

**SECTION 8**

**COMPLIANCE WITH AIR AND WATER QUALITY LAWS AND REGULATIONS**

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**SECTION 8**

**COMPLIANCE WITH AIR AND WATER QUALITY LAWS AND REGULATIONS**

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**SECTION 8**

**COMPLIANCE WITH AIR AND WATER QUALITY LAWS AND REGULATIONS**

**LIST OF REVISIONS DURING PERMIT TERM**

<b>REV.</b>		<b>DATE</b>
<b>NUMBER</b>	<b>REVISION DESCRIPTION</b>	<b>APPROVED</b>

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## **SECTION 8 COMPLIANCE WITH AIR AND WATER QUALITY LAWS AND REGULATIONS**

In addition to the Surface Mining Control and Reclamation Act (SMCRA) permit issued by the Office of Surface Mining Reclamation and Enforcement (OSM), BHP Navajo Coal Company (BNCC) must maintain and comply with other federal, state, and tribal permits and regulations. These additional permits and licenses are included in [Table 8.1-1](#) and discussed below.

### **8.1 Effluent Limitations and NPDES Compliance**

BNCC complies with the Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) regulations under 40 CFR Part 122 and 40 CFR Part 434 for point source discharges and for storm water discharges. BNCC will seek either a new individual NPDES permit and associated permit number or revision to its existing NPDES permit, NM-0028193 (issued April 5, 2008), and will seek coverage under the NPDES Multi-Sector General Permit (MSGP) Subpart H from the appropriate agencies. The Navajo Nation Environmental Protection Agency (NNEPA) has obtained primacy for processing applications for certification of compliance with water quality requirements and standards for projects that are subject to federal agency permits or licenses pursuant to Section 401 of the CWA. BNCC will obtain the appropriate 401 certifications for all of its NPDES permits. BNCC utilizes engineered structures and other best management practices (BMPs) to comply with NPDES effluent limitations for point source and storm water discharges. Applicable design criteria and certified drawings for engineered structures and BMPs are found in Part 4 (Sediment Control Plan) within this permit and in the Stormwater Pollution Prevention Plan (SWPPP). NPDES point source discharge locations are identified in Section 25 (Sediment Control Plan). Information identifying storm water discharge locations are maintained on-site in the Environmental Services Department filing system within the SWPPP.

Copies of the NPDES Permits and associated NNEPA 401 certifications will be maintained on-site in the Environmental Services Department filing system in accordance with CWA requirements. Applicable permits, certifications, and plans are available for review by the regulatory authority upon request.

### **8.2 Protection of Waters of the United States**

BNCC complies with the CWA regulations, 33 CFR Part 323, and other applicable federal, state, and tribal regulations related to the discharges of dredged or filled materials into waters of the United States (WUS). BNCC will seek a CWA Section 404 Individual Permit (IP) to cover discharges of dredged and filled materials (impacts) into WUS. WUS are defined as drainage features which exhibit defined bed and bank characteristics or areas which exhibit hydric soil conditions and are inundated or saturated by surface and groundwater at a frequency and duration during the growing season sufficient to support hydrophytic vegetation. BNCC has conducted a preliminary jurisdictional determination of drainage features and during the IP permitting process will seek a jurisdictional concurrence by the United States Army Corps of

Engineers (USACE). Drainage features and other surface water resources found within and adjacent to the Pinabete permit area are discussed further in Section 18 (Water Resources).

The Section 404 IP will cover projected life of operation impacts (i.e., mining pit, haul road and service road corridor, Burnham Road re-route, sediment and drainage control feature, and support facility impacts) to WUS. BNCC will obtain the appropriate NNEPA 401 certifications for all of its Section 404 IP permitting actions. Impacts to WUS due to the Pinabete mining plan will be offset by BNCC in the form of compensatory mitigation. Mitigation activities will be conducted at either an on-site or offsite location and conducted in accordance with the compensatory mitigation plan approved by the USACE.

Copies of the current USACE Section 404 IP, associated NNEPA 401 certification, and approved USACE mitigation plan will be maintained on-site in the Environmental Services Department filing system in accordance with CWA requirements. Applicable permits, certifications, and plans are available for review by the regulatory authority upon request.

### **8.3 Spill Prevention, Control, and Countermeasure Plan**

BNCC complies with the CWA, 40 CFR Part 112, Spill Prevention Control and Countermeasure (SPCC) requirements and other applicable federal, state, and tribal water quality laws and regulations for spill prevention and control of oil and related materials. Bulk fuel, oil, and other lubricants are stored in designated locations. The storage locations are designed with secondary storage to capture and/or prevent any leaks or spills. All storage locations are regularly maintained and inspected. The SPCC Plan will be filed on-site in accordance with 40 CFR Part 112 in the Environmental Services Department filing system and available for review by the regulatory authority upon request.

### **8.4 Waste Handling and Disposal**

#### *8.4.1 Used Oil Handling*

BNCC complies with the Resource Conservation and Recovery Act (RCRA), 40 CFR Part 279, and other applicable federal, state, and tribal regulations regarding handling and disposal of used oil. Used oil is collected on-site in approved storage areas with secondary containment and then periodically transported offsite to an approved used oil recycling facility. A description of the on-site remediation of soil containing petroleum products from spills can be found in Section 20 (Mining Operations).

