FACT SHEET
Consolidated Coal Company – Burnham Mine
NPDES Permit No. NN00228584

Applicant Address:	Consolidated ("CONSOL") Coal Company P.O. Box 56 Sesser, IL 62884
Applicant Contact:	Timothy Kirschbaum, Environmental Engineer timkirschbaum@consolenergy.com (618) 625-6847
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Facility Contact:	Timothy Kirschbaum

I. Status of Permit

The CONSOL Burnham Mine was initially issued a National Pollutant Discharge Elimination System ("NPDES") permit by the U.S. Environmental Protection Agency ("EPA") on November 1, 1986 and expired on November 30, 1991. On May 28, 1991, CONSOL filed a timely renewal of its NDPES permit. An updated renewal application was requested and received on September 5, 2007. The reissued NPDES permit for the CONSOL Burnham Mine became effective on March 8, 2008 and expired on March 7, 2013.

II. Background

The CONSOL Burnham Mine is located in Burnham, San Juan County, New Mexico, within the northeastern portion of the Navajo Nation. The Burnham Mine is currently inactive and undergoing reclamation. The mine was only active for about a yaer and then was shut down due to problems with coal transportation. The mine has been on standby status since 1984 and current reclamation efforts have been underway for complete closure of the site. A diesel fuel cleanup effort is also a component in the reclamation of the Burnham Mine. There is only one outfall (No. 001) constructed to mitigate storm water runoff.

III. Receiving Water

Discharge Outfall 001 to receiving waters is located on the Navajo Nation. The Navajo Nation Surface Water Quality Standards ("NNSWQS") were originally approved by the

Resources Committee of the Navajo Nation Council on November 9, 1999. Amendments to the NNSWQS were approved by the Resources Committee on July 30, 2004 and May 13, 2008. The Navajo Nation has received "Treatment as a State" from EPA for the purposes of § 106 and § 303 of the CWA. EPA has also approved the Navajo Nation's water quality standards. Therefore, this permit incorporates NNSWQS as appropriate.

Outfall 001 discharges to Brimhall Wash, a tributary to the Chaco River, a tributary to the San Juan River. The designated uses of the receiving water (Brimhall Wash), as defined by the NNSWQS, are Secondary Human Contact, Agriculture Water Supply, Aquatic Wildlife Habitat, and Livestock and Wildlife Watering.

IV. Description of Discharge

The discharge includes storm water runoff. There have been only two (2) discharge events since the Burnham Mine received its original NPDES permit in 1986. A discharge occurred in August 1989 and another occurred in August 1995. The discharges were within effluent limits. A permit is being maintained in order to provide the flexibility to discharge in the event of a major precipitation event.

V. Regulatory Basis of Proposed Effluent Limits

Section 301(a) of the Clean Water Act ("Act") provides that the discharge of any pollutant to waters of the Untied States is unlawful except in accordance with an NPDES permit. Section 402 of the Act establishes the NPDES program. The program is designed to limit the discharge of pollutants into waters of the U.S. from point sources (40 CFR 122.1(b)(1)) through a combination of various requirements including technology-based and water quality-based effluent limitations.

1. Technology-Based Effluent Limitations

Under 40 CFR Part 125.3(c)(2), technology-based treatment requirements may be imposed on a case-by-case basis under Section 401(a)(1) of the Act, to the extent that EPA promulgated effluent limitations are inapplicable, i.e., the regulation allows the permit writer to consider the appropriate technology for the category or class of point sources and any unique factors relating to the applicant.

The discharge of wastewater from coal mines is subject to 40 CFR Part 434: Coal Mining Point Source Category BPT, BAT, BCT Limitations and New Source Performance Standards. The Burnham Mine has the potential to discharge wastewater from separate sources that are subject to separate subcategories of Part 434.

