

***Via e-mail DEQCoal@mt.gov***

August 27, 2020

Mr. Matt Dorrington  
Coal and Uranium Program  
Industrial and Energy Minerals Bureau  
Montana Department of Environmental Quality  
PO Box 200901  
Helena, MT 59620-0901

Permit ID: C1979012  
Revision Type: Minor Revision  
Permitting Action: Application  
Subject: MR262 Permit Transfer from Spring Creek Coal LLC to  
Navajo Transitional Energy Company, LLC

Dear Matt:

On November 21, 2019 Spring Creek Mine (SCM) submitted a request to the Department to transfer Surface Mine Permit (SMP) C1979012 from Spring Creek Coal LLC to Navajo Transitional Energy Company, LLC (NTEC). This request was sent to the Department outside of the ePermit system since transfers are dependent on some rules not used within the ePermit system.

On January 2, 2020, SCM received comments back from MDEQ on the initial submittal. Since then, the Coal Program has determined that it makes more sense to submit the transfer request as a minor revision to the permit and take care of the documents that are not a part of the permit as attachments to our submittal letter. As such, there will be attachments to this, and possibly future response letters to SCM's permit transfer application that SCM respectfully requests be kept confidential. These will be clearly labeled in the naming convention and within the document as CONFIDENTIAL.

MR262 has been submitted in the ePermit system. The section reflecting the most changes is the "Admin" section with Legal Right to Enter and assignment of Agreements being addressed. It is understood that throughout the entire permit the Department would prefer that references to "Spring Creek Coal Company", "SCCC", "Spring Creek Coal, LLC", and "SCC" be changed to generic "the operator", "Spring Creek Mine", or "SCM". That is a goal that we will work toward and possibly be able to make progress in that direction with further comment/response rounds with this revision. However, our first focus is to resolve all content responses specific to the permit transfer. In order to provide "blanket" information broadly across the permit, the compliance document stored under "Other Permit Information"/"Format and Supplemental Information" entitled [302\\_ComplyInfo\\_MR262\\_20200818.doc](#) explains the different mine name references and Spring Creek Mine's intent to eventually clean all references up.

Responses to January 2, 2020 comments are as follows:

**ARM 17.24.418:**

1. *Please provide updated coal leases (BLM, DNRC, and Private) verifying NTEC's right to mine.*  
SCM has not yet obtained the transfer of Federal agreements. These transfers are anticipated in 2020, but SCM sees value in processing as many of the permit transfer comments as possible right away in order to simply finalizing the permit transfer application when the eventual lease transfers and bonding are in place. Listed below these responses under "Affected Permit Materials" are all of the updated documents in regard to Right to Mine and Legal Right to Enter. Each of these updated documents contains bookmarks for the assignment to NTEC (or a placeholder for eventual assignment in regard to Federal agreements).
  2. *Please provide signing authority for Heath Hill as Executive Vice President.*  
The signing authority for Heath Hill is attached to this letter since there is not a section for this in ePermit.
  3. Please submit the complete assignment form and provide proof of agency.  
The second page was inadvertently left off in the first submittal. Attached to this letter is the complete document.
  4. Under attachment 06\_AssignmentAssumptions Page 3 of 5 has Prospecting Permit N2012009 listed. This is incorrect, please remove. Also, keep in mind that the Prospecting Permit must be transferred as a separate application.  
N2012009 and X2011336 have been removed from this listing. The revised file is attached to this letter and has been renamed to:  
20200102\_MDEQComment4\_N2012009-X2011336
  5. Under attachment 07\_APA Lease Assignment, the leases do not cover all the legal description. This needs to be addressed.  
As in comment #1 above: Listed below these responses under "Affected Permit Materials" are all of the updated documents in regard to Right to Mine and Legal Right to Enter. Each of these updated documents contain bookmarks for the assignment to NTEC (or a placeholder for eventual assignment in regard to Federal agreements).
  6. Please submit a complete and fully-effective waiver of the Navajo Transitional Energy Company's (NTEC) sovereign immunity which has been accepted and approved by the State of Montana.  
A durable Limited Waiver of Sovereign Immunity which was agreed upon between the State of Montana and NTEC on March 12th, 2020. It is assumed that this agreement is on file with MDEQ's legal department.
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### **Affected Permit Materials**

Changes to Spring Creek Mine's permit to are as follows:

