Newspaper. The notices also appeared in the Farmington Daily Times on March 27, April 3, April 10 and April 17, 2011. As clarified within these notices, the final date for providing public comments on this application was thirty days after the last published date; therefore May 14,

¹ Project NM-0003F.0029 replaces NM-0003-F-Y01, which was the 2012 Area IV North EA project code

² Administrative Records Management System.

2011, was the deadline for submitting comments. However, at the request of interested members of the public, OSMRE extended the public comment period to June 30, 2011.

In letters and memoranda dated March 30, 2011, OSMRE informed sixteen federal, state and tribal government agencies of BNCC's pending permit revision application, and requested that these organizations provide any review comments that they may have.

In public notices in The Navajo Times, Gallup Independent and The Farmington Daily Times Newspapers and announcements on radio stations KNDN and KTNN in Navajo and English, OSMRE notified the public of two public outreach workshops to be held. The public outreach workshops were held on April 13, 2011 at the Tiis Tsoh Sikaad (Burnham) Chapter House and on April 14, 2011 at the Nenahnezad Chapter House. The public outreach workshops provided public involvement with the permit revision application. Representatives from USACE, Navajo Nation Surface Mining Program, BIA and BLM were present to answer questions and provide information at the informal poster-style workshops. Navajo translation services were made available at the workshops as well as a court reporter so that participants could give verbal comments as well as written comments.

In a letter from the International Union of Operating Engineers Local No. 953 (IUOE) dated May 5, 2011, OSMRE received a request for an informal conference to be held in accordance with 30 CFR 773.6(c). In response, on June 1, 2012, OSMRE notified the public of a public conference to be held at the Nenahnezad Chapter House in Fruitland, New Mexico, on June 15, 2011.

Public notices for the June 15, 2011, informal conference were published in The Navajo Times, Gallup Independent and The Farmington Daily Times news papers; and were broadcast as a public service announcement in Navajo and English on radio stations KNDN and KTNN for two weeks prior to the informal conference. The IUOE was notified by letter of the scheduled informal conference. Approximately one-hundred persons attended the conference. OSMRE contracted with an independent service to record and develop a transcript of all comments provided during this conference.

By the June 30, 2011, expiration of the extended public comment period for the permit revision application, OSMRE had received comment submissions by letter or email from four individuals, three non-governmental organizations (NGOs), and the Navajo Nation Historic Preservation Department – Traditional Culture Program (NNHPD-TCP); and received oral comments from an additional thirty-six persons during the public outreach workshops and informal conference. A total of one-hundred-and-eleven comments were received by forty-two individuals. The majority of comments received were in support of BNCC's pending permit revision application, with many citing the economic benefits that the mine and power plant provides to the local community. The comments received by NNHPD-TCP questioned whether the proposed project would impact two Navajo traditional cultural resources – the Hogback rock formation and the San Juan River. NNHPD-TCP's comments have been addressed in the EA, OSMRE's responses to comments on the Significant Permit Revision and the amended PA. One individual commenter and those from the NGOs objected to the pending permit revision application. OSMRE has reviewed and considered each of the comments received against the criteria of approval stipulated at 30 CFR 774.13(c). OSMRE prepared responses to these comments in combination with the later comments OSMRE received after publication of the EA and the unsigned Findings of No Significant Impact (FONSI).

In 2012, OSMRE prepared an EA (OSMRE 2012a) to analyze the potential environmental impacts of the 2011 permit revision action. On the basis of the 2012 EA, OSMRE determined that there would be no significant impacts as a result of this action and approved the SMCRA Permit revision on March 16, 2012. Based on OSMRE's approval, BNCC resumed operations in Area IV North in 2012. Shortly thereafter, petitioners filed another suit alleging that OSMRE's EA failed to comply with the National Environmental Policy Act (NEPA). On March 2, 2015, the Colorado District Court granted a petition for review of agency action and ruled that OSMRE failed to adequately consider the reasonably foreseeable combustion-related effects of NTEC's proposed expansion of operations at the Navajo Mine.

