

**ADMINISTRATIVE COMPLETENESS REVIEW OF  
Legal and Financial**

**1. COMPANY: BHP Navajo Coal Company**

**2. MINE/OPERATION: Navajo Mine, Permit NM-0003F**

**3. TRACKING SYSTEM INFORMATION**

A. Mine Information Project Planning System (MIPPS):

B. Workload Assignment Tracking System (WATS):

C. Administrative Records Management System (ARMS): 13-05-06-01 & 13-05-13-01

D. Letterhead date of submittal: May 3, 2013 & May 10, 2013

**4. TYPE OF APPLICATION/DOCUMENT REVIEWED:**

Permit transfer, assignment, or rights sale application

**5. Evaluation:**

A. Review Criteria:

30 CFR 778.9 Certifying and updating existing permit application information

30 CFR 778.11 Providing applicant and operator information.

30 CFR 778.12 Providing permit history information.

30 CFR 778.13 Providing property interest information.

30 CFR 778.14 Providing violation information

30 CFR 778.15 Right of Entry information

30 CFR 778.17 Permit Term

30 CFR 779.24(b) Maps: General requirements

B. Materials Reviewed:

May 3, 2012 package, including Appendices A, B, C & D

Replacement package dated May 10, 2013 with renamed Attachments (formerly Appendices) A, B, C & D

C. [X]<sup>1</sup>No Omissions.

Discussion:

BHP Billiton Navajo Coal Company (BNCC) current owner and operator of Navajo Mine provided documentation for the transition of permit ownership ultimately to Navajo Transitional Energy Company (NTEC), LLC (a domestic Limited Liability Company formed under the Navajo Nation Limited Liability Act).

In each of the attachments, the entity holding the permit and the entity receiving the permit are

identified by legal entity organization type. Specifically, in Attachment A, BHP Navajo Coal Company (BNCC), a Delaware corporation, will change its name to Navajo Mine Coal Company (NMCC), also a Delaware corporation. In Attachment B, NMCC (corporation) will convert to Navajo Mine Coal Company, LLC (a Delaware Limited Liability Company). In Attachment C, Navajo Mine Coal Company, LLC will be acquired by Navajo Transitional Energy Company, LLC (a Navajo Nation Limited Liability company) as part of a stock sale. In Attachment D, Navajo Mine Coal Company, LLC will merge with Navajo Transitional Energy Company, LLC with the surviving entity being Navajo Transitional Energy Company, LLC.

Note that this review is an Administrative Completeness Review (ACR), which only verifies that information addressing each statutory requirement is received by OSM. At this stage of the review technical issues will not be identified due to the permit fee rules.

Each of the attachments includes organization charts of the current and proposed owning or controlling entities and their organizational family tree. The names and titles of entity officers or committee members have been provided in tabular form for each business entity. Each entity (Corporation or Limited Liability Company), their respective address, phone contact information and Federal Tax Identification Number (or application for a new entity) is listed in a table within each Attachment and in Section 1.1 of Attachment D. The resident agent for the proposed applicant and mine operator (contractor) is included in Section 1.1 of the text in Attachment D. Attachment D identifies the current applicant and the proposed entities that will own and/or control the Navajo Mine. This information administratively complies with 30 CFR 778.9.11, 12 & 13.

Violation history has been provided for each entity and organizational family member. This information is shown in Attachment D's Appendices 1-B. This information administratively complies with 30 CFR 778.14.

Each Attachment section in the submittal includes signed and notarized letter from a corporate officer or LLC Executive.

Sections 1.1.4 of Attachment D includes the names and addresses of all surface and mineral owners, customary use area assignees (interests), owners of the coal, oil and gas leases, Rights-of-way and easements. Sections 1.1.5 of Attachment D include the names and addresses of all surface and contiguous mineral owners, contiguous customary use area assignees (interests), contiguous owners of the coal, oil and gas leases, contiguous Rights-of-way and easements as shown on Exhibit 1-3 of the current permit. Sections 1.1.1.4.1 and 1.1.3 shows MSHA structure numbers for all related properties. This information administratively complies with 30 CFR 778.13.

Section 1.3 of Attachment D includes the specific information on the Right-of-Entry for the applicant to conduct surface coal mining and reclamation operations. This information administratively complies with 30 CFR 778.15.

Section 1.5 of Attachment D identifies a permit term of Five (5) years. This information administratively complies with 30 CFR 778.15.

30 CFR 779.24(b) requires that the boundary of this permit be shown, and as the mine boundary is not changing, all existing maps accurately reflect the existing Navajo Mine permit boundary.

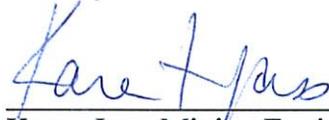
The bonding instrument and the liability insurance policy will be provided to OSM for review

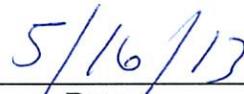
and will be in place prior to issuance of the transferred Navajo Mine permit. During the name changes to BHP entities, an amendment to both the letter of credit and surety bond agreement will be required by the newly-named owner the Navajo mine. Once NTEC purchases the equity, a new bond and surety agreement will be in place prior to OSM's issuance of the permit to NTEC. Also, a revision to the liability insurance policy will be required prior to each BHP name change, and ultimately a new policy will be required by NTEC prior the permit transfer.

**D. ASSIGNEE SIGNATURE/SURNAMES:**

The parts of the Navajo Mine permit application addressing companies involved in the name changes and permit transfer comply with their respective review criteria as shown in Part A.

A. Primary Reviewer:

  
\_\_\_\_\_  
Karen Jass, Mining Engineer

  
\_\_\_\_\_  
Date

B. Peer Reviewer:

  
\_\_\_\_\_  
Matthew Hulbert, Civil Engineer

  
\_\_\_\_\_  
Date

NOTE: AT THIS STAGE OF THE REVIEW TECHNICAL ISSUES WILL NOT BE IDENTIFIED DUE TO THE PERMIT FEE RULES AND THE THREE STAGES OF REVIEW FOR WHICH OSM IS AUTHORIZED TO COLLECT FEES.