#### **Legal Right To Enter Documents:**

- If retained, documents were
    - Updated with any new legal right to enter information and
    - Renamed to utilize a standard naming convention.
  - Documents that were no longer needed were removed, some new were added. These consisted of:
    - 303\_Addm-o-1\_NTEC\_SurfaceOwnership\_MR262\_2020081820200818303 has been added with this permit update. This document wholly contains the NTEC purchase of all Spring Creek Coal LLC property, including old AddmA1\_2014 Welter\_20171117\_MR235 and 303\_AddmB1\_2016 Van Haele\_20171117\_MR235. *The "AddmA1" and "AddmB1" documents have now been removed from the permit.*
    - 303\_Addm-o-2\_BLM\_LeaseGraze\_MR262\_20200818 has been added with this permit update. **This Addendum will be updated upon Federal transfers to NTEC.**
    - 303\_AddmW\_RestatedAccessAgmts\_DCC was renamed to 303\_Addm-o-3\_DCC\_SCM\_Agreements\_MR262\_20200818 and now contains several SCM-DCC agreements, allowing for removal of several, now redundant documents
    - The agreement in Addendum\_303E\_HaulroadEasement is now wholly included with other DCC-SCM agreements in 303\_Addm-o-3\_DCC\_SCM\_Agreements\_MR262\_20200818 *Addendum\_303E\_HaulroadEasement has now been removed from the permit.*
    - Addendum\_303F\_BLM\_CommercialUseLease was superseded by Addendum\_303W\_LandLease\_74913\_20200210\_TR1MR232 which is now renamed to 303\_Addm-o-17\_BLM\_LUL74913\_MR262\_20200818, *Addendum\_303F\_BLM\_CommercialUseLease has now been removed from the permit.*
    - Addendum\_303G\_RRspurPowerEase\_MT was renamed to 303\_Addm-o-4\_MT\_RR-PowerEasement\_MR262\_20200818
    - Addendum\_303H\_RRspurPowerEase\_DCC is wholly contained within what is now 303\_Addm-o-3\_DCC\_SCM\_Agreements\_MR262\_20200818, *Addendum\_303H\_RRspurPowerEase\_DCC has been removed from the permit*
    - Addendum\_303I\_RRspurROW\_BLM was renamed to 303\_Addm-o-5\_BLM\_RR-ROW\_MR262\_20200818. **This Addendum will be updated upon Federal transfers to NTEC.**
    - Addendum\_303J\_AccessRdEase\_BLM was renamed to 303\_Addm-o-6\_BLM\_AccessRdEasement\_MR262\_20200818 **This Addendum will be updated upon Federal transfers to NTEC.**
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- Addendum\_303K\_SF\_FloodCtrlEase\_CCC was removed from the permit because the Navajo Transitional Energy Company, LLC (NTEC) acquired all legal estate previously held by Arrowhead I LLC, successor to Consolidation Coal Company and lands adjacent to and within the permit area.
  - Addendum\_303L\_LeaseCoal\_Carbone\_ST was renamed to 303\_Addm-o-7\_MT-LeaseCoal\_Carbone\_MR262\_20200818  
*Information on Federal Coal Lease MTM 88405 which had been duplicated in this addendum has now been removed and placed in Addendum 303U where all other information to MTM 88405 has been housed.*
  - Addendum\_303M\_LeaseSurface\_Resource was superseded by subsequent transactions ultimately ending with NTEC holding deeds to all pertinent lands now within the SCM permit as evidenced in 303\_Addm-o-1\_NTEC\_SurfaceOwnership\_MR262\_20200818, as such *Addendum\_303M\_LeaseSurface\_Resource has been removed from the permit*
  - Addendum\_303N\_AccessAgmt\_SCC\_DCC was renamed to 303\_Addm-o-8\_DCC\_DraglineCorridor\_MR262\_20200818
  - Addendum\_303O\_WaiverIndmn\_DNRC was renamed to 303\_Addm-o-9\_DNRC\_StockpileWaiver\_MR262\_20200818
  - Addendum\_303P\_LeaseGrazeCoal\_MT\_20110426\_APP183 was updated with transfer information, extraneous information removed, and renamed to 303\_Addm-o-10\_MT\_LeaseCoal\_C-1088-15\_MR262\_20200818
  - Addendum\_303Q\_LandUsePermit\_20110426\_APP183 was updated with transfer information and renamed to 303\_Addm-o-11\_BLM\_LUP96659\_MR262\_20200818  
*This Addendum will be updated upon Federal transfers to NTEC.*
  - Addendum\_303R\_LeaseCoal\_94378\_20110426\_APP183 renamed to 303\_Addm-o-12\_BLM\_LeaseCoal\_MTM94378\_MR262\_20200818  
*This Addendum will be updated upon Federal Lease transfers to NTEC.*
  - Addendum\_303S\_LeaseCoal\_Scrutchfield\_20110426\_APP183 was renamed to 303\_Addm-o-13\_PRIVATE\_LeaseCoal\_Scrutchfield\_MR262\_20200818
  - Addendum\_303T\_LeaseCoal\_69782\_20200210\_TR1MR232 was renamed to 303\_Addm-o-14\_BLM\_LeaseCoal\_69782\_MR262\_20200818  
*This Addendum will be updated upon Federal Lease transfers to NTEC.*
  - Addendum\_303U\_LeaseCoal\_88405\_20110426\_APP183 was renamed to 303\_Addm-o-15\_BLM\_LeaseCoal\_88405\_MR262\_20200818  
*This Addendum will be updated upon Federal Lease transfers to NTEC.*
  - Addendum\_303V\_TRIntakeLandAgmts\_20150127\_MR206 **was updated with this minor revision (adding a document to the end)** and is renamed to 303\_Addm-o-16\_DNRC\_TRIntakeLandAgmts\_MR262\_20200818
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- Addendum\_303W\_LandLease\_74913\_20200210\_TR1MR232 was renamed to 303\_Addm-o-17\_BLM\_LUL74913\_MR262\_20200818.  
*This Addendum will be updated upon Federal Lease transfers to NTEC.*
- Addendum\_303X\_Arrowhead\_20200210\_TR1MR232 is no longer needed since the change in ownership. NTEC now owns the former "Arrowhead" and the "Spring Creek Coal Company" properties so no notice is required to "Arrowhead" for disturbance being within 100 feet of the property boundary any longer. As such, *Addendum\_303X\_Arrowhead\_20200210\_TR1MR232 is removed from the permit.*
- Addendum\_303Y\_DeckerOver\_20200210\_TR1MR232 is wholly contained within what is now 303\_Addm-o-3\_DCC\_SCM\_Agreements\_MR262\_20200818. As such, *303\_AddmY\_DCC\_OverstripAgreement\_20200210\_TR1MR232 is removed from the permit.*

This cover letter is saved in the "Reports/Correspondence" section. There is no change to the TOC or Drawing Index with this revision.

Spring Creek looks forward to working with the Department on this request. I now have a Montana number (406) 757-4234, please feel free to call if you have any questions.

Thank you,



LAURA ACKERMANN  
Manager, Environmental  
Spring Creek Coal LLC

cc: CF 5.02.4 (SCM-2020)

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