On April 6, 2015, the District Court vacated the EA/Finding of No Significant Impact (FONSI) and the 2011 Area IV North SMCRA permit revision. The Court's decision noted that all parties agreed that OSMRE may be able to comply with NEPA relating to its consideration of the permit revision application by tiering to the comprehensive Environmental Impact Statement (EIS) for the Four Corners Power Plant and Navajo Mine Energy Project (FCPP/NMEP EIS), published May 1, 2015. Therefore, this EA incorporates by reference relevant sections of the EIS, as noted in specific EA sections.

The Colorado District Court decision does not vacate or remand the other permits approved pursuant to the 2012 FONSI; therefore, this EA assumes that those approvals remain valid.

OSMRE then prepared a revised EA in 2015. This EA has been prepared to extend the analyses in the 2012 EA by tiering to the analysis presented in the FCPP/NMEP EIS, published on May 1, 2015. The FCPP/NMEP EIS is incorporated by reference in to this EA (specific sections, data, and conclusions that are incorporated are noted within the individual resource sections in Chapters 3, 4, and 5 of the EA). Both the EIS and the EA are publically-available on OSMRE's website at:

<http://www.wrcc.osmre.gov/initiatives/fourCorners/documentLibrary.shtm>

or by request to OSMRE. This EA adds analysis not included in the 2012 EA to address the reasonably foreseeable combustion-related effects of NTECs proposed expansion of operations at the Navajo Mine. This EA therefore addresses both mining and the effects of the coal combusted at the FCPP associated with Area IV North coal. Emissions associated with Area IV North coal occurring prior to July 2016 are directly analyzed in this EA, emissions associated with any remaining coal from Area IV North that would be combusted after July 2016 is evaluated in the FCPP/NMEP EIS and incorporated by reference in this EA.

As described above, the 2012 EA analyzed an action previously proposed by BNCC. The current owner of the mine is NTEC,³ and NTEC is the project proponent seeking to meet its coal supply obligations through July 6, 2016. NTEC proposes to meet its coal supply obligations by:

1. Implementing a mine plan revision to develop coal reserves located in a portion of Area IV North within NTEC's existing Navajo Mine coal lease and mine permit area

³ In 2014, the Navajo Mine was purchased from BNCC by NTEC. The mine operations were transferred to Mine Management Company (MMC_o) and all environmental permits similarly transferred. NTEC retains the SMCRA permits for the mine. Therefore, NTEC is used when discussing mine operations prior to 2014 and BNCC is used when referring to mine operations between 2014 and 2016.

- located on the Navajo Nation Indian Reservation, San Juan County, in northwestern New Mexico (Navajo Mine).
2. Continuing to mine in Area III of the Navajo Mine.
 3. Realigning the Burnham Road through Areas III and IV North of the Navajo Mine.

In addition, NTEC proposed to consolidate several existing Clean Water Act (CWA) Nationwide Permits (NWP) for operations in Area III and Area IV North, and for impacts to waters of the U.S. associated with the proposed realignment of Burnham Road into a single Individual Permit (IP).

The Revised EA and unsigned FONNSI were posted on OSMRE's Western Region website for public review and comment on October 15, 2015. Public notices were placed in the Navajo Times, Farmington Daily Times and Gallup Independent newspapers. Radio announcements were aired in Navajo and English on AM 660 in Window Rock, AZ and AM 960 in Farmington, NM. On October 26, 2015, OSMRE discovered that it had inadvertently cut off the pages from the end of Chapter 4. OSMRE immediately corrected the EA the morning of October 26th. On October 29, 2015, OSMRE ran new public notices extending the public comment period from November 16th to November 25, 2015.

Additionally, letters soliciting comments and announcing the availability of the revised EA and unsigned FONNSI were mailed to sixteen Federal, State and Tribal governmental agencies as well as individuals that had commented on the 2012 EA & FONSI.