A. Outfall 001-Effluent Limits

This outfall meets the definition of "alkaline, mine drainage" in 40 CFR Part 434.11(c). Therefore, the proposed permit sets the limits for these outfalls in accordance with the requirements for "Subpart D – Alkaline Mine Drainage" for

BPT, BCT, and BAT regulations that apply to such discharges. The proposed permit sets discharge limits for these outfalls for Iron (3.5 mg/l daily average and 7.0 mg/l daily maximum), Total Suspended Solids (TSS) (35 mg/l daily average and 70 mg/l daily maximum), and Ph (no less than 6.0 or greater than 9.0 standard pH units). Flow volumes, Iron, TSS and pH monitoring is required during any event. These requirements are consistent with those of the previous permit.

B. Outfall 001-Sediment Control Plan

001 – Sedimentation Pond

EPA promulgated new regulations applicable to western alkaline coal mines on January 23, 2002. The outfall meets the definition of "Subpart H – Western Alkaline Coal Mining", which applies to "alkaline mine drainage at western coal mining operations from reclamation areas, brushing and grubbing areas, topsoil stockpiling areas, and regarded areas." (40 CFR Part 434.81). In accordance with the requirements established in Subpart H, the operator is required to:

1) submit a site-specific Sediment Control Plan to EPA incorporating the minimum requirements of 40 CFR Part 434.82, and

2) demonstrate that implementation of the Sediment Control Plan will result in average annual sediment yields that will not be greater than the sediment yield levels from pre-mined, undisturbed conditions.

The operator is required to submit these materials to EPA in a letter and attachments within two years upon issuance of the permit. In accordance with Subpart H, the proposed permit requires that the approved Sediment Control Plan be incorporated into the permit as an effluent limit, and requires that the permittee design, implement, and maintain the Best Management Practices ("BMPs") in the manner specified in the Sediment Control Plan.

These materials will become part of the Administrative Record for the proposed permit and will become available for public review. This condition will streamline the permittee towards achieving their terminal remediation endeavors.

2. Water Quality-Based Effluent Limitations

Sections 402 and 301(b)(1)(c) of the Act require that the permit contain effluent limitations that, among other things, are necessary to meet water quality standards. 40 CFR 122.44(d) provides that an NPDES permit must contain:

"Water quality standards and State requirements: any requirements in addition to or more stringent that promulgated effluent limitations guidelines or standards under sections 301, 304, 306, 307, 318 and 405 of the Act necessary to:

(1) Achieve water quality standards established under sections 303 of the Act, including State narrative criteria for water quality."

40 CFR 122.44(d)(1)(i) states:
"Limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines area or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality."

40 CFR 122.44(d)(1)(ii) states:
"When determining whether a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above a narrative or numeric criteria within a State water quality standard, the permitting authority shall use procedures which account for existing controls on point and non-point sources of pollution, the variability of the pollutant or pollutant parameters in the effluent, the sensitivity of the species to toxicity testing (when evaluating whole effluent toxicity) and where appropriate, the dilution of the effluent in the receiving water."

40 CFR 122.44(d)(1)(iii) states:
"When the permitting authority determines using the procedures in paragraph (d)(1)(ii) of this section, that a discharge causes, has the reasonable potential to cause or contributes to an in-stream excursion above the allowable ambient concentration of a State numeric criteria within a State water quality standard for an individual pollutant, the permit must contain effluent limits for that pollutant."

Guidance for the determination of reasonable potential to discharge toxic pollutants is included in both the "Technical Support Document for Water Quality-Based Toxics Control (TSD) – Office of Water Enforcement and Permits, U.S. EPA", dated March 1991 and the "NPDES Permit Writers Manual – Office of Water, U.S. EPA", dated December 1996. EPA's technical support document contains guidance for determining the need for permit limits. In doing so, the regulatory authority must satisfy all the requirements of 40 CFR 122.44(d)(1)(ii). In determining whether the discharge causes, has the reasonable potential to cause or contributes to an excursion of a numeric or narrative water quality criterion for individual toxicants, the regulatory authority must consider a variety of factors. These factors include the following:

- Dilution in the receiving water,
- Existing data on toxic pollutants,
- Type of industry,
- History of compliance problems and toxic impacts, and
- Type of receiving water and designated uses.