#### *8.4.2 Universal Waste Handling*

BNCC complies with RCRA, 40 CFR Part 273, and other applicable federal, state, and tribal regulations for handling and disposal of universal wastes. Materials classified as universal waste, fully defined in 40 CFR Part 273.9, include waste such as batteries, lamps, and mercury-containing equipment. Universal wastes are stored on-site in a manner that prevents releases to the environment for a period of no longer

than one year from the date of generation, then transported to an offsite, permitted RCRA facility for recycling, treatment, or disposal. All shipment records or bills of lading are maintained on-site by the Environmental Services Department in accordance with 40 CFR Part 273 and will be available for review by the regulatory authority upon request.

#### *8.4.3 Hazardous Waste Handling*

BNCC complies with RCRA, 40 CFR Parts 260-299, and other applicable federal, state, and tribal laws and regulations for handling and disposal of hazardous waste. Materials classified as hazardous waste by the U.S. Environmental Protection Agency (USEPA) are accumulated, managed, and disposed of following the applicable United States, NNEPA, Department of Transportation (DOT), and Office of Safety and Hazard Administration (OSHA) regulations. Hazardous wastes are accumulated in designated temporary or satellite accumulation areas then shipped offsite by a RCRA-permitted transportation, storage and disposal facility for recycling, treatment, or disposal. Hazardous waste manifests and other hazardous waste management records are maintained on-site in compliance with 40 CFR Part 262 and are available for review by the regulatory authority upon request.

#### *8.4.4 Polychlorinated Biphenyls Handling*

BNCC does not currently utilize polychlorinated biphenyls (PCBs) for mining activities or mining-related mobile equipment. Should the case arise when use of PCBs is necessary or PCBs are found in old transformers, BNCC will comply with the Toxic Substances Control Act, 40 CFR Part 761, and other applicable federal, state, and tribal regulations for handling and disposal of PCBs.

#### *8.4.5 Solid Waste Disposal Act Compliance*

BNCC will comply with the Solid Waste Disposal Act, 40 CFR Parts 257 and 258, and other applicable federal, state, and tribal laws and regulations for handling and disposal non-hazardous solid wastes. Coal combustion by-products produced by BNCC's customer, Four Corners Power Plant (FCPP) will be managed by FCPP. Municipal trash and other non-hazardous solid wastes from mine operations will be accumulated in dumpsters located around the site and transported to a permitted landfill by an approved contractor.

Incidental coal spillage materials are regularly cleaned up around the mine and placed in the mine pit. Material will be placed along the bottom of a pit adjacent to the wedge or spoil side. Coal not meeting contract specifications is disposed of in a mine pit.

### **8.5 Clean Air Act Compliance**

BNCC will comply with all applicable requirements of the federal Clean Air Act (CCA) and the Navajo Nation Air Pollution Prevention and Control Act. BNCC will update this section to ensure compliance with the most current and finalized federal and tribal laws and regulations.

The air pollutant of concern in mining activities is fugitive particulate emissions. The emissions are minimized by various control measures, as described in Part 5 (Reclamation Plan) and Part 6 (Environmental Protection, Probable Hydrologic Consequences, and Monitoring). Control measures include, but are not limited to, periodic watering of frequently traveled roads, revegetation as soon after regrading as possible, and efficient topsoil storage procedures to minimize wind erosion. In all mining activities, mine personnel will make an effort to minimize fugitive dust emissions and ensure that total suspended particulate standards are not violated by BNCC. The Air Quality Monitoring Plan can be found in Part 6 (Environmental Protection, Probable Hydrologic Consequences, and Monitoring), Section 42 (Monitoring, Maintenance, Inspections and Examinations).

#### *Personnel*

Persons or organizations responsible for data collection, analysis, and preparation of this permit application package section:

Kent Applegate

Matt Owens

BHP Navajo Coal Company

Table 8.1-1 Pinabete Permit Area Other Permits and Licenses

Issuing Authority Name	Type of Permit	Approval/ Notification Date	Permit/ Identification Number
U.S. Environmental Protection Agency, Region IX	402 National Pollution Discharge Elimination System (NPDES)	Pending	Pending
	NPDES Storm Water Multi-Sector General Permit	Pending	Pending
	Notification of Hazardous Waste Activity	Pending	Pending
Navajo Nation Dept. of Water Resources	License to Use Specified Water in Operations	7 Jun 1996	96.289
	Water Use Permit for Monitoring Wells	Pending	Pending
Navajo Nation Environmental Protection Agency	401 Water Quality Certification (NPDES permit)	Pending	Pending
	401 Water Quality Certification (Section 404 IP)	Pending	Pending
United States Army Corps of Engineers	404 Individual Permit for Dredge and Fill Activities	Pending	Pending
Office of the State Engineer State of New Mexico	Permit to Appropriate Surface Waters	10 Oct 1958	Permit 2838
Bureau of Reclamation Colorado River Storage Project	Colorado River Storage Project	1 Mar 1980	14-06-400-5138
US. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives	22 – Manufacturer of Blasting Agents	19 Sep 2011	5NM-045-22-2J-12082
	33 – User of High Explosives	19 Sep 2011	5NM-045-33-2J-12081
Dept. of Labor Mine Safety and Health Administration (MSHA)	MSHA Mine ID	6 May 1963 (Reissued 2 Apr 1984)	29-00097