The 2015 Revised EA has been prepared to add analysis to that provided in the original 2012 EA. The 2012 EA assessed the potential environmental consequences of the proposed mining, reclamation, and road realignment activities, allowed for public involvement in the process, and assisted decision makers by disclosing the potential effects of proposed mining activities in both Area IV North and Area III. The 2012 EA addressed all the Federal actions proposed in support of pre-2016 mining under the current coal supply agreement. Post-July 6, 2016 mining activities are associated with a new and different coal supply agreement that was the subject of a subsequent NEPA analysis (OSMRE 2015). Any remaining coal from Area IV North that would be combusted after July 2016 is directly considered in the FCPP/NMEP EIS.

This EA includes the analyses of the 2012 EA, and provides additional analysis by tiering to (incorporating by reference) the FCPP/NMEP EIS, published on May 1, 2015, to address the reasonably foreseeable combustion-related effects of NTECs proposed expansion of operations at the Navajo Mine. For purposes of compliance with the District Court's order, this EA considers combustion-related impacts of the coal combusted at the FCPP until July 2016 as indirect effects.

During the extended forty-two day public review period for the revised EA and unsigned FONNSI, a total of five comment letters were received. We received a comment letter from Western Environmental Law Center on behalf of Diné CARE, San Juan Citizens Alliance, Center for Biological Diversity, Sierra Club and Amigo Bravos. We also received comments from NTEC & MMCo, and three comment letters from the Navajo Nation Surface Mining Program.

A standardized content analysis process was conducted to analyze the public comments on the revised EA. Each comment letter or email received was read by OSMRE and members of the consultant planning team to ensure that all substantive comments were identified. The comments were not weighted by organizational affiliation or status of respondents, and the number of duplicate comments did not add value to any one comment over another. The process was not one of counting votes, and no effort was made to tabulate the exact number of people for, or against any given aspect of the revised EA. Rather, emphasis was placed on the content of each comment. All of the letters received have been reviewed for substantive comments and occurrences of similarity or replication. OSMRE responses to comments received on the 2015 revised EA and unsigned FONNSI are located in Appendix H of the revised EA.

OSMRE's initial review confirmed that the scope of this permit revision application did not meet the criteria addressed in Chapter 13, sub-section 13.4(A) (4) of Part 516 of the Department of Interior's NEPA Manual, for actions normally requiring preparation of an environmental impact statement (EIS). The revised EA prepared was developed by a consulting firm, at the direction of OSMRE. Upon completion OSMRE adopted the EA and takes full responsibility for the scope and the content of this document. The EA considered a reasonable range of alternatives to the proposed action, discussed the potential environmental effects of the proposed action and provided sufficient evidence and analysis for the development of a finding of no new significant impact (FONNSI)⁴. An EA prepared in support of an individual proposed action can be tiered to a programmatic or other broader-scope environmental impact statement, as is this EA. A finding of no significant impact other than those already disclosed and analyzed in the EIS to which the EA is tiered may be called a "finding of no new significant impact" (43 CFR 46.140 (c)). Therefore, an EIS is not required and OSMRE has made a finding of no new significant impact. Based upon OSMRE's review of the EA it has been determined that the proposed action is not a major federal action that will have a significant effect on the quality of the human environment individually or cumulatively with other actions within the region. No new environmental effects meet the definition of significance in context or intensity, as defined within the federal regulations at 40 CFR 1508.27. Therefore, an EIS is not required.

In accordance with the Indian Lands Program regulation at 30 CFR 750.12(c)(1)(ii), OSMRE's review confirms that the application is in compliance with the criteria applicable to permit revision applications at 30 CFR 773.15. This letter notifies you that OSMRE, as per the federal regulations at 30 CFR 773.15 and the Federal Program for Indian Lands, has approved NTEC's Area IV North Permit Revision Application for Federal Permit NM0003G, Navajo Mine.