Based on an analysis of factors at the Burnham Mine operations and projected

wastewater quality data provided in the application, EPA concluded there continues to be no "reasonable potential" to cause or contribute to an exceedence of water quality standards. This is consistent with the previous permit.

The proposed permit sets general conditions based on narrative water quality standards contained in Section 203 of the NNSWQS. These standards are set forth in Section B ("General Discharge Specifications") of the permit.

VI. Monitoring Requirements

The proposed permit requires discharge data obtained during the previous three months to be summarized and reported monthly. If there is no discharge for the month, indicate "Zero Discharge". These reports are due January 28, April 28, July 28, and October 28 of each year. Duplicated signed copies of these, and all other reports required herein, shall be submitted to the Regional Administrator and the Navajo Nation EPA.

VII. Threatened and Endangered Species

EPA has determined that the discharge in compliance with this permit will have no effect on threatened or endangered species. EPA has determined that due to the infrequency of the discharge and inactivity of mining operations, effluent released in accordance with this permit will have no effect on any threatened or endangered species that may be present in the area. No requirements specific to the protection of endangered species are proposed in the permit. A copy of the permit and fact sheet is being sent to the Navajo Nation Natural Heritage Program for review during the public comment period.

VIII. Permit Reopener

At this time, there is no reasonable potential to establish any other water quality-based limits. Should any monitoring indicate that the discharge cause, has the reasonable potential to cause, or contributes to excursion above a water quality criterion, the permit may be reopened for the imposition of water quality-based limits and/or whole effluent toxicity limits. The proposed permit may be modified, in accordance with 40 CFR 122 and 124, to include appropriate conditions of effluent limits, monitoring, or other conditions to implement new regulations, including U.S. EPA-approved new tribal water quality standards; or to address new information indicating the presence of effluent toxicity or the reasonable potential for the discharge to cause or contribute to exceedences of water quality standards.

IX. Standard Conditions

Conditions applicable to all NDPES permits are included in accordance with 40 CFR Part 122 and Part 124.

X. Administrative Information – Public Notice, Public Comments, and Requests for Public Hearings

In accordance with 40 CFR 124.10, public notice shall be given by the U.S. EPA Director that a draft permit has been prepared by mailing a copy of the notice to the permit applicant and other Federal and State agencies, and through publication of a notice in a daily or weekly newspaper within the area affected by the facility. The public notice shall allow at least 30 days for public comment on the draft permit.

IN accordance with 40 CFR 124.11 and 12, during the public comment period, any interested person may submit written comments on the draft permit, and may request a public hearing if no hearing has already been scheduled. A request for public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. In accordance with 40 CFR 124.13, all persons must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position within 30 days from the date of the public notice. Comments may be received either in person or mailed to:

U.S. Environmental Protection Agency, Region 9
NPDES Permits Office (WTR-5)
Attn: Gary Sheth
75 Hawthorne Street
San Francisco, CA 94105
Telephone: (415) 972-3516

Interested persons may obtain further information, including copies of the draft permit, fact sheet/statement of basis, and the permit application, by contacting Gary Sheth (WTR-5) at the U.S. EPA address above. Copies of the administrative record (other than those which U.S. EPA maintains as confidential) are available for public inspection between 8:00 am and 4:30 pm, Monday through Friday (excluding federal holidays).

In accordance with 40 CFR 124.12, the U.S. EPA Director shall hold a public hearing when, on the basis of requests, a significant degree of public interest in the draft permit exists. The Director may also hold a public hearing when, for instance, such a hearing might clarify one or more issues involved in the permit decision. Public notice of such hearing shall be given as specified in 40 CFR 124.10.

XI. Information Sources

While developing effluent limitations, monitoring requirements and special conditions for the draft permit, the following information were used:

1. Navajo Nation Surface Water Quality Standards, Navajo Nation, 2008.

2. EPA Technical Support Document for Water Quality-based Toxic Controls dated March 1991.

3. U.S. EPA NPDES Basic Permit Writers Manual (December 1996).

4. 40 CFR Parts 122, 124, 131, 133, and 4343.

5. NPDES permit application forms, December 21, 2012.