



4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

**[S1D1S SS08011000 SX064A000 156S180110; S2D2S SS08011000 SX064A000
15XS501520]**

**Final Four Corners Power Plant and Navajo Mine Energy Project; Record of
Decision.**

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice of Availability; Record of Decision.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE) are announcing that the Record of Decision (ROD) for the Four Corners Power Plant (FCPP) and Navajo Mine Energy Project is available for public review. The Deputy Secretary for the Department of the Interior, Director of OSMRE, Director of the Bureau of Indian Affairs (BIA) and the Director of the Bureau of Land Management (BLM) signed the ROD on [July 15, 2015], which constitutes the final decision of the Department.

ADDRESSES: You may review the ROD online via OSMRE's website at: http://www.wrcc.osmre.gov/Current_Initiatives/FCNAVPRJ/FCPPEIS.shtm. Copies of the ROD are available to the public at the OSMRE's Western Region office, located at

1999 Broadway, Suite 3320, Denver, Colorado 80202-5733. Paper and CD copies of the ROD are also available at the following locations:

Navajo Nation Library – Highway 264 Loop Road, Window Rock, AZ 86515

Navajo Nation Division of Natural Resources – Executive Office Building 1-2636, Window Rock Blvd., Window Rock, AZ 86515

Hopi Public Mobile Library – 1 Main Street, Kykotsmovi, AZ 86039

Albuquerque Main Library – 501 Copper Ave., NW, Albuquerque, NM 87102

Cortez Public Library – 202 N. Park Street, Cortez, CO 81321

Durango Public Library – 1900 E. Third Ave., Durango, CO 81301

Farmington Public Library – 2101 Farmington Ave., Farmington, NM 87401

Octavia Fellin Public Library – 115 W. Hill Ave., Gallup, NM 87301

Shiprock Branch Library – U.S. Highway 491, Shiprock, NM 87420

Tuba City Public Library – 78 Main Street, Tuba City, AZ 86045

Chinle Chapter House – Highway 191, Chinle, AZ 86503

Coalmine Canyon Chapter House – Highway 160 and Main Street, Tuba City, AZ 86045

Nenahnezad Chapter House – County Road 6675, Navajo Route 365, Fruitland, NM 87416

Shiprock Chapter House – East on Highway 64, Shiprock, NM 87420

Tiis Tsoh Sikaad Chapter House – 12 miles east of U.S. 491 on Navajo Route 5 and ½ mile south on Navajo Route 5080

Upper Fruitland Chapter House – N562 Building #006-001, North of Highway N36, Fruitland, NM 87416

BLM Rio Puerco Field Office - 435 Montano Road, NE, Albuquerque, NM 87107

BIA Navajo Region – 301 West Hill Street, Gallup, NM 87301

BIA Chinle Office – Navajo Route 7, Building 136-C, Chinle, AZ 86503

BIA Eastern Navajo Office – Highland Road Code Talker Street, Building 222,
Crownpoint, NM 87313

BIA Fort Defiance Office – Bonita Drive, Building 251-3, Fort Defiance, AZ
86504

BIA Ramah Office – HC-61, Box 14, Ramah, NM 87321

BIA Shiprock Office – Nataani Nez Complex Building, Second Floor, Highway
491 South, Shiprock, NM 87420

BIA Southern Pueblos Office – 1001 Indian School Road, NW, Albuquerque, NM
87104

BIA Southern Ute Office – 383 Ute Road, Building 1, Ignacio, CO 81137

BIA Ute Mountain Ute Office – Phillip Coyote Sr. Memorial Hall, 440 Sunset
Blvd., Towaoc, CO 81334

BIA Western Navajo Agency – East Highway 160 and Warrior Drive, Tuba City,
AZ 86045

In addition, a limited number of CD copies of the FEIS have been prepared and are available upon request. Because of the time and expense in producing and mailing CD and paper copies, OSMRE requests that the public review the Internet or publicly available copies, if possible. You may obtain a CD by contacting the person identified in **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: For further information contact Mychal Yellowman, Project Coordinator, telephone: 303-293-5049; address: 1999 Broadway, Suite 3320, Denver, Colorado 80202-5733; email: myellowman@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Project
- II. Background on the Four Corners Power Plant
- III. Background on the Pinabete Mine Permit and the Navajo Mine Permit Renewal
- IV. Alternatives
- V. Response to Public Comment

I. Background on the Project

The purpose of the Proposed Action is to allow continued operations of the FCPP and Navajo Mine and operation of the associated transmission lines. The Proposed Action would be 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 Final Environmental Impact Statement (FEIS) evaluates the direct, indirect, and cumulative impacts of the Proposed Action at the FCPP, the proposed Pinabete Permit area, the existing Navajo Mine Permit area, and the rights-of-way renewals for segments of four transmission lines that transmit power from the FCPP. The public may view information about the Proposed Action on OSMRE's website at:

http://www.wrcc.osmre.gov/Current_Initiatives/FCNAVPRJ/FCPPEIS.shtm.

Cooperating agencies for this National Environmental Policy Act (NEPA) process include: the Bureau of Indian Affairs (BIA), the Bureau of Land Management (BLM),

the U.S. Environmental Protection Agency (USEPA), the U.S. Fish and Wildlife Service (USFWS), the National Park Service (NPS), the U.S. Army Corps of Engineers (USACE), the Navajo Nation, and the Hopi Tribe.

OSMRE complied with Section 106 of the National Historic Preservation Act (54 U.S.C. 300101 et seq.) (NHPA Section 106) as provided for in 36 CFR 800.2(d)(3) concurrent with the NEPA process, including public involvement requirements and consultation with the State Historic Preservation Officer and Tribal Historic Preservation Officer. Consultation with Tribes and individual Native Americans were conducted in accordance with applicable laws, regulations, and Department of the Interior (DOI) trust policy as summarized in the FEIS. Consultation is complete and Programmatic Agreements have been signed by the consulting parties. These agreements are included as attachments to the FEIS.

OSMRE also conducted formal consultation with the USFWS pursuant to Section 7 of the Endangered Species Act (ESA; 16 U.S.C. 1536) and associated implementing regulations (50 CFR Part 400). This formal consultation considered direct, indirect, and cumulative effects from the Proposed Action, and USFWS prepared a Biological Opinion which is included as an attachment to the FEIS.

Federal actions related to FCPP and Navajo Mine Energy Project will comply with all applicable laws and regulations, including: the Indian Business Site Leasing Act, 25 U.S.C. 415; the General Right-of-Way Act of 1948, 25 U.S.C. 323-328; the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201-1328; the Clean Water Act, 33 U.S.C. 1251-1387; the Clean Air Act, 42 U.S.C. 7401-7671q; the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3001-3013; and

Executive Orders relating to Environmental Justice, Sacred Sites, and Government-to-Government Consultation.

II. Background on Lease Amendment No. 3 at the Four Corners Power Plant

The FCPP is a coal-fired electric generating station located on Navajo tribal trust lands. FCPP currently includes two energy generation units producing approximately 1,500 megawatts, and provides power to more than 500,000 customers throughout the southwestern U.S. Nearly 80 percent of the employees at the plant are Native American. Arizona Public Service (APS) operates the FCPP and executed a lease amendment (Lease Amendment No. 3) with the Navajo Nation to extend the term of the FCPP lease for an additional 25 years, to 2041. Continued operation of the FCPP would require several federal actions, including:

- BIA approval of Lease Amendment No.3 for the FCPP, pursuant to 25 U.S.C. 415. As approved, the ash disposal area would be expanded within the existing FCPP lease area. There are no additional proposed changes to the FCPP, the switch yard, or any of the transmission lines and ancillary facilities, as part of the Proposed Action.
- BIA issuance of renewed rights-of-way, pursuant to 25 U.S.C. 323, for the continued operation of the FCPP, switchyard, and ancillary facilities; for a 500 kilovolt (kV) transmission line and two 345 kV transmission lines; and for ancillary transmission line facilities, including the Moenkopi Switchyard, an associated 12 kV line, and an access road (collectively the "existing facilities"). These existing facilities are located on Navajo tribal trust lands, except for the 500 kV transmission line, which crosses both Navajo and Hopi tribal trust lands. The

Proposed Action would continue operation and maintenance of these facilities.

No upgrades to the existing facilities are part of the Proposed Action.

- BIA issuance of renewed rights-of-way to the Public Service of New Mexico (PNM) for the existing 345 kV transmission line. The transmission line will continue to be maintained and operated as part of the Proposed Action. No upgrades to this transmission line are planned as part of the Proposed Action.

In August 2012, the USEPA published its Federal Implementation Plan (FIP) for the Best Available Retrofit Technology (BART) at FCPP (40 CFR 49.5512). As a result, APS decommissioned Units 1, 2, and 3 at the FCPP in December 2013, and will install selective catalytic reduction equipment on Units 4 and 5 by 2018.

III. Background on Pinabete Mine Permit and the Navajo Mine Permit Renewal

NTEC proposes to conduct surface coal mining operations within a new 5,659-acre permit area, called the Pinabete Permit area. This proposed permit area lies within the boundaries of the existing Navajo Mine lease, which is located adjacent to the FCPP on Navajo tribal trust lands. Surface mining operations would occur on an approximately 2,744-acre portion of the proposed Pinabete Permit area, with a total disturbance footprint, including staging areas, of approximately 4,100 acres. The proposed Pinabete Permit area would, in conjunction with the mining of any reserves remaining within the existing Navajo Mine Permit area (Federal SMCRA Permit NM0003F), supply low-sulfur coal to the FCPP at a rate of approximately 5.8 million tons per year.

Development of the Pinabete 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. The proposed Pinabete Permit area would include previously permitted but undeveloped coal reserves within Area IV North of the Navajo Mine Lease, and unpermitted and undeveloped coal reserves in a portion of Area IV South of the existing Navajo Mine Lease. Approval of the proposed Pinabete Permit would require several federal actions, including:

- OSMRE approval of the new SMCRA permit.
- BLM approval of a revised Mine Plan developed for the proposed maximum economic recovery of coal reserves.
- USACE approval of a Section 404 Individual Permit for impacts to waters of the United States from proposed mining activities.
- USEPA approval of a new source Section 402 National Pollutant Discharge Elimination System (NPDES) Industrial Permit associated with the mining and reclamation operations and coal preparation facilities.
- BIA approval of a proposed realignment for approximately 2.8 miles of BIA 3005/Navajo Road N-5082 (Burnham Road) in Area IV South to avoid proposed mining areas. This realignment would not be needed until 2022; however, the potential impacts of this realignment are analyzed in the FEIS.
- BIA approval or grant of permits or rights-of-way for access and haul roads, power supply for operations, and related facilities.

In addition, in 2014, OSMRE administratively delayed its decision on NTEC's renewal application for its existing Navajo Mine SMCRA Permit No. NM00003F. The EIS, therefore, also addresses alternatives and direct, indirect, and cumulative impacts of

the 2014 renewal application action.

IV. Alternatives

Alternatives considered in the EIS include three different mine plan configurations at Navajo Mine; implementing highwall or longwall mining techniques at the Navajo Mine; two different ash disposal facility configurations at FCPP; conversion of FCPP to a renewable energy plant; implementing carbon capture and storage at FCPP; and use of an off-site coal supply option for FCPP.

V. Revisions to the Draft EIS

In accordance with the CEQ's regulations for implementing NEPA and the DOI's NEPA regulations, OSMRE solicited public comments on the Draft EIS.

OSMRE responses to comments are included in Appendix F of the FEIS.

Comments on the Draft EIS received from the public were considered and incorporated as appropriate into the FEIS. Public comments resulted in the addition of clarifying text, but did not change any of the impact analyses or significance determinations.

In addition, the FEIS includes updates based on evolving regulatory guidance and completion of the Section 106 and Section 7 consultation processes.

The EPA published the Notice of Availability of the Final Environmental Impact Statement in the Federal Register by the OSMRE (80 FR 24965) on May 1, 2015. Printed and CD copies of the Draft EIS and Final EIS are available at the same locations as listed in **ADDRESSES** above. The ROD conditions OSMRE, BIA and BLM's approval on all mitigation measures identified in the Final EIS and additional mitigation measures identified in the Final Biological Opinion and the

ROD.

Because BIA's and BLM's decision is approved by the Secretary of the Interior, it is not subject to administrative appeal in accordance with the regulations at 43 CFR 4.410(a)(3). Any challenges to BIA & BLM's decisions, must be brought in federal district court. OSMRE's decisions may be appealed by a person with an interest which is or may be adversely affected under the procedures set forth in 30 CFR 775 and 43 CFR Part 4.

Dated: July 15, 2015.

Joseph G. Pizarchik

Director, Office of Surface Mining Reclamation and Enforcement

AUTHORITY: 40 CFR 1506.6, 40 CFR 1506.10

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