



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-0003F

May 16, 2013

Certified Mail Return Receipt Requested

Mr. Steve Perkins
BHP Navajo Coal Company
P.O. Box 1717
Fruitland, NM 87416

Re: Administrative Completeness Determination – Permit Transfer Application
Navajo Mine Permit NM-0003F
OSM Project Tracking Code: NM-0003-F-T-01
OSM ARMS¹ Mail Numbers: 13/05/06-01 & 13/05/13-01

Dear Mr. Perkins:

On April 29, 2013, the Navajo Nation Council passed legislation to form Navajo Transitional Energy Company (NTEC), a Navajo Nation owned Limited Liability Company (LLC) organized under the Navajo Nation's Limited Liability Company Act. The Navajo Nation has informed the Office of Surface Mining Reclamation and Enforcement (OSM) that they are seeking to purchase all interests in BHP Navajo Coal Company (BNCC) from BHP Billiton New Mexico Coal Company by July 1, 2013.

On May 3, 2013, the Office of Surface Mining Reclamation & Enforcement (OSM) received an application (ARMS 13/05/06-01) from BHP Navajo Coal Company (BNCC) (the current permittee) to transfer Permit NM-0003F to NTEC. NTEC (the new permittee), through its contract miner [BHP Billiton Mine Management Company (MMCo), a newly formed company of BHP New Mexico Coal, Inc.], intends to continue engaging in surface mining and reclamation activities at the Navajo Mine in accordance with the existing Surface Mining Control and Reclamation Act (SMCRA), Permit No. NM-0003F, the approved mine plan, and associated leases and rights of way. On May 10, 2013, BNCC provided information updating the permit transfer application (ARMS 13/05/13-01).

NTEC intends to acquire the current permittee for the Navajo Mine. As part of the transaction, BNCC, the current permit holder under the Surface Mine Control and Reclamation Act (SMCRA), would change its name to Navajo Mine Coal Company (NMCC) and covert NMCC into NMCC, LLC. NTEC would then purchase 100% of the equity in NMCC, LLC and merge the two companies, with NTEC, LLC as the surviving entity.

The May 3, 2013, submittal, as updated by the subsequent May 10, 2013, submittal, includes the following Appendices:

¹ Administrative Records Management System.

Appendix A- Notification of Name Change

Appendix B - Application for Permit Transfer Approval in Conjunction with Entity Conversion

Appendix C - Updated Ownership and Control Information

Appendix D - Application for Permit Transfer Approval in Conjunction with Merger

OSM has reviewed BNCC's proposed Permit Transfer Application and has subsequently determined the application to be 'administratively complete', as reflected in the attached OSM Administrative Completeness Review reports. In accordance with 30 CFR 774.17(b)(2), the applicant must now place an advertisement in newspapers of general circulation in the locality of the proposed surface mining and reclamation operation (i.e. the Navajo Times & the Farmington Daily Times). The advertisements must contain, at a minimum, the information required at 30 CFR 774.17(b)(2). As discussed, it is our understanding that these advertisements are planned to occur as follows: Farmington Daily Times (May 18, 19 & 26); Navajo Times (May 23 and 30). It is our further understanding that announcements (in both Navajo and English) on two local radio stations (KNDN & KTNN) will also commence on May 18 and continue daily for at least one week to May 25th then two times a week until June 10th.

Upon publication, please forward to me proof of publication documentation as a confirmation that these requirements have been met. As should be reflected in the language of these notices, the public comment period is to commence upon publication of the first notice (May 18, 2013) and end on June 17, 2013.

In accordance with the National Environmental Policy Act (NEPA), OSM has prepared a Draft Environmental Assessment (EA) to analyze the potential impacts that may occur with the transfer of the Navajo Mine from its current permittee (BNCC) to NTEC. The Draft EA will be made available to the public for review and comment along with the permit transfer application. The news paper notices and radio announcements indicated above (for the permit transfer application) must also include notification of the availability of the draft EA to the public during the same public comment period, i.e. May 18 through June 17, 2013.

As per OSM's review of the draft public notice BNCC had previously provided, it is OSM's understanding that BNCC will ensure that a copy of the permit application and OSM's Draft EA is to be made available for public inspection at the following locations:

The Navajo Nation
Minerals Department
Corner of Morgan Blvd. and Window Rock Blvd.
Window Rock, AZ 86515
(928) 871-6587

Tiis Tsoh Sikaad Chapter House
P.O. Box 7359
Newcomb, NM 87455
(505) 696-5471

Nenahnezad Chapter House
P.O. Box 438
Fruitland, NM 87416
(505) 960-6657

The Farmington Public Library
2101 Farmington Avenue
Farmington, NM 87401
(505) 599-1270

Office of Surface Mining Reclamation and Enforcement
1999 Broadway, Suite 3320
Denver, CO 80202-3050
(303) 293-5046

In addition to the above physical locations, OSM will make the permit transfer application and the EA available for public review and inspection on OSM's Western Region Homepage at: www.wrcc.osmre.gov/Current_Initiatives/Navajo_Mine/Permit_Transfer.shtm.

As a reminder, it is required that a copy of the application provided by BNCC at the locations listed above must be complete and made available for public review on or before the day the first newspaper notice is published, and remain so throughout the public comment period. Please be further advised that, should any subsequent changes to this application occur during the course of OSM's technical evaluation of the document, these modifications will also need to be made immediately available with the publicly available copy.

Your application will be reviewed for technical adequacy. Should you have any questions or need further clarification regarding OSM's review, please contact me via phone at 303-293-5049, or by email at myellowman@osmre.gov.

Sincerely,



Mychal Yellowman, Mine Team Leader
Indian Program Branch
Program Support Division
Western Region-OSM

Enclosure

cc: OSM, 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 (Burnham) Chapter no enclosure
Nenahnezad Chapter no enclosure