Enclosed you will find Federal Permit NM0003G. This Permit authorizes the continuation of mining and reclamation operations for the life of the current permit term within the designated permit area.

Approval for a modification to the existing Mine Plan from the BLM for coal extraction within the portion of Area IV North proposed for pre-2016 mining, was issued on January 9, 2011.

⁴ The revised EA and the FONNSI, and FCCP-NMEP EIS, are posted on OSMRE's Western Region Web Site.

The relocation of the temporary Burnham Road to the proposed permanent location within the permit area, as set forth in the 2011 revision application, is being approved with this letter. Since this road will not be used for any mining related activities, OSMRE's approval is limited to illustrations of the relocation on the existing permit maps. As you are aware, NTEC has received approval from the Bureau of Indian Affairs (BIA) and the US Army Corps of Engineers' (USACOE) Clean Water Act (CWA) Section 404 Standard Individual Permit (IP) application approval. The Burnham Road has already been relocated.

NTEC, as well as the Bureau of Indian Affairs, the Bureau of Land Management, the Navajo Nation Minerals Department, the Navajo Nation's T'iis Tsoh Sikaad and Nenahnezad Chapter Houses, and the OSMRE Albuquerque Area Office, should re-insert NTEC's revised Area IV North revision application submittals (commencing with the February 15, 2011, submittal) into the approved permit application package (PAP) in accordance with the insertion instructions included within these submittals.

As set forth in the Indian Lands Program regulation at 30 CFR 750.12(c)(iii), NTEC or any person with an interest which is or may be adversely affected, may appeal this decision under the procedures set forth in 30 CFR 775 and 43 CFR Part 4.

If you have any questions or concerns regarding the permit revision application approval, please contact the Mine Team Leader (Mychal Yellowman) at 303-293-5049 or myself at 303-293-5047 or by email (MYellowman@osmre.gov; RLWilliamson@osmre.gov).

Sincerely,



Rick Williamson, Manager
Indian Program Branch
Program Support Division
Western Region-OSMRE

Enclosure

cc: OSMRE, Albuquerque Field Office w/enclosure
Navajo Nation Minerals Department w/enclosure
BLM Farmington Resource Area Office w/enclosure
BIA Navajo Regional Office w/enclosure
Tiis Tsoh Sikaad Chapter no enclosure
Nenahnezad Chapter no enclosure

Findings Determination for Approval of a Significant Permit Revision Application

Navajo Mine - Federal Permit NM0003G – Navajo Transitional Energy Company (NTEC)

Area IV North Permit Revision Application

OSMRE Project Tracking Code: NM-0003-F-R03 & NM-0003F.00291

Within this Permit Revision Application, NTEC has proposed to revise the currently approved permit application package (PAP) for Federal Permit NM0003G, to mine south of the existing Dixon Pit in an area known as Area IV North of the Navajo Mine. The proposed area to be disturbed by mining and mining related activities (including miscellaneous support facilities) involves approximately 830 acres. Based on a review of the complete permit revision application by the Office of Surface Mining Reclamation and Enforcement (OSMRE), review of comments provided during public consultation, and through consultation with other agencies, I find the following:

1. The revision application is accurate and complete, and the applicant has complied with all requirements of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), as amended, and the Indian Lands program regulations at 30 CFR Part 750.
2. The applicant has demonstrated that reclamation as required by SMCRA and the Indian Lands program can be accomplished under the reclamation plan contained in the permit application as revised by the proposed revision.
3. The operations proposed in the revision application are entirely within the Navajo Reservation and are:
 - Not on any lands within the boundaries of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) or study rivers or study river corridors established in any guideline pursuant to that Act, and National Recreation Areas designated by Act of Congress;
 - Not on any Federal lands within the boundaries of any national forest;
 - Not on any lands where mining will adversely affect any publicly owned park or places included in the National Register of Historic Places;
 - Not within 100 feet, measured horizontally, of the outside right-of-way line of any public road, except where mine access roads or haulage roads join such right-of-way line;
 - Not within 300 feet, measured horizontally, of any occupied dwelling;
 - Not within 300 feet, measured horizontally, of any public building, school, church, community or institutional building or public park; and
 - Not within 100 feet, measured horizontally, of a cemetery.

