



# TIMELINE

## FCPP/Navajo Mine Complex

Year	Navajo Mine	Four Corners Power Plant (FCPP)
1957	<b>NAVAJO MINE LEASE:</b> The Navajo Nation leases over 24,000-acres coal to Utah Construction and Mining Company, which becomes the Navajo Mine (later expands to 33,600 acres).	
1960		<b>FCPP LEASE:</b> The Navajo Nation and several companies* sign a lease allowing the construction of the Four Corners Power Plant.  <i>*Arizona Public Service Company, Public Service Company of New Mexico, EPE Company, Salt River Project, Tucson Electric Company, and Southern California Edison.</i>
1963		<b>CONSTRUCTION:</b> Units 1, 2, 3 built at FCPP.
1969		<b>CONSTRUCTION:</b> Units 4 and 5 built at FCPP.
1984	<b>OWNERSHIP:</b> BHP Billiton buys the Navajo Mine.	
2006		<b>EMISSIONS LAWSUIT:</b> Sierra Club files a lawsuit over emissions controls at FCPP under the Clean Air Act. Sierra Club drops the case after the EPA says it will finalize a pollution control plan for the power plant.
2007	<b>MINE EXPANSION LAWSUIT #1:</b> The San Juan Citizens Alliance (SJCA) and Diné Citizens Against Ruining the Environment (Diné CARE) sue the Office of Surface Mining Reclamation Enforcement (OSMRE) for approving a 3,800-acre expansion of Area IV North Navajo Mine. <sup>i</sup>	<b>EMISSIONS LAWSUIT:</b> EPA finalizes the plan for emissions controls at FCPP, Sierra Club and others sue again because the plan fails to study how pollution affects Four Corners residents and regional haze from NOx emissions. At this point the facility is approaching its predetermined Remaining Useful Life of 50 years.
2008		<b>WASTE STORAGE:</b> Coal ash waste from FCPP's Units 4 and 5, which was historically stored in mined-out pits of Navajo Mine, shifts to onsite disposal within the power plant lease with the coal ash waste from Units 1, 2, and 3.
2010	<b>MINE EXPANSION #1:</b> In Dine CARE's case against OSMRE, the district court concludes OSMRE violated the National Environmental Policy Act (NEPA) in approving the mine expansion and remanded the case for further proceedings. <sup>ii</sup>	
2011	<b>MINE EXPANSION #2:</b> Owner BHP Billiton returns with a revised environmental assessment (EA) that looks at a smaller 700-acre expansion. SJCA and partners submit comments on the EA outlining	<b>DESERT ROCK DEFEAT:</b> The proposed Desert Rock Power Plant, which would have been the third coal plant in northwest New Mexico, is defeated. The defeat raises the profile on the existing problems at FCPP and Navajo

	environmental and public health concerns. <sup>iii</sup>	Mine.
2012	<b>MINE EXPANSION #2:</b> SJCA and partners sue over the new EA. <sup>iv</sup> Courts rule twice that the EA is inadequate. One of the primary claims is that Navajo Mine and FCPP are connected actions and need to be analyzed together in a comprehensive Environmental Impact Statement (EIS). The Department of the Interior agrees to embark on an EIS that includes the Navajo Mine and the FCPP as connected actions. SJCA and partners submit comments during the scoping phase of the EIS development. <sup>v</sup>	<b>REGIONAL HAZE PROGRAM:</b> The Environmental Protection Agency (EPA) determines that FCPP needs to install Selective Catalytic Reduction (SCR) to comply with the Regional Haze Program. FCPP is a major emitter of NOx, which is increasing haze in nearby National Parks and other important areas. EPA gives FCPP owner, Arizona Public Service Company (APS), a choice between (1) shutting Units 1, 2, and 3 and installing Selective Catalytic Reduction on Units 4 and 5, or (2) Retrofitting all five units to meet certain emissions rate limits.
2013	<b>OWNERSHIP:</b> The Navajo Nation Council forms the Navajo Transitional Energy Company (NTEC) and buys the Navajo Mine from BHP Billiton. SJCA and other partners submit supplemental comments on the transaction, outlining concerns about the conditions of the transfer. <sup>vi</sup> Diné Citizens Against Ruining our Environment submit comments directly to the Secretary of the Interior outlining Navajo specific concerns. <sup>vii</sup>	<b>REGIONAL HAZE PROGRAM:</b> FCPP shuts down Units 1, 2, and 3 and agrees to install SCR on Units 4 and 5 to comply with the Regional Haze Program.
2014	<b>MINE EXPANSION #3:</b> NTