

**United States Department of the Interior Office of Surface Mining Reclamation
and Enforcement**

**Navajo Transitional Energy Company's Navajo Mine No Name Surface Mining
Control and Reclamation Act Permit Application**

Record of Decision

EISX-010-08-000-1765812420

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1 INTRODUCTION

The Office of Surface Mining Reclamation and Enforcement (OSM) Western Region, Interior Regions 5 & 7-11, has prepared an Environmental Impact Statement (EIS) to disclose and analyze the potential effects on the environment of issuing a Surface Mining Control and Reclamation Act of 1977 (SMCRA) permit for new surface coal mining and reclamation operations located adjacent to the southern boundary of the Navajo Transitional Energy Company's (NTEC) existing Navajo Mine (Bureau of Indian Affairs (BIA) Mine Lease No. 14-20-603-25205 and OSM Permit No. NM-0043A), hereafter referred to as the No Name Permit Area or Project Area, to secure and maximize coal resources through the Navajo Mine's life of mine.

Three alternatives are evaluated in detail in the EIS: Alternative 1 – No Action, Alternative 2 – Proposed Action, and Alternative 3 – Avoid Pinabete Arroyo.

Under Alternative 1 – No Action, OSM would not approve the No Name SMCRA permit application, and the area of the No Name Permit Area would not be disturbed. Under Alternative 2 - Proposed Action, OSM would approve NTEC's application to develop the No Name Permit Area for surface coal mining and reclamation operations within the Navajo Mine Lease Area. The coal mined from the No Name Permit Area would be used to fulfill NTEC's coal sale obligations to the Four Corners Power Plant through 2041, in five-year permit renewal increments, as well as maximize coal resources through the proposed life of the mine. NTEC submitted two potential mine plans for the proposed SMCRA permit, which both propose to mine 502,984,700 tons of coal but at different rates, depending on demand [a low demand scenario of 5 million tons per year (tpy) and a high demand scenario of 15 million tpy]. Under the high demand scenario, all the same mining methods, access roads, arroyo diversions and reclamation would occur as under the low demand scenario, just at a greater intensity and for a shorter duration. Under Alternative 3 – Avoid Pinabete Arroyo, OSM would approve the No Name SMCRA permit application with the condition that mining and reclamation avoid the Pinabete Arroyo. Under this alternative, there would be no need to install the Pinabete Diversion or East Diversion, as described for the Proposed Action, but NTEC would need to install a bridge over or crossing through the Pinabete Arroyo. All mining methods and reclamation would occur as described for the Proposed Action although for a shorter overall duration than described for the Proposed Action, and a lower total volume of coal to be mined.

OSM issued a Notice of Intent (NOI) to prepare an EIS on January 15, 2026, initiating a 20-day public scoping period, which also included a public meeting held at the Navajo Nation Tiis Tsoh Sikaad (Burnham) Chapter House on January 29, 2026.

1.1 Project Location and Background

The Navajo Mine is located entirely on Navajo Nation lands in western San Juan County in the northwest corner of New Mexico. The mine is just south of the San Juan River at Fruitland, New Mexico, and extends south for approximately 24 miles (Figure 1.1-1). The mine lease is subdivided into six administrative areas known as Areas 1, 2, 3, 4 North, 4 South, and 5. NTEC is currently mining in Area 4 North and a portion of Area 4 South under an existing SMCRA permit named the Pinabete Permit. The No Name Permit Area (the Project Area) would cover the rest of Area 4 South and Area 5, adjacent to the southern boundary of the Pinabete Permit area

(Figure 1.1-1). No Name Permit mining offices would be located approximately 10 miles north of Navajo Nation Tiis Tsoh Sikaad (Burnham) Chapter House, approximately 18 miles south of Fruitland, New Mexico, and approximately 22 miles southwest of Farmington, New Mexico.

The Navajo Nation owns the surface and mineral rights of the entire Navajo Mine Lease Area and the permit areas located within it. The Navajo Nation granted a 24,000-acre coal lease in July 1957, which was later increased to approximately 33,600 acres. On April 29, 2013, the Navajo Nation Council formed NTEC, and on December 30, 2013, NTEC acquired 100% of the equity of the Navajo Mine. The lease grants NTEC the right to mine within the lease area, but a SMCRA permit is required to conduct mining and reclamation operations. NTEC proposes to develop a new 11,526-acre No Name Permit Area within the existing Navajo Mine Lease Area. The proposed No Name Permit Area would include Area 4 South and Area 5 of the Navajo Mine Lease Area, located south of the currently approved Pinabete Permit operating area.

Development of the No Name Permit Area and associated coal reserves would use surface mining methods. Currently, all coal mined at the Navajo Mine is sold to the adjacent Four Corners Power Plant. The operational lease for the Four Corners Power Plant ends in 2041; therefore, for the purposes of analysis in this EIS, OSM assumes that operation of the Four Corners Power Plant would end in 2041. Any changes to the lease for Four Corners Power Plant, such as extending the lease so that operations could continue into the future, are unknowable and speculative. Accordingly, it is anticipated that coal mined from the No Name Permit Area would supply the Four Corners Power Plant through 2041. Past 2041, while it is reasonably foreseeable that the coal will be produced and combusted, it is not possible to know to whom the coal may be sold, including the location of any potential future customers.

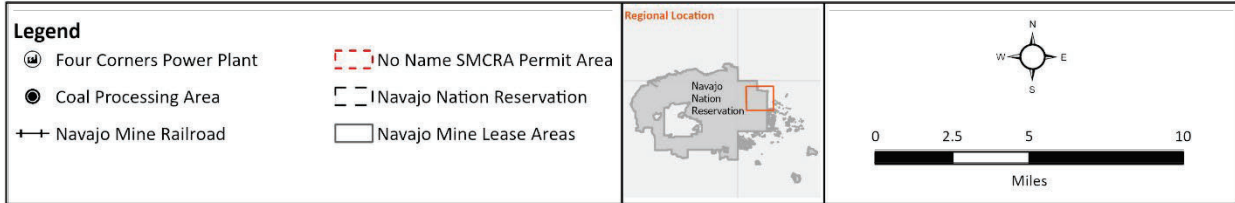
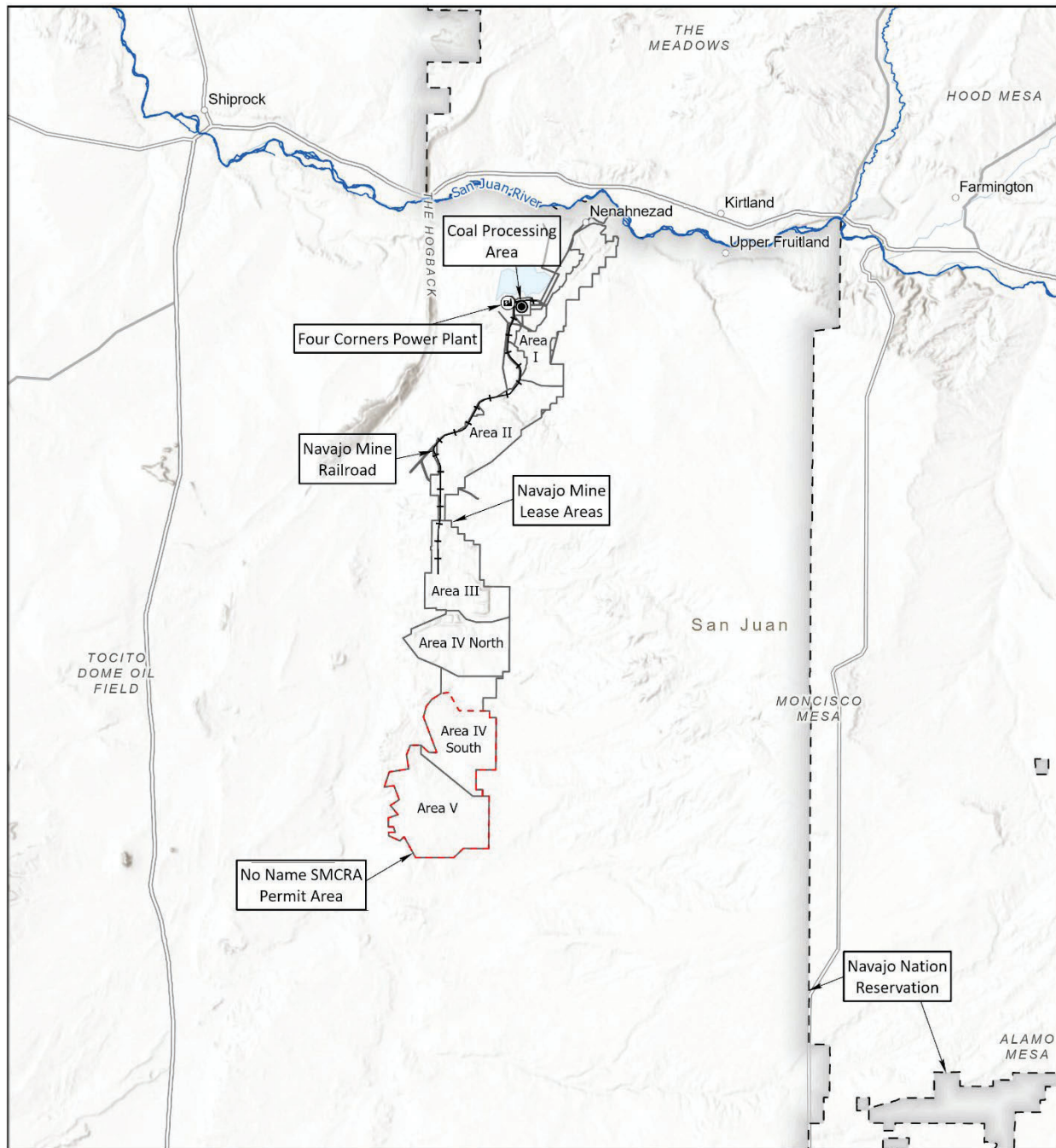


Figure 1.1-1. Project Location Map

1.2 Purpose and Need

OSM's purpose and need for the EIS is for OSM to analyze NTEC's SMCRA permit application package to mine Navajo Nation coal on approximately 11,526 acres from Areas 4 South and 5 within the Navajo Mine Lease Area (BIA 14-20-603-2505) (the Project).

Under the Department's Handbook of National Environmental Policy Act Implementing Procedures, 516 DM 1 Section 2.2, "when the proposed action concerns a bureau's duty to act on an application for authorization, the purpose and need for the proposed action will also be informed by the goals of the applicant." Here, NTEC informed OSM that NTEC's goal is to exercise its valid existing rights granted by the Navajo Nation under BIA Mine Lease No. 14-20-603-25205 to access and mine Navajo Nation coal resources, to continue to provide coal to the Four Corners Power Plant for the duration of operations there, and to provide coal to future customers if the Four Corners Power Plant shuts down. NTEC was created by the Navajo Nation to exercise sovereignty over its natural resources.

1.3 Agency Authority and Actions

OSM is the lead agency directing this NEPA analysis. Using NTEC's No Name SMCRA permit application package and the NEPA analysis provided herein, OSM will decide whether to approve, disapprove, or approve with conditions the new SMCRA permit.

OSM invited the U.S. Army Corps of Engineers, the National Park Service, U.S. Department of Agriculture Natural Resource Conservation Service, U.S. Environmental Protection Agency (USEPA), U.S. Bureau of Land Management (BLM), BIA, the Navajo Nation Department of Agriculture, the Navajo Nation Mineral Program, the Navajo Nation Department of Fish and Wildlife (NNDFW), Navajo Division of Transportation, Mine Health and Safety Administration, and the Navajo Nation Environmental Protection Agency to be cooperating agencies. Of these agencies, MSHA declined and BLM, USEPA, Navajo Nation Department of Agriculture, Navajo Nation Mineral Program, and NNDFW agreed to be cooperating agencies under NEPA. No response was received from the other agencies.

USEPA Region IX oversees NTEC's Section 402 National Pollutant Discharge Elimination System (NPDES) Industrial Permit associated with mining and reclamation operations and coal preparation facilities at the Navajo Mine. USEPA issued a final NPDES permit for the Navajo Mine on May 2, 2025, which became effective June 1, 2025, and covers the entire Navajo Mine lease area, including the Project area. USEPA also reviewed this EIS as required by Section 309 of the Clean Air Act and has posted its comment letter in its EIS database. BLM's responsibility is to ensure that the resource recovery and protection plan submitted by NTEC meets the requirements of the Indian Mineral Leasing Act for the proposed maximum economic recovery of the coal reserves. The Navajo Nation Department of Agriculture, Navajo National Department of Fish and Wildlife, and Navajo Nation Mineral Program reviewed and commented on the SMCRA permit application and provided technical assistance for the EIS.

1.4 Public Involvement

OSM initiated a scoping process for this EIS with the publication of a Notice of Intent in the *Federal Register* on January 15, 2026 (91 FR 1814). The scoping period occurred from January 15 to February 4, 2026. In addition to the *Federal Register* notice, OSM published a public notice in the *Tri-City Record* on January 14, 2026, and the *Navajo Times* on January 15, 2026.

OSM also sent a notification letter to 243 stakeholders in the vicinity of the Project Area, including county, state, and federal agencies, as well as non-governmental organizations. The public notices and stakeholder letters provided information on the proposed action, the scoping meeting, how to submit comments, and a weblink to the project website.

OSM held a public scoping meeting on January 29, 2026, at the Navajo Nation Tiis Tsoh Sikaad (Burnham) Chapter House. Ninety people attended the scoping meeting.

OSM received 37 comments during the public scoping period: 12 comments via e-mail, seven written comments during the scoping meeting, and 18 oral comments during the scoping meeting. Three additional comments were received via mail after the scoping deadline and were also reviewed in the preparation of this EIS. Some commentors provided both oral and written comments. There were 32 unique commentors.

The majority of the comments expressed either general support or opposition to the Project and did not include substantive information or requests for analyses in the EIS. Twelve commentors expressed support for the Project, and ten commentors expressed opposition to the Project. Commentors identified the following issues that were reviewed and addressed in the EIS:

- Impacts to air quality, including from fugitive dust emissions, hazardous air pollutants, greenhouse gas emissions and conformance with the National Ambient Air Quality Standards (NAAQS)
- Impacts to human health and safety, including mine workers and nearby population
- Impacts to livestock grazing
- Impacts to occupied dwellings in the Project Area
- Impacts to hydrology, including surface and groundwater quality and quantity
- Impacts to listed species, sensitive habitats (e.g., riparian areas)
- Compliance with National Historic Preservation Act (NHPA) Section 106 consultation and impacts to cultural resources
- Potential for the spread of invasive species and measures to reduce spread of invasive species
- Economic impacts of the no action alternative and economic contribution of the mine
- Reasonable alternatives to the Proposed Action

Multiple commentors also requested analysis of impacts associated with current and future operation of the Four Corners Power Plant, including such aspects as disposal of coal combustion residues and water supply and discharge associated with the power plant. The Project does not include any changes to the current operations of the Four Corners Power Plant, nor does it include extending the life of the Four Corners Power Plant. It is speculative where coal will be combusted post-2041. Accordingly, no additional analysis of the potential impacts of ongoing operation of the Four Corners Power Plant was conducted as part of this EIS.

2 OSM DECISION

OSM's decision is to approve NTEC's SMCRA permit application package, as modified through OSM's technical review process to fully comply with all SMCRA requirements,, analyzed as Alternative 2 – Proposed Action in the EIS because this alternative is consistent with SMCRA and the implementing regulations, best supports the purpose and need for the proposed action,

the goals of the applicant, and national policy to encourage energy production. OSM based its decision on a thorough review of the EIS; the requirements of SMCRA and its implementing regulations; public input; consultation with Federal and tribal regulatory agencies; and consultation with affected tribes. Section 4 describes the relevant factors considered by OSM, including environmental, economic, and law and national policy considerations.

OSM conducted the NEPA analyses and complied with NEPA (42 U.S.C. §§ 4321 *et seq.*); DOI's NEPA regulations (43 CFR Part 46) and the DOI Handbook of NEPA Implementing Procedures (516 Departmental Manual 1); and other applicable guidance and policy documents. All stakeholders' concerns and comments during the NEPA process have been considered and satisfactorily addressed.

3 ALTERNATIVES

Five alternatives were considered in the screening analysis, and three alternatives were carried through for full analysis in the EIS. The following alternatives are analyzed fully in this EIS: Alternative 1 – No Action; Alternative 2 – Proposed Action; and Alternative 3 – Avoid Pinabete Arroyo. The three alternatives carried through for full analysis are described below, beginning with the Preferred Alternative (Alternative 2 – the Proposed Action), followed by a description of the alternatives considered but eliminated from full analysis.

3.1 Description of Preferred Alternative: Alternative 2 – Proposed Action

Under Alternative 2 – Proposed Action, which is described in detail in Section 2.2 of the EIS, OSM would approve NTEC's SMCRA permit application to develop the No Name Permit Area for surface coal mining and reclamation operations within the Navajo Mine. The No Name Permit Area would be used to fulfill NTEC's coal sale obligations to the Four Corners Power Plant through 2041 as well as maximize coal resources through the proposed life of the mine, including reclamation, in five-year permit renewal increments. Because it is not possible to know the exact rate of future mining, NTEC submitted two potential mine plans for the proposed SMCRA permit, which both propose to mine 502,984,700 tons of coal but at different mining rates, depending on demand (Table 3.1-1). Figure 3.1-1 provides a map showing the sequence of disturbance in the Project Area by permit term under the low demand scenario (5 million tpy mine plan), and Figure 3.1-2 depicts the sequence of disturbance under the high demand scenario (15 million tpy mine plan). Under the high demand scenario all the same mining methods, proposed access roads, arroyo diversions and reclamation would occur as under the low demand scenario, just at a greater intensity.

During the first permit term, coal mined in the Project Area would supplement coal mined in Area 4 North (located within the Pinabete Permit Area) to deliver 5.8 million tpy to the Four Corners Power Plant in accordance with the current contractual obligations. The current lease for the Four Corners Power Plant will end in 2041; therefore, for the purposes of analysis in the EIS, OSM assumes that Four Corners Power Plant will cease operations after 2041 and the coal produced from the No Name Mine will be sold for combustion but that the purchaser of the coal post-2041 is not knowable. Because it is reasonably foreseeable that the coal mined in the Project Area will be maximized and combusted but the exact location is not knowable, this EIS evaluates the reasonably foreseeable combustion of coal mined from the Project Area, using the Four Corners Power Plant as a surrogate for calculating emissions.

Table 3.1-1. Alternative 2 – Proposed Action Coal Production and Disturbance Acreage

Permit Term	Year	Acres Disturbed under Low Demand Scenario	Tons Mined under Low Demand Scenario	Acres Disturbed under High Demand Scenario	Tons Mined under High Demand Scenario
1	2026-2031	32	984,700	32	984,700
2	2032-2036	375	25,000,000	375	25,000,000
3	2037-2041	422	25,000,000	1,278	75,000,000
4	2042-2046	351	25,000,000	1,220	75,000,000
5	2047-2051	330	25,000,000	1,420	75,000,000
6	2052-2056	329	25,000,000	1,254	75,000,000
7	2057-2061	325	25,000,000	1,625	75,000,000
8	2062-2066	290	25,000,000	1,262	75,000,000
9	2067-2071	223	25,000,000	576	27,000,000*
10	2072-2076	214	25,000,000	N/A	N/A
11	2077-2081	366	25,000,000	N/A	N/A
12	2082-2086	525	25,000,000	N/A	N/A
13	2087-2091	734	25,000,000	N/A	N/A
14	2092-2096	712	25,000,000	N/A	N/A
15	2097-2101	688	25,000,000	N/A	N/A
16	2102-2106	578	25,000,000	N/A	N/A
17	2107-2111	539	25,000,000	N/A	N/A
18	2112-2116	600	25,000,000	N/A	N/A
19	2117-2121	684	25,000,000	N/A	N/A
20	2122-2126	369	25,000,000	N/A	N/A
21	2127-2131	295	25,000,000	N/A	N/A
22	2132-2136	61	2,000,000	N/A	N/A
	TOTAL	9,042	502,984,700	9,042	502,984,700

N/A – not applicable as there would be no mining within these years, *under this scenario, mining would be completed by 2068.

3.1.1 Mining Methods

Mining operations at the Navajo Mine are typically 24-hours per day, 5 days per week, which is expected to continue over the duration of the proposed permit. The public would have no access to the active permit areas. As mining progresses, NTEC will adjust and build fences for permittees and their cattle or other livestock so that they remain at least 1,800 feet outside the

active disturbance area. These disturbed areas should remain inaccessible until the reclamation liability has been achieved.

The methods for mining the coal would be the same methods NTEC has used to mine all active permit areas in the Navajo Mine, which involves surface coal mining adapted for multiple coal seam mining. The coal seams would be exposed in pits that typically range from 100 to 200 feet in width and no less than 1,000 feet long. The seams would be mined at a depth of 5 to 250 feet below surface. Each pit would be stripped by walking draglines in parallel cuts called “strips”. The typical sequence of multiple seam mining is as follows: 1) vegetation and topdressing removal (where these materials exist); 2) overburden drilling and blasting; 3) overburden stripping; 4) coal mining and hauling; 5) interburden drilling and blasting; 6) interburden stripping; and 7) coal mining and hauling. Steps 5 through 7 would be repeated for each economically recoverable coal seam.

The locations of project components, including soil stockpiles, sediment ponds, arroyo diversions, and relocated roads are shown in Figure 3.1-3.

3.1.2 Access Roads

NTEC proposes to construct one primary road, named West Haul Road, which would be 774-feet long and 72-feet wide (Figure 3.1-3). The proposed road would be constructed of gravel/dirt and have a maximum grade of 8.4%. NTEC would construct new ancillary and primary roads as needed, during the permit period.

In addition to construction of new roads, the Project would require relocating approximately seven miles of Burnham Road (BIA 5082) that currently crosses through the Project Area in order to facilitate mining activities and ensure public safety. The relocated segment of Burnham Road would be fully within the Navajo Mine Lease Area along the eastern boundary and reconnected to the existing road (Figure 3.1-3). The relocated segment of Burnham Road would include two 12-foot-wide lanes, with 6-foot-wide shoulders. The realigned road segment would intersect 10 drainages where galvanized steel pipes would be used as culverts. The relocation of Burnham Road is proposed in stages based on the progression of the mining pits and would extend the length of the road within the Project Area from 7 miles to 9.6 miles. All permanent and temporary roadside signs would be placed in accordance with the latest edition of the Manual of Uniform Traffic Control Devices for Streets and Highways.

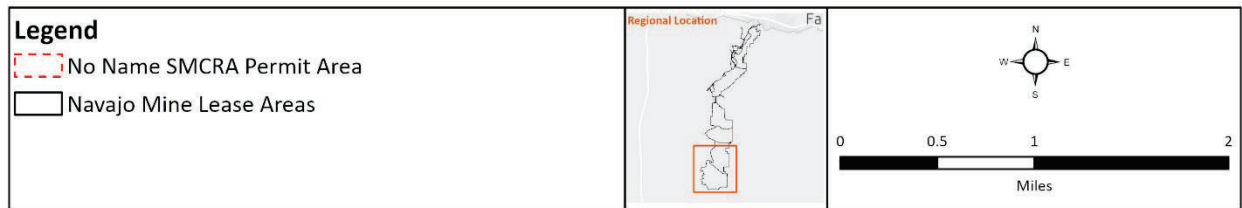
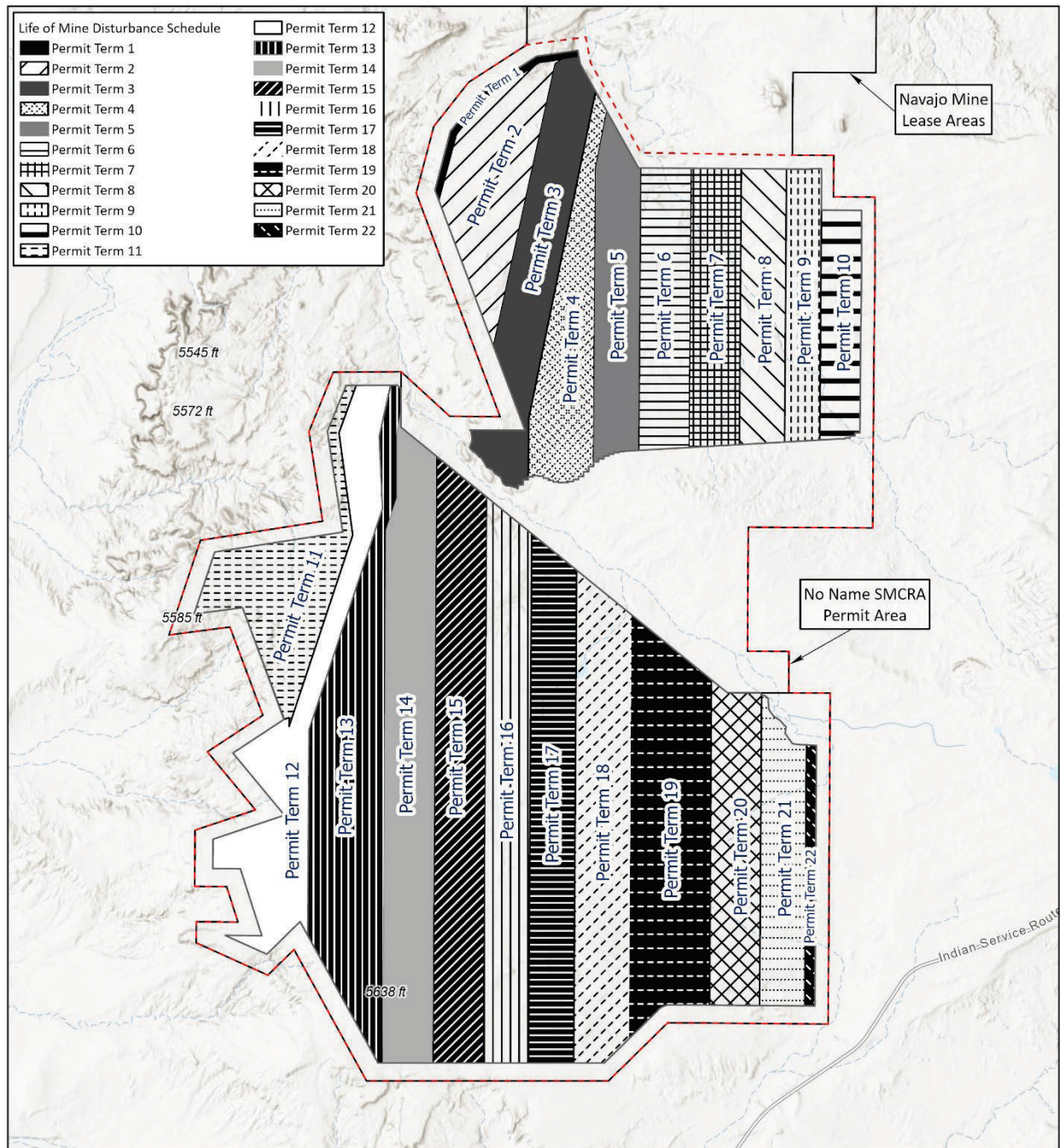


Figure 3.1-1. Proposed Mining Sequence and Disturbance by Permit Term under Low Demand Scenario

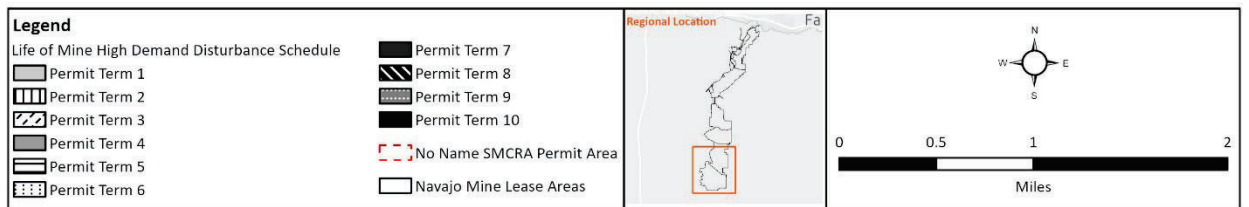
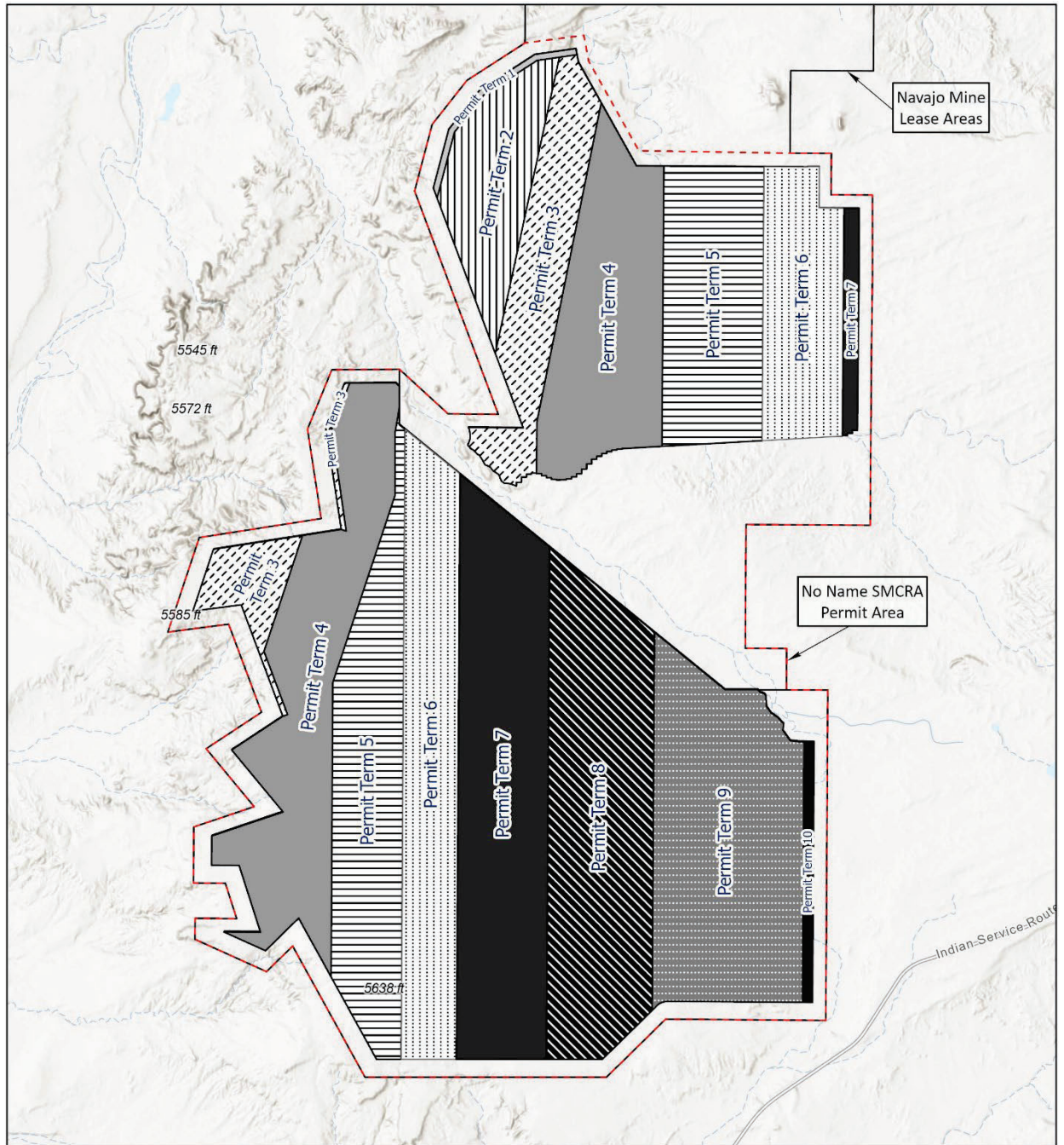


Figure 3.1-2. Proposed Mining Sequence and Disturbance by Permit Term under High Demand Scenario

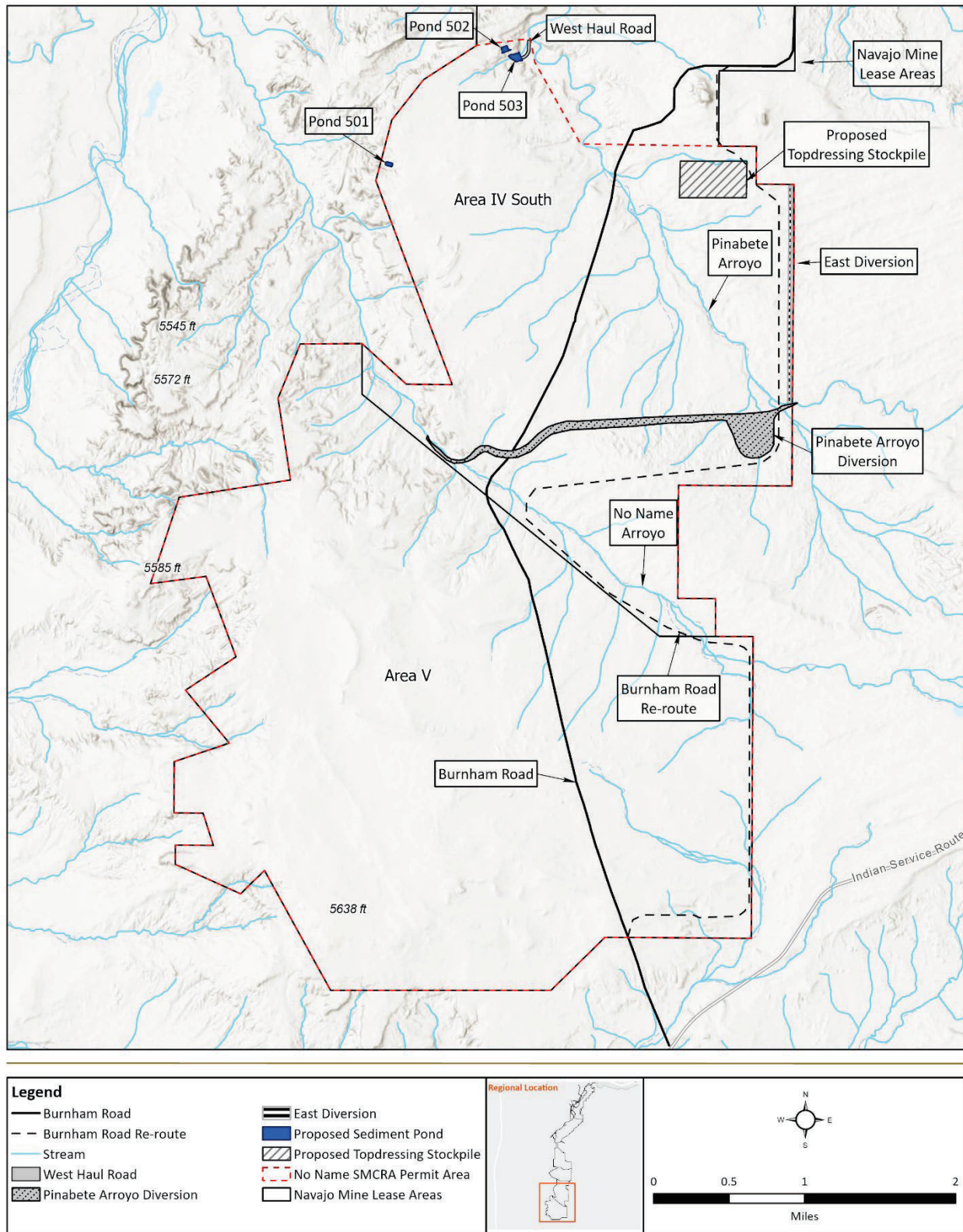


Figure 3.1-3. Location of Project Components within the No Name SMCRA Permit Area

3.1.3 Arroyo Diversions

The mine plan involves mining through the segment of Pinabete Arroyo that crosses Area 4 South, which would require that the stream flow be temporarily diverted around the proposed mining operations through a diversion channel located along the south side of Area 4 South into No Name Arroyo and installation of a second diversion ditch to divert flows from entering the mining area. Both diversions would be designed to accommodate flows from a 100-year, 6-hour storm event.

The Pinabete Diversion would tie into the Pinabete Arroyo approximately 200 feet west of the eastern Navajo Mine Lease Area boundary in Area 4 South and tie into the No Name Arroyo approximately 2,500 feet downstream of the No Name Impoundment. The Pinabete Diversion would be approximately 15,100 linear feet long with several meanders to avoid deep cuts and to work in conjunction with existing drainage.

NTEC proposes installing the East Diversion on the east side of the Project Area in Area 4 South, approximately 150 feet west from the eastern permit boundary line to provide sufficient space to construct the relocated Burnham Road segment. The East Diversion would divert surface water from an area of approximately 2.74 square miles upgradient and east of Area 4 South that would otherwise flow into the proposed mining area (Figure 3.1-3). The East Diversion would be 7,748 feet in length and end at Pinabete Arroyo, where it joins the Pinabete Diversion.

3.1.4 Reclamation

The postmining land use for the Project Area, developed in agreement with the Navajo Nation and BIA, has been designated as rangeland for the grazing of domestic livestock and wildlife habitat. This designated land use is the same as the premining land use. The grazing capability of the reclaimed lands is expected to be equal to or greater than the premining capability.

Upon completion of mining, all mine support facilities and roads would become the property of the Navajo Nation, as specified in NTEC's lease agreement. Any facilities and roads that the Navajo Nation does not want to maintain would be removed. Following removal, the affected areas would be regraded, top-dressed, and revegetated. Under the low demand scenario an average of 90 acres would be reclaimed per year but would fluctuate based on actual pit progression and demand. Under the high demand scenario, approximately 220 acres would be reclaimed per year.

NTEC would use fluvial geomorphic reclamation approaches to develop the final surface configuration for the Project Area. Backfilling and grading would be completed in these reclamation blocks developed through modeling, which follow the stripping sequence. These reclamation blocks would provide for a more consistent topography between regraded areas. In most cases, these reclamation blocks become available every 1 to 3 years in each mining area. Less area would need to be re-disturbed to tie into existing reclaimed areas. Table 3.1-2 shows the rate timing and areas of reclamation by watershed.

Table 3.1-2. Backfilling and Grading Schedule (in acres) for the Proposed Action

Watershed	Years Reclamation Anticipated under Low Demand Scenario	Acres Reclaimed under Low Demand Scenario	Years Reclamation Anticipated under High Demand Scenario	Acres Reclaimed under High Demand Scenario
Pinabete (No Name)	2033-2081	2,800	2033-2056	2,800
No Name	2032-2051	323	2032-2036	323
No Name	2076-2135	2,676	2046-2073	2,676
Brimhall/Chaco	2076-2135	3,242	2046-2073	3,242

In addition to the acres reclaimed in each of the watersheds, all infrastructure would be removed and areas reclaimed (316 acres) in the years 2073 and 2136 (depending on mining scenario).

The Pinabete Diversion would be removed and reclaimed once the mining and reclamation activities are complete in Area 4 South. The reconstructed reach of Pinabete Arroyo would collect and convey the same watershed area as the pre-mine reach, although the upstream watersheds would confluence with the arroyo channel in different locations than the pre-mine arroyo. The second west tributary would collect and convey surface waters from the majority of the west side of the Project Area. The first east tributary would tie in with six sizeable watersheds upstream and to the east of the Project Area. The reconstructed channel would follow a path similar to the original path but would be slightly offset to the west due to mining advancing from west to east. The slope and elevation of the reconstructed Pinabete Arroyo channel would tie in both upstream and downstream with the undisturbed Pinabete Arroyo channel.

The segment of the No Name Arroyo channel that was disturbed during construction and operation of the Pinabete Diversion would be reclaimed at this time. The alignment of the reconstructed No Name Arroyo channel would coincide with the undisturbed channel.

3.2 Other Alternatives Considered

3.2.1 Alternative 1 – No Action

Under the No Action Alternative, OSM would not approve the No Name Permit Area SMCRA permit application for the proposed new surface mining activities within Area 4 South and Area 5 of the Navajo Mine. The coal resources contained within the 11,526-acre proposed operating area would not be mined.

Under the No Action Alternative, NTEC would continue operations within the currently approved SMCRA permits for the Pinabete Permit and Navajo Mine Permit only, which, at the current rate of mining, would end in 2041. These actions have already been evaluated under the Four Corners Power Plant and Navajo Mine Energy Project EIS (OSM 2015), and Area IV North Environmental Assessment and approved by OSM and other appropriate regulatory agencies. No mining activities or road or channel realignments would occur within Area 4 South and Area 5 of the Navajo Mine Lease Area. With regard to the identified issues areas, under the No Action

Alternative, the only changes to the affected environment as described within Section 3 of this EIS, would be post-2041 if the Four Corners Power Plant shuts down.

3.2.2 Alternative 3 – Avoid Pinabete Arroyo Alternative

Under this alternative, OSM would approve the No Name SMCRA permit application with the condition that mining pits avoid the Pinabete Arroyo. Under this alternative, there would be no need to install the Pinabete Diversion or East Diversion, as described for the Proposed Action; however, a ramp system would be required to access lower seams east of the arroyo. Confining this ramp system within the limited isolated area would result in abandonment of additional recoverable coal reserves. This ramp system would either consist of a bridge crossing over the arroyo or construction of an engineered low-water crossing and a new haul road east of the arroyo and extending north. Such crossings require additional consideration of stormwater management, substantial sub-excavation of unconsolidated materials for replacement with competent structural fill, restricted access during emergency response events, and potential safety risks during flash flood conditions. Pit protection berms would be constructed along each side of the arroyo, as well as smaller sediment ponds for each sub watershed.

Avoidance of the Pinabete Arroyo would require modifications to pit alignments and mine sequencing as mining advances from west to east, resulting in changes to the life of mine disturbance schedule. To continue mining east of the arroyo within the lease boundary, a new boxcut would be required. Given current mining methods and equipment, pit lengths of less than approximately 1,000 feet would result in reduced productivity. As mining progression approaches the arroyo buffer, alignments would be optimized to accommodate the buffer area and maximize pit lengths. The geometry of the isolated mining block east of the arroyo would result in shortened pit lengths and reduced mining rates. Shortened pits would decrease mining efficiency and slow the rate of pit progression, introducing sequence delays in Area 4 South. To maintain required coal deliveries, mining would accelerate into Area 5 relative to the proposed life of mine schedule.

The Burnham Road realignment would occur as described in the Proposed Action; however, it would intercept drainage from the Pinabete watershed without the Pinabete Diversion that is part of the project under the Proposed Action. Berms and highwall impoundments would be necessary to manage the water coming onto the permit boundary, interacting with the newly aligned road.

The life of mine may not change substantially under this alternative compared to the Proposed Action; however, the timing, sequencing and disturbance schedule may shift materially. Depending on delivered tonnage requirements and whether the isolated block east of the arroyo is economically feasible to mine, advancement of disturbance into Area 5 could occur approximately 2-10 years earlier than as described under the Proposed Action. This shift would reflect the need to offset reduced production efficiency and constrained sequencing associated with avoidance of the arroyo.

As with the Proposed Action, OSM has considered both a low and high demand scenario (5 million tpy or 15 million tpy, respectively; Table 3.2-1). With the exception of the change in potential mine plan sequencing and the need to construct a crossing over or through the Pinabete Arroyo, all other mining methods, proposed access roads, and reclamation would occur as described for the Proposed Action although with fewer acres of ground disturbance.

Table 3.2-1. Alternative 3 – Avoid Pinabete Arroyo Alternative for No Name Permit Area Coal Production and Disturbance Acreage

Permit Term	Year	Acres Disturbed under Low Demand Scenario ¹	Tons Mined under Low Demand Scenario	Acres Disturbed under High Demand Scenario ¹	Tons Mined under High Demand Scenario
1	2026-2031	32	984,700	32	984,700
2	2032-2036	375	25,000,000	375	25,000,000
3	2037-2041	422	25,000,000	1,278	75,000,000
4	2042-2046	351	25,000,000	1,220	75,000,000
5	2047-2051	330	25,000,000	1,420	75,000,000
6	2052-2056	366	25,000,000	1,254	75,000,000
7	2057-2061	525	25,000,000	576	27,000,000 ²
8	2062-2066	734	25,000,000	N/A	N/A
9	2067-2071	712	25,000,000	N/A	N/A
10	2072-2076	688	25,000,000	N/A	N/A
11	2077-2081	578	25,000,000	N/A	N/A
12	2082-2086	539	25,000,000	N/A	N/A
13	2087-2091	600	25,000,000	N/A	N/A
14	2092-2096	684	25,000,000	N/A	N/A
15	2097-2101	369	25,000,000	N/A	N/A
16	2102-2106	295	25,000,000	N/A	N/A
17	2107-2111	61	2,000,000	N/A	N/A
	TOTAL	7,661	377,984,700	7,661	377,984,700

N/A – not applicable as there would be no mining within these years. ¹These numbers represent OSM’s conservative estimate of acres to be disturbed during the permit terms based on NTEC’s submitted application. The actual disturbance area would depend on a revised mine plan that would be required if this alternative is selected. ²Under this scenario, mining would be completed by 2058.

3.2.3 Alternatives Considered but Eliminated from Further Analysis

OSM solicited input for alternatives through the NEPA scoping process, and comments received suggested three additional alternatives. One of these alternatives was fully analyzed in the EIS as Alternative 3. No other commentors suggested additional alternatives.

The first alternative considered but not carried forward proposed that OSM deny the SMCRA permit application and require development of renewable energy alternatives in the mine permit area. This alternative was determined to not be a reasonable alternative because it would not meet the purpose and need for the Project, exceeds the authority of OSM, and would not meet

the goals of the applicant. This alternative would be equivalent to the No Action Alternative, and would dictate a land use for the mine area, which is outside the authority of OSM.

The second alternative considered but not carried forward, which was suggested during the scoping period, proposed having OSM issue the SMCRA permit only through 2041, when the current lease for the Four Corners Power Plant expires. This alternative was determined to not be a reasonable alternative because it is outside of OSM's authority, would not meet the purpose and need for the proposed action, and does not meet the goals of the applicant. SMCRA does not allow OSM to limit mining permits based on the availability of coal customers or contracts.

4 BASIS FOR DECISION

4.1 Environmental Considerations

OSM's NEPA analysis considered the environmental effects of each alternative. Impacts of all alternatives are evaluated in Chapter 3 of the EIS. A comparison of impacts between the three alternatives analyzed in detail is presented in Table ES-1 of the EIS. Based on the environmental analysis in the EIS, Alternative 1 – No Action would cause the least impact to the environment. However, the No Action Alternative would result in adverse socioeconomic impacts for the Navajo Nation (discussed in greater detail below in Section 4.2), would not meet the applicant's goals, and is contrary to the national policy outlined in EO 14156 (Declaring a National Energy Emergency), EO 14154 (Unleashing American Energy), and EO 14261 (Reinvigorating America's Beautiful Clean Coal Industry), which are discussed in greater detail in Section 4.3.8 below. While Alternative 2 – Proposed Action would result in some environmental impacts, the proposed mining plan is designed to avoid and minimize those impacts where practicable. Alternative 2 best meets the purpose and need and is consistent with this Administration's efforts to address the nation's energy emergency.

The Proposed Action would have a greater environmental impact than the No Action Alternative for most resource areas, but most environmental impacts are limited to the duration of the mining and reclamation activities and will resolve after reclamation is complete. Modeling in the EIS showed a potential for emissions from mining operations under the low and high demand scenario may exceed NAAQS for PM_{2.5} and PM₁₀, which would be a long-term and major impact. However, under both scenarios there would be no acute health risks from particulate matter toxic pollutants to travelers along Burnham Road or grazers at least 1,800 feet from active mining areas, and, therefore, impacts would be long term and minor. As discussed below and in the PAP, additional fugitive dust control measures were included in the SMCRA permit to help avoid exceedances. Chronic non-cancer and cancer risks would also be below thresholds for the low demand scenario, and, therefore, impacts would be long term and minor. With regard to chronic non-cancer impacts, for residential receptors, thresholds would be exceeded if active mining were to occur within 2,300 feet of residences under the high demand scenario, which would be a long-term major impact. At distances greater than 2,300 feet, impacts were below the significance thresholds and would be considered minor. The Proposed Action would have a minor and permanent impact due to relocating dwellings; moderate and permanent impact due to road relocations; and long-term and moderate impacts to land use and grazing. There would be potential permanent impacts to 152 historic properties that are eligible or listed in the National Register of Historic Places that would be minimized with the implementation of treatment plans for known sites as specified in the Programmatic Agreement prepared for the Project. The

Proposed Action would have a major impact to visual resources because mining activities would result in a high degree of contrast with the existing natural landscape and there would be additional glare. The Proposed Action would also result in major impacts to nearby occupied dwellings for the duration of mining activity that results in noise levels exceeding 55 dBA L_{dn} at the receptor. Impacts to surface water quality and quantity, groundwater quality and quantity, fish and wildlife, geology/soils/topography would be minor to moderate and long-term.

While the duration of impacts will be longer for the Proposed Action, the intensity of those impacts to air quality, fish and wildlife, hazards and hazardous materials, land use and grazing, public health and safety, noise and vibration and vegetation and invasive species is anticipated to be similar to the Avoid Pinabete Arroyo Alternative. Compared to the Proposed Action, impacts to cultural resources, paleontological resources, and arroyo/alluvial setting are anticipated to be lower for the Avoid Pinabete Arroyo Alternative due to mining pits avoiding the Pinabete Arroyo and no construction of Pinabete Diversion or East Diversion.

4.1.1 Finding

The EIS fully analyzes the environmental effects of the Proposed Action and the other alternatives, as described in Chapter 3 of the EIS. OSM is selecting Alternative 2, and, pursuant to our SMCRA authority, we are including in the permit the mitigation, monitoring, and impact minimization measures described in this document.

OSM is incorporating the recommended mitigation measures from the EIS for paleontology, visibility, and noise into the permit to avoid and minimize adverse effects. First, to minimize impacts to paleontological resources, the mining permit includes an inadvertent discoveries plan. The inadvertent discoveries plan minimizes the potential damage or destruction of paleontological resources by putting in place protocols for conducting a pre-disturbance paleontological survey prior to any construction or mining activities, as well as paleontological monitoring during mining, along with procedures for evaluating the significance of a discovery, and stipulate the level of training that personnel must have in order to conduct identification, collection, and curation activities.

Second, to reduce noise impacts in the event that operations are within approximately 1/2 mile (2,500 feet) of a sensitive receptor, described in EIS Section 3.7.1.3,¹ the permit requires that the mine:

- Operate and maintain all equipment to minimize noise generation. Equipment and vehicles will be kept in good repair and fitted with the best available noise suppression devices (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds silencers, wraps). All intake and exhaust ports on power equipment will be muffled or shielded.
- Where practicable use portable noise screens or enclosures to provide shielding for high-noise activities or equipment. The effectiveness of a barrier depends upon factors such as

¹ As further explained in EIS Section 3.7.1.3, a sensitive receptor is a population group that is considered more sensitive to air pollution and odors than others; those that are particularly sensitive include children, elderly, and acutely ill and chronically ill persons, especially those with cardiorespiratory diseases such as asthma and bronchitis. In addition, sensitive receptors can indicate locations where such individuals are typically found, namely schools, daycare centers, hospitals, senior citizen centers, residences of sensitive persons, and parks with active recreational uses, such as youth sports.

relative height of the barrier relative to the line-of-sight from the source of the receiver, the distance from the barrier to the source and to the receiver, and the reflections of sound. To be effective, a barrier must block the line-of-sight from the source to the receiver. A properly designed noise barrier can reduce noise as much as 20 dBA.

Alternate methods of noise shielding are acceptable, if noise monitoring is conducted to verify that the 55 dBA L_{dn} level at the receptor site is achieved.

- Provide sensitive receptors with contact information and means by which to contact NTEC if they have complaints or concerns related to equipment noise and blasting.

Third, to reduce visual impacts from nighttime lighting, the permit requires NTEC to provide shielding around the lighting source and direct lighting downward.

In addition, OSM is also incorporating most of the recommended mitigation measures for air quality and human health into the permit. OSM is not incorporating the recommendations related to additional future modeling, 2,300 foot buffer distances, and limiting speeds on unpaved roads to 15 mph in the permit. OSM determined that limiting speeds on unpaved roads, including haul roads, to 15 mph is not operationally practical; instead, OSM determined that speed limits of 45 mph on unpaved roads is adequate to ensure public safety while maintaining operational productivity. Instead of requiring lower speed limits, OSM addressed impacts to air quality and human health related to fugitive dust (i.e., particulate matter) generated from road traffic on unpaved roads in the air pollution control plan and attendant monitoring plan in the permit. The permit requires all unpaved roads within the permit area to be watered with water trucks as needed, heavily traveled portions to be stabilized with chemical suppressants and water, and monitoring of particulate matter ($PM_{2.5}$ and PM_{10}) to ensure compliance with applicable tribal and federal air quality standards.

OSM is also not including the additional future modelling and buffer distances recommended in the EIS, for the reasons discussed below, OSM considers the air pollution control plan and attendant monitoring, which are included in the permit, to be sufficient to avoid and minimize impacts to air quality and human health. As part of our enforcement of the permit, OSM will review monitoring data required by the permit to be submitted by NTEC to validate the predictive model and determine if future modifications to the operation plan are required.

As described in the EIS in Sections 3.2 and 3.8 and Appendix C, air pollutant dispersion modeling and a human health risk assessment (HRA) were conducted, and these predictive models disclosed potential for exceedance of NAAQS for particulate matter less than 2.5 micrometers ($PM_{2.5}$) and particulate matter less than 10 micrometers (PM_{10}) and possible human health risks. Human health risks attributed to particulate matter ($PM_{2.5}$ and PM_{10}) were further evaluated using a HRA model and results showed a potential for exceedance of the non-cancer (e.g., cardiovascular, neurological, respiratory) chronic (i.e., exposure to a toxic pollutant concentration for a 1-year period or longer) hazard index under the high demand scenario (>15 million tons of coal mined per year), suggesting possible long-term major impacts to inhabitants of residences within 2,300 feet of active mining. Results for the low demand scenario (5 million tons of coal mined per year) did not show a potential for exceedance of the non-cancer chronic hazard index.

All current sensitive receptors in the vicinity of the project were documented (EIS Figure 3.7-1). The potential for chronic exposure is limited to known occupied dwellings in the vicinity of the

mine. Occupied dwellings within the permit will be relocated in advance of mining activity, avoiding chronic exposure. Occupied dwellings outside of the permit area are limited to the northeastern boundary extent and southeastern boundary extent. Under the high demand scenario, mining activity within 2,300 feet of these known occupied dwellings has the potential to occur in mining terms 6-7, years 2052-2061, and mining terms 8-9, years 2062-2071, respectively (Table 3.2-1).

While air quality modeling for the NEPA analysis indicated potential exceedance of NAAQS standards for both low and high demand scenarios, the HRA concluded the health hazard index would only be exceeded under the high demand scenario. The SMCRA mining permit includes an air pollution and fugitive dust control plan, which includes attendant monitoring of various pollutants, including PM_{2.5} and PM₁₀. This plan is designed to avoid and minimize (i.e., mitigate) adverse effects related to activities that produce fugitive dust. Air monitoring data required by the SMCRA mining permit is submitted to OSM quarterly and summarized annually. Air monitoring data is also provided to USEPA and NNEPA for their review and comment. If monitoring data demonstrates an exceedance or trends exhibiting the potential for an exceedance of air quality standards, including NAAQS standards, OSM retains the regulatory authority to require and implement measures to reduce emissions, including modifications to mining operations and additional protective measures. Depending on the trends exhibited in the monitoring data, these measures may include additional mitigations measures and/or the requirement to develop an updated predictive model to determine if such trends will continue into other parts or phases of the mine.

OSM finds that due to the lack of occupied dwellings that could potentially be chronically exposed to fugitive dust in the near term (permit terms 1-5) and the probability that production would not exceed 15 million tons per year until permit term 3 (2037-2041), the air pollution and fugitive dust control plan and attendant monitoring required by the SMCRA No Name permit in Part 1, Section 8.5 and Part 6, Section 42, to be sufficient to minimize the potential for chronic exposure to fugitive dust by sensitive receptors. Moreover, the monitoring required by the permit during permit terms 1-5 will allow OSM to determine if the models in the EIS are correct, account for future activities that may produce emissions, and, if monitoring trends indicate emissions could violate the NAAQS or affect human health outside the permit area, OSM plans to require the operator to revise its permit as necessary to meet the SMCRA standards. Furthermore, in its permit application, NTEC commits to implementing additional measures as needed to maintain compliance with NNEPA and USEPA air quality standards as well as Mine Safety and Health Administration (MSHA) requirements. Such measures may include, as appropriate, additional watering or other dust suppression, modifications to operating practices, temporary modification, reduction, or idling of selected operations when necessary. In addition to reviewing the air quality data quarterly, OSM also conducts onsite inspections at least monthly. MSHA establishes sampling requirements and verifies compliance through inspections, review of sampling data. While the MSHA measures are focused on worker safety, many of them will also indirectly reduce impacts to non-workers in the vicinity.

While Alternative 2 – Proposed Action will result in some environmental impacts, they would be avoided or minimized through incorporation of the mitigation described in this document into the SMCRA permit, and it is the alternative that best meets the project's purpose and need, SMCRA standards, and current national policy considerations. All mitigation described above is included in the SMCRA permit and enforceable by OSM as the regulatory authority.

4.2 Economic Considerations

The EIS analyzed the economic effects of each alternative. Under the No Action Alternative, royalties and tax revenue generated by the Navajo Mine would cease after 2041. Because the mine revenue and royalties account for approximately 25% of the Navajo Nation's general fund and also provide high-paying jobs to members of the Navajo Nation and surrounding areas, the selection of the No Action Alternative would result in a permanent and major adverse impact to the socioeconomics of the Navajo Nation and region of influence.

Under Alternatives 2 and 3, NTEC would continue to provide high paying jobs and provide revenues, royalties, and taxes paid to the Navajo Nation through the life of mine. This economic contribution would cease sooner for Alternative 3 compared to Alternative 2 due to the avoidance of the Pinabete Arroyo and less coal mined.

4.2.1 Finding

Socioeconomic impacts are described in Section 3.11 of the EIS. OSM is selecting Alternative 2 – Proposed Action, and this alternative would provide the greatest economic benefit as compared to the Alternative 1 – No Action and Alternative 3 – Avoid Pinabete Arroyo.

4.3 Considerations of Law and National Policy

In accordance with Section 101(b) of NEPA, in addition to the environmental and economic considerations summarized above, this EIS included essential considerations of national policy, including the following EOs and executive branch guidance (see Section 4.3.8.1 below).

4.3.1 National Environmental Policy Act of 1969

NEPA, 42 U.S.C. §§ 4321 *et seq.* declares a national environmental policy and promotes consideration of environmental concerns by Federal agencies in decision making. The Department of Interior finalized its NEPA implementing regulations (43 CFR Part 46) in February 2026 in concurrence with publication of *516 DM 1 – U.S. Department of Interior Handbook of National Environmental Policy Act Implementing Procedures* (DOI 2026).

4.3.1.1 Finding

This EIS complies with the procedural and analytical requirements of NEPA, including the Department's regulations and procedures implementing NEPA at 43 CFR part 46 and Part 516 DM 1 of the Departmental Manual.

4.3.2 Surface Mining Control and Reclamation Act of 1977

Before the commencement of any coal development or mining operations on a Federal or BIA lease or license, a permit application package must be submitted to the regulatory authority responsible for issuing SMCRA permits. OSM is the regulatory authority responsible for issuing the SMCRA permit at the Navajo Mine.

NTEC submitted the No Name Permit Application Package (PAP) to OSM on September 30, 2025. OSM issued an administrative completeness review deficiency letter on October 15, 2025, and NTEC submitted an updated PAP on October 22, 2025. OSM determined the PAP to be administratively complete on October 28, 2025. NTEC submitted an alternate production rate

and schedule for Sections 20 and 51 on November 11, 2025. OSM issued technical deficiency letters on December 11, 2025 and June 22, 2025, and NTEC submitted responses and revised PAP sections on April 17, 2026, July 5, 2026 and July 9, 2026.

Public notice of the application was published in the *Tri-City Record* on November 14, 21, 28, and December 5, 2025, and in the *Navajo Times* on November 13, 20, 26, and December 4, 2025. OSM distributed interagency consultation letters on October 28, 2025, to federal, state, tribal, and local agencies, including the U.S. Army Corps of Engineers, National Park Service, USDA NRCS, USEPA, Navajo Nation Environmental Protection Agency, Navajo Nation Department of Fish and Wildlife, Navajo Division of Transportation, NTUA, Navajo Chapter governments, San Juan County, MSHA, Navajo Nation Department of Agriculture, Navajo Nation Historic Preservation Office, BLM, BIA, USFWS, and others.

OSM extended the public comment period for the PAP to January 31, 2026, following a request from a citizens group on December 12, 2025. In response to a request from another citizens group, OSM granted a second extension of the public comment period to February 28, 2026, for comments specific to the SMCRA PAP.

OSM published a public notice of the Notice of Intent to prepare an Environmental Impact Statement and notification of an informal conference/scoping meeting at the Burnham Chapter House on January 29, 2026, in the *Tri-City Record* on January 14, 2026, and in the *Navajo Times* on January 15, 2026. The Notice of Intent also appeared in the *Federal Register* on January 15, 2026 (91 FR 1814).

SMCRA and the implementing Federal regulations establish performance standards for a wide range of resources and measures to implement those standards be included in the PAP, which then is incorporated into the SMCRA mining permit after it is approved by OSM. These measures, which are contained in various portions of the permit, are generally designed to avoid or minimize potential impacts from the No Name Mine. For example, under SMCRA, OSM finalized an updated 2026 Navajo Mine Cumulative Hydrologic Impact Assessment (CHIA) incorporating the No Name Permit area on May 28, 2026, and, to ensure compliance with SMCRA's hydrology standards, the permit contains a groundwater monitoring plan, a surface water monitoring plan, sediment control practices, and a spill prevention, control, and countermeasures plan. Additional mitigation measures described in this document related to other resources such as air, endangered species, cultural and paleontological resources, noise, and visual impacts are also included in the SMCRA permit.

4.3.2.1 Finding

OSM finds that Alternative 2, which is issuance of the SMCRA mining permit as described in this document, complies with SMCRA.

OSM has completed its administrative and technical evaluation of the PAP for the No Name area and has determined that the proposed operations meet requirements for approval under SMCRA, 30 U.S.C. § 1260; and Federal regulations, 30 C.F.R. § 773.15. Based on the information set forth in the PAP; the EIS; consultation with Federal and tribal governmental agencies, including tribal consultation and consultation under the Endangered Species Act (ESA) and NHPA; and public comment, OSM's evaluations have found:

1. The application is accurate and complete and the applicant has complied with all requirements of SMCRA and the Indian Lands Program.

2. The applicant has demonstrated that the reclamation plan in the PAP accomplishes requirements of SMCRA and the Indian lands Federal Program.
3. The proposed surface mining operations are:
 - a. 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;
 - b. Not on any Federal lands within the boundaries of any national forest;
 - c. Not on any lands where mining will adversely affect any publicly owned park or places included in the National Register of Historic Places;
 - d. 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;
 - e. Not to be conducted within 300 feet, measured horizontally, of any occupied dwelling;
 - f. Not within 300 feet, measured horizontally, of any public building, school, church, community or institutional building or public park; and
 - g. Not within 100 feet, measured horizontally, of a cemetery.
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.
5. The operations proposed in the application have been designed to prevent material damage to the hydrologic balance outside the permit area.
6. The operations proposed in the application will not use any existing structures.
7. The applicant has paid all reclamation fees from previous and existing operations as required by 30 C.F.R. Chapter VII, Subchapter R.
8. No requirements of 30 C.F.R. Part 785, Special Categories of Mining are applicable. The application does not propose changes to the type of mining operations or propose experimental practices. OSM has determined that no alluvial valley floors exist within the permit area and adjacent area.
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 ESA.
10. OSM has taken into account the proposed permitting action on properties listed or eligible for listing on the National Register of Historic Places.

OSM will finalize the approval of the No Name area permit after this ROD is signed. In its approval of the No Name SMCRA Permit, OSM will sign its Findings and Determination for

Approval for the No Name Permit Application, which contain the details about OSM's findings under SMCRA. Upon receipt of the required reclamation bond instrument, the permit will be issued to the applicant. The approval and issuance of this permit was analyzed in the No Name Area EIS. This approval is also addressed in accordance with: 1) the consultation requirements under Section 7 of the ESA and the associated mitigation measures and monitoring requirements set forth in this ROD; and 2) the consultation requirements under Section 106 of the NHPA and the requirements of the PA. The approval and issuance of this permit are subject to the mitigation and monitoring requirements set forth in this ROD.

4.3.3 National Historic Preservation Act

Section 106 of the NHPA of 1966, as amended, requires that federal agencies take into account the effects of their undertakings on historic properties. For the purpose of Section 106, a historic property is any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places (NRHP) maintained by the Secretary of the Interior, including artifacts, records, and remains related to and located within such properties, and properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization that meet the NRHP criteria (36 CFR 800.16(1)).

Area of Potential Effects (APE) was defined as the Project Area and a one-mile buffer area. As a result of the Class II and III inventory conducted in November 1, 2006, and April 16, 2008, 198 archaeological sites, four in-use sites, and 54 isolated occurrences ("isolates") were evaluated (Meininger and Wharton 2009). From this review, 162 archaeological sites and TCPs have been determined eligible for or listed in the NRHP and constitute historic properties. Ten of those historic properties within the buffer area fall within the overlapping portion of the Pinabete SMCRA Area APE and were addressed under the Navajo Pinabete Programmatic Agreement (PA) in 2015 and are therefore excluded from review for this project. Of those identified resources, a total of 152 fall within the current APE (142 archaeological sites and 10 TCPs) and are addressed in this review. An additional four sites determined ineligible for listing in the NRHP are in-use areas and are also addressed in this review. OSM developed a new PA including provisions for the resolution of adverse effects on historic properties, treatment of Native American remains and cultural objects, and handling of unanticipated discoveries within the APE. Consulting party participants include representatives from OSM, Navajo Nation, Bureau of Indian Affairs, and NTEC. The PA was officially executed on July 8, 2026. The Advisory Council on Historic Preservation acknowledged receipt of a copy of the PA on July 13, 2026, in accordance with 36 C.F.R. § 800.6(b)(1)(iv).

4.3.3.1 Finding

OSM finds that the Section 106 process is complete and Alternative 2 – Proposed Action complies with the NHPA based on coordination with the Tribal Historic Preservation Office (THPO) (described below in Tribal Consultation) and the requirement that NTEC follow the PA as included within the SMCRA mining permit. As summarized in Attachments C and D of the PA, OSM, THPO, and NTEC consulted, and identified minimization, avoidance, and mitigation measures to resolve adverse effect determinations, and implemented measures to resolve adverse effects concerning certain historic properties within the APE. For purposes of compliance with cultural resources management requirements, including without limitation Section 106 of the NHPA and the Native American Graves Protection Act, NTEC is authorized to proceed with

construction, mining, reclamation, and all related activities in Area IV South and Area V of the Mine Lease permitted for mining and related activities under the No Name SMCRA Permit.

4.3.4 Tribal Consultation

In accordance with the 2022 Department of Interior (DOI) Policy on Consultation with Indian Tribes and Section 106 of the NHPA, as amended, and its implementing regulations under 36 C.F.R. part 800, OSM sent tribal consultation letters on June 17, 2025, and again on January 15, 2026, at the onset of the scoping period, to the following tribes requesting government-to-government consultation in planning for the potential permitting action:

- Acoma Pueblo
- Hopi
- Kiowa
- Laguna Pueblo
- Navajo Nation
- Ohkay Owingah Pueblo
- Santa Ana Pueblo
- Southern Ute
- Tesuque Pueblo
- Ute Mountain Ute
- Zia Pueblo
- Zuni Pueblo

Based on the responses received, OSM consulted with the Navajo Nation THPO. Section 106 consulting party participants include representatives from OSM, Navajo Nation, and NTEC. OSM notified the Advisory Council on Historic Preservation, which declined to participate. On January 30, 2026, the Southern Ute Tribe responded and indicated that it defers to the Navajo Nation THPO. The Tó Nizhóní Ání requested to be a consulting party from the public, and OSM continued consultation with that organization. OSM prepared a PA for the Project, which stipulates procedures for continuing to consider cultural resources and to develop and implement measures to avoid, reduce, or mitigate any adverse effects during project implementation. The PA provides a process for compliance with NHPA pursuant to 36 CFR Part 8001.4(b) in parallel with NEPA. The future identification and evaluation of historic properties within the APE will be completed as specific aspects are refined in the PA. The PA also provides procedures and responsibilities for the ongoing identification, evaluation, and mitigation of historic properties and procedures to minimize effects to historic properties. The PA also contains additional information including standards, guidelines, and unanticipated discovery protocols. Consultation with the Navajo Nation THPO has been key in this process. The consultation addressed 1) identifying the types of potential impacts of the Project, 2) defining the APE, 3) identifying the types of cultural resources that could be affected, and 4) developing an appropriate resource inventory and evaluation strategy. As noted above, this PA was executed on July 8, 2026.

On July 7, 2026, the President of the Navajo Nation, Dr. Buu Nygren responded by letter directing OSM to consult with Mike Halona, Director, Division of Natural Resources, and Krishna Baskota, Principal Mining Engineer/Program Manager, Surface Mining Program. OSM consults with Navajo Nation Surface Mining Program for all permitting actions on the Navajo Nation and meets with the Navajo Nation Surface Mining Program no less than monthly. The

Navajo Nation Surface Mining Program and Navajo Nation Land Department participated as cooperating agencies in the preparation of the No Name Permit EIS.

4.3.4.1 Finding

After following the process described above, OSM has satisfied its tribal consultation obligations.

4.3.5 Endangered Species Act

A list of federally-listed species that occur or have the potential to occur in or near the Project Area was obtained from the USFWS Information for Planning and Consultation system on December 18, 2025. According to USFWS, five threatened and/or endangered species and two proposed species have the potential to occur in the Project Area (USFWS 2026). Of these, six species were eliminated from further review because OSM concluded that either the known distribution of the species does not overlap the Project Area or the Project Area does not support suitable habitat for those species. One federally listed species, Mesa Verde cactus (*Sclerocactus mesae-verdae*), has been identified within one mile of the No Name Permit Area. Suitable habitat is present for the species in the Action Area.

Before official submittal of the PAP, in July 2025, OSM and USFWS engaged in informal technical assistance. Following submittal of the complete PAP, OSM, USFWS, and NTEC have discussed various issues relating to the Proposed Action and its potential effects on listed species in the Action Area. These are briefly described below.

- **January 22, 2026** – OSM hosted a formal agency kick-off meeting and site visit for the NEPA review of the Project, which was attended by USFWS.
- **January 16, 2026** – OSM and USFWS Section 7 Coordination Virtual Meeting. Discussion topics included survey and monitoring, take avoidance or permitting.
- **December 9, 2025** – OSM and USFWS Section 7 Coordination Virtual Meeting. Discussion topics included presence of listed species, previous actions in the area, existing Biological Opinions for other mine permit areas, and consultation timeline.
- **July 9, 2025** – OSM and USFWS Section 7 Virtual Meeting. Discussion topics included an overview of the Proposed Action, NEPA analysis, Section 7 considerations, and path forward.

OSM submitted a Draft Biological Assessment, including a list of conservation measures, and request for informal consultation to USFWS on March 9, 2026. USFWS provided a letter of concurrence for the “may affect, not likely to adversely affect” determination for Mesa Verde cactus on April 28, 2026. In accordance with the USFWS letter of concurrence, the SMCRA mining permit includes the following conservation measures:

- Retain confidentiality of specific locations of Mesa Verde cactus other than sharing locality data with the Navajo Natural Heritage Program. No Universal Transverse Mercator (UTM) coordinates or similar location data should be included in any report available to the general public.
- Known populations and suitable Mesa Verde cactus habitat within the Action Area will be monitored every two years. Monitoring will occur during the May – June monitoring period for this species.

- An education program for field staff and contract employees will be developed to ensure staff are familiar with identification and conservation requirements of the Mesa Verde cactus. The program will include information about the legal and biological status of the Mesa Verde cactus, how to identify the Mesa Verde cactus, the importance of habitat preservation, the occurrence of cactus and suitable habitat in the area, avoidance areas, fines for damaging or removing cactus, and procedures for reporting cacti not previously identified.
- NTEC will implement a variety of fugitive dust control measures, including watering unpaved roads and enforcing a maximum vehicle speed limit for mine vehicles.
- NTEC will implement its weed control management plan for the permit area that complies with the Bureau of Indian Affairs and the Navajo Nation regional weed control plans and meets the required management of noxious weeds regulated by the State of New Mexico.
- If the weed control management plan involves the use of pesticides, NTEC will adhere to pesticide use recommendations in the U.S. Fish and Wildlife Service's "Recommended Protection Measures for Pesticide Applications in Region 2 of the U.S. Fish and Wildlife Service" (White 2007), including recommendations to protect dicot species found in open canopy areas (pages 99-100), and recommendations to protect plant species with small pollinating insects (pages 106-107). If these recommendations cannot be adhered to, the New Mexico Ecological Services Field Office will be contacted to determine whether reinitiation of consultation is necessary.
- NTEC will require the purchasing of seeds and mulch used for reclamation activities to be from reputable dealers with certified weed-free products. Routine inspections of seeds and mulch will be implemented to ensure no new weeds enter the site through contaminated sources. NTEC environmental specialists will perform periodic inspections of the reclamation to detect and identify infestations of noxious weeds. If an infestation is detected within the reclamation area where control is needed, mechanical and/or chemical control, by a licensed operator would be implemented.
- If additional Mesa Verde cacti are observed within the No Name Permit Area during periodic biological monitoring for the species, NTEC will contact OSM, the Service, and Navajo Natural Heritage Program. At that point, OSM will implement means of avoiding impacts to observed cacti, or re-initiate consultation with the Service. Ground-disturbing project activities would not occur until avoidance measures, as agreed upon by OSM, Navajo Natural Heritage Program, and Service are implemented, or consultation is complete.

4.3.5.1 Finding

OSM finds that its determination and USFWS's concurrence that the Proposed Action may affect but is not likely to adversely affect Mesa Verde cactus satisfies OSM's obligations under the ESA. All conservation measures recommended by the USFWS are included in the SMCRA mining permit and are enforceable provisions sufficient to ensure that the operation would not affect the continued existence of endangered or threatened species or result in destruction or adverse modification of their critical habitats.

4.3.6 Clean Air Act

The Project Area is located on Navajo tribal trust land; air emissions and air quality are under the jurisdiction of the NNEPA and overseen by USEPA Region IX. On Navajo Nation trust land, air quality is regulated under the Navajo Nation Air Pollution Prevention and Control Act (NNAPPCA), which authorizes NNEPA to administer permitting, monitoring, and enforcement programs for stationary and area sources of air pollution on the Navajo Nation. The NNAPPCA and its implementing regulations adopt and rely on the NAAQS established by the USEPA as the ambient air quality standards applicable on Navajo Nation trust lands. Authority to issue minor source air permits on the Navajo Nation is currently in a transitional state. NNEPA's Minor Source Program became effective on September 19, 2024, establishing tribal preconstruction review and operating permit requirements for non-major (minor) stationary sources and authorizing NNEPA to issue Navajo Nation minor source permits. USEPA has not yet approved the Navajo Nation's minor source program to operate in place of the corresponding federal program. Accordingly, the Federal Minor New Source Review Program for Indian Country (Tribal Minor NSR Rule; 40 C.F.R. §§ 49.151–49.161), administered by USEPA Region IX, also continues to apply on the Navajo Nation. During this transitional period, NNEPA and USEPA each retain minor source permitting responsibility within the Project Area.

All emissions from the current ongoing Navajo Mine operations are considered mobile source emissions. All emissions from the Proposed Action would also be mobile source. Federal and Navajo permitting regulations exclude fugitive emission sources from certain source categories, such as surface coal mining, when determining the potential to emit for major source applicability.

4.3.6.1 Finding

Federal and Navajo air permitting regulations exclude fugitive emission sources from surface coal mining, when determining the potential to emit for major source applicability, and the Navajo Mine is currently not subject to the federal or NNEPA major or minor source permit program.

4.3.7 Clean Water Act

USEPA Region IX oversees NTEC's Section 402 National Pollutant Discharge Elimination System (NPDES) Industrial Permit associated with mining and reclamation operations and coal preparation facilities at the Navajo Mine. USEPA issued a final NPDES permit for Navajo coal mine on May 2, 2025, which became effective June 1, 2025, and covers the entire Navajo Mine lease area, including the Project area. The existing NPDES permit addresses all discharges under current operations and operational BMPs and monitoring are implemented to maintain compliance and to avoid unpermitted discharges to surface waters. The Project is planned as a zero-discharge area, and no new NPDES outfalls are proposed.

The U.S. Army Corps of Engineers made a jurisdictional determination that a Section 404 permit is not required for the Project Area because there are no waterways considered Waters of the U.S. and no wetlands within the permit boundary that would be impacted under the Proposed Action (USACE 2025).

4.3.7.1 Finding

The drainages that would be affected under Alternative 2 – Proposed Action are not considered jurisdictional and therefore, a section 404 permit is not required. The Project is planned as a zero-discharge area, and no new NPDES outfalls are proposed. Therefore, OSM finds that approval of the SMCRA permit is consistent with the Clean Water Act.

4.3.8 Applicable Executive Orders

4.3.8.1 Unleashing American Energy

EO 14154 and SO 3418, Unleashing American Energy, direct Federal agencies and Department of the Interior bureaus to protect national economic, security, and military preparedness by ensuring that an abundant supply of reliable energy is readily accessible in every state and territory of the United States; to ensure that all regulatory requirements related to energy are grounded in clearly applicable law; and to ensure that the global effects of a rule, regulation, or action shall, whenever evaluated, be reported separately from its domestic costs and benefits, to promote sound regulatory decision making and prioritize the interests of the American people; and to guarantee that all executive departments and agencies provide opportunity for public comment and rigorous peer-reviewed scientific analysis.

4.3.8.2 Declaring a National Energy Emergency

EO 14156, Declaring a National Energy Emergency, (January 20, 2025) declared that the energy (including coal) and critical minerals identification, leasing, development, production, transportation, refining, and generation capacity of the United States are too inadequate to meet domestic needs. It directs agencies to “identify and exercise any lawful emergency authorities available to them, as well as all other lawful authorities they may possess, to facilitate the identification, leasing, siting, production, transportation, refining, and generation of domestic energy resources, including, but not limited to, on Federal lands.”

4.3.8.3 Reinvigorating America’s Beautiful Clean Coal Industry

EO 14261, Reinvigorating America’s Beautiful Clean Coal Industry and Amending Executive Order 14241 (April 8, 2025), declared “a national priority to support the domestic coal industry by removing Federal regulatory barriers that undermine coal production, encouraging the utilization of coal to meet growing domestic energy demands, increasing American coal exports, and ensuring that Federal policy does not discriminate against coal production or coal-fired electricity generation.”

4.3.8.4 Finding

OSM finds that the selection of Alternative 2 – Proposed Action was made in consideration of, and is the alternative most consistent with, EO 14154, EO 14156, EO 14261, and SO 3418.

5 APPROVAL

In consideration of the information presented above, I approve this ROD and the approval of the SMCRA permit, which is consistent with Alternative 2 – Proposed Action as described in Section 4.1.1 of this ROD. This ROD is effective on signature.

MARCELO CALLE  Digitally signed by MARCELO
CALLE
Date: 2026.08.27 09:56:21 -06'00'

8/27/26

Marcelo Calle

Date

Acting Regional Director

OSM Western Region, Interior Regions 5 and 7-11