1 Project NM-0003F.0029 replaces NM-0003-F-Y01, which was the 2012 Area IV North EA project code

4. No mining operations by surface mining methods are proposed to be conducted on lands where the private mineral estate to be mined has been severed from the private surface estate. The United States owns the surface and minerals in trust for the Navajo Nation.
5. The probable hydrologic consequences of the proposed revision will not change the probable cumulative impacts of all anticipated coal mining on the hydrologic balance in the cumulative impact area associated with the Navajo Mine. Therefore, I determine that the operations proposed in the revision application have been designed to prevent material damage to the hydrologic balance outside the permit area.
6. The operations proposed in the revision application will not use any existing structures.
7. The applicant has paid all reclamation fees from previous and existing operations as required by 30 CFR Chapter VII, Subchapter R.
8. No requirements of 30 CFR Part 785 Special Categories of Mining are applicable. The revision application does not propose changes to the type of mining operations, or propose experimental practices. OSMRE has determined that no alluvial valley floors exist within the permit area and adjacent area.

The applicant has not proposed to reclaim the disturbed area to a long-term, intensive agricultural postmining land use. All disturbed lands will be reclaimed to the premining land uses, which were grazing land and fish and wildlife habitat

9. The operation will not affect the continued existence of endangered or threatened species or result in destruction or adverse modification of their critical habitats, as determined under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.). NTEC conducts periodic monitoring of wildlife on the permit area to keep track of any important wildlife activities in the mine area. In a letter dated January 19, 2012, the USFWS concurred with OSMRE's determination that approval of the proposed Area IV North permit revision application may affect, but is not likely to adversely affect, the southwestern willow flycatcher.
10. OSMRE has taken into account the effect of the proposed permitting action on cultural resources. Thirty four sites are considered to be eligible for nomination to the National Register of Historic Places and several Traditional Cultural Properties including possible burials have been identified in Area IV North. As a condition of approval, prior to any disturbance in Area IV North, NTEC must implement the mitigation/data recovery plans as specified in the updated Programmatic Agreement (PA) for the Navajo Mine Area III, Area IV and the Burnham Road North and South Realignment.
11. The applicant is eligible to receive a permit, based on the reviews under 30 CFR 773.7 through 773.14.

12. The relocation of the temporary Burnham Road to the proposed permanent location within the permit area, as set forth in the 2011 revision application, is being approved with this letter. Since this road will not be used for any mining related activities, OSMRE's approval is limited to illustrations of the relocation on the existing permit maps. Final authorization of the permanent relocation of this public road is the purview of the Bureau of Indian Affairs (BIA); therefore approval from the BIA must be acquired by NTEC prior to initiation of construction activities associated with this relocation. Prior to construction the US Army Corps of Engineers (USACOE) must also approve NTEC's Clean Water Act (CWA) Section 404 Standard Individual Permit (IP) application for the planned disturbances within the drainages being crossed by the road.
13. NTEC will conduct activities within 100 feet Cottonwood Wash . A temporary crossing will be built across the wash that connects the South Dixon haul road with the 4N East and West perimeter roads. This haul road will be the primary access to Area IV North. The crossing will be used for coal haulage, pit access and to walk a dragline from the South Dixon Pit to Area IV North. NTEC has applied for and is required to receive the following permits prior to conducting activities within 100 feet of Cottonwood Wash:
 - Department of the Army, Corps of Engineers – Individual Permit (IP) under section 404 of the Clean Water Act for discharge of fill material into Waters of the United States (WUS) in support of the Burnham Road realignment.
Bureau of Indian Affairs – Authorization to relocate Burnham Road.

OSMRE provided copies of this permit revision application to the Navajo Nation, Bureau of Land Management (BLM), and Bureau of Indian Affairs (BIA). In a letter dated January 9, 2012, the BLM determined that the proposed revision complies with the mining plan approved by BLM pursuant to 25 CFR Part 216 and Navajo Tribal coal lease 14-20-603-2502. The BIA and Navajo Nation provided informal review comments that were considered as an integral part of OSMRE's technical review of the permit revision application.

On the basis of the preceding determinations, I, in accordance with 30 CFR 750.12(c) and 774.13(c), approve NTEC's proposed Area IV North significant permit revision application to Federal Permit NM-0003G, for the Navajo Mine.



Rick Williamson, Manager
Indian Program Branch, Program Support Division
Western Region - OSMRE

12-29-2015

Date

**UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT**

**INDIAN LANDS PROGRAM FOR THE NAVAJO NATION
PERMIT FOR SURFACE COAL MINING OPERATIONS**

Permit Number: NM-0003G Permit Effective Date: 09/25/2014
Amended Date: 12/29/2015
Permit Term: 5 years Permit Expiration Date: 09/25/2019

Permittee: **Navajo Transitional Energy Company LLC**
P.O. Box 1749
Window Rock, AZ 86515

Operation Name: Navajo Mine
General Location: San Juan County, New Mexico
Navajo Tribal Coal Lease 14-20-603-2505

The permit area is within the following unsurveyed townships and sections of the New Mexico Principal Meridian and is more particularly shown on the permit area maps included in the approved permit application as Exhibit 1-4, Sheets 1 through 7:

T. 29 N., R. 15 W.	Section 30, 31, 32
T. 29 N., R. 16 W.	Section 25, 36
T. 28 N., R. 15 W.	Section 7, 8, 9, 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32
T. 28 N., R. 16 W.	Section 25, 26, 34, 35, 36
T. 27 N., R. 15 W.	Section 6, 31
T. 27 N., R. 16 W.	Section 1, 2, 3, 4, 9, 10, 11, 12, 15, 22, 23, 25, 26, 27, 34, 35, 36
T. 26 N., R. 15 W.	Section 6, 7, 18
T. 26 N., R. 16 W.	Section 1, 2, 3, 9, 10, 11, 12, 13, 14, 15, 16

1. **STATUTES AND REGULATIONS** - This permit is issued pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. §§ 1201, *et seq.*, and the Indian Lands Program, 30 CFR Part 750. This permit is subject to all applicable laws and regulations that are now or hereafter in force, even though not specifically referenced herein.
2. **AUTHORIZATION** - This permit authorizes those surface coal mining and reclamation operations described in the application for this permit approved by the Office of Surface Mining Reclamation and Enforcement (OSMRE) on September 22, 1994 except to the extent directed otherwise in this permit. The approved permit application is incorporated by reference into this permit. The permit area for the Navajo Mine consists of approximately 13,430 acres, as shown on the location maps included in the approved permit application, Exhibit 1-4, Sheets 1 through 7.

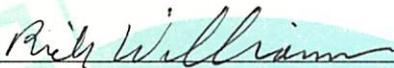
In approving the application for this permit OSMRE granted no variances.
3. **CONDITIONS** - The standard permit conditions at 30 CFR § 773.17 and the terms and conditions of Navajo Tribal Coal Lease 14-20-603-2505 are incorporated by reference into this permit. This permit also includes special conditions as specified in Attachment A.

The terms and conditions of this permit are binding on the permittee, its officers, directors, employees, agents, contractors, and subcontractors, and the officers, directors, and employees of its agents, contractors, and subcontractors.

4. **INITIATION OF OPERATIONS** - This permit will terminate if the permittee has not begun the surface coal mining operations covered by this permit within 3 years of its effective date. OSMRE may grant a reasonable extension of time for the commencement of operations in accordance with 30 CFR § 773.19(e).

5. RENEWAL - This permit may be renewed in accordance with 30 CFR § 774.15. An application for renewal shall be filed with OSMRE at least 120 days before the expiration date of this permit.
6. REVISION - (a) OSMRE may order reasonable revision of this permit at any time in accordance with 30 CFR § 774.10(b). (b) OSMRE may revise this permit upon application from the permittee in accordance with 30 CFR §§ 774.13 and 750.12(c)(3)(ii).
7. TRANSFER, ASSIGNMENT, OR SALE - This permit may be transferred or assigned, or the rights granted herein may be sold, in accordance with 30 CFR §§ 774.17 and 750.12(c)(3)(i). No transfer, assignment, or sale of rights granted by this permit shall be made without the prior written approval of OSMRE.
8. SUSPENSION, RESCISSION, OR REVOCATION - This permit may be suspended, rescinded, or revoked by OSMRE in accordance with 30 CFR §§ 773.21 -773.23 or 30 CFR Chapter VII, Subchapter L.
9. HISTORIC AND PREHISTORIC RESOURCES PROTECTION - If previously unidentified historic resources, prehistoric resources, or traditional cultural properties including burials are discovered during the course of surface coal mining and reclamation operations under this permit, the permittee shall ensure that the resources are not disturbed until authorization to do so is provided by OSMRE. Upon discovery of any such resources, the permittee shall immediately notify OSMRE of their nature and location. The permittee shall take the action specified by OSMRE to protect the resources.
10. APPEALS - The permittee may appeal any decision or action of any official of OSMRE under this permit in accordance with the applicable provisions of 30 CFR §§ 773.24(d)(2)(ii), 842.15(d), 843.16, 845.19, and 846.17(b), 30 CFR Part 775, and 43 CFR Part 4.
11. Federal Permit NM0003G renews and supercedes Federal Permit NM0003F last renewed on September 7, 2009, and re-issued to NTEC on February 4, 2014, as approved by OSMRE.

Issued by:



Date:

12-29-2015

Rick Williamson
Manager, Indian Program Branch
Office of Surface Mining Reclamation and Enforcement

Attachment A
SPECIAL PERMIT CONDITIONS
December 29, 2015

1. BLOCK "A" SOIL RESOURCES: Prior to the disturbance of Block "A" the permittee shall submit the completed soil profile descriptions for each of the separate areas in Block "A". The soil profile descriptions shall also include calculations of the total volume of suitable topdressing materials available within each individual block.
2. HYDROLOGIC MONITORING: NTEC must re-instate downstream monitoring at the ground water monitoring well QACW-2B location. Alluvial water quality and water level monitoring must also be reinstated upstream of both the Chinde Wash Diversion and the proposed mining activity. Upstream wells must be installed in the north (as close to the historic GM-17 location as possible), middle, and south forks of Chinde Wash, as close to the permit boundary as possible.
3. OSMRE's ESA Section 7 Consultation with the USFWS as related to the FCPP/NMEP resulted in the USFWS's April 8, 2015, issuance of a Biological Opinion (BO). The BO included seven Reasonable and Prudent Measures (RPMs) necessary to minimize impacts of incidental take of the Colorado pikeminnow, razorback sucker, southwestern willow flycatcher, and yellow-billed cuckoo. Additionally, the BO included Terms and Conditions for implementing the RPMs. For all RPMs and Terms and Conditions that are applicable to the Navajo Mine, NTEC must comply with all requirements therein.
4. OSMRE's NHPA Section 106 Consultation as related to the FCPP/NMEP resulted in the February 23, 2015, amendment of the previous Navajo Mine Programmatic Agreement (PA). This amended PA specifically addresses the Management of Historic Properties at Navajo Mine Area III, Area IV North, Area IV South, and the Burnham Road North and South Realignment. NTEC must comply with all requirements stipulated within the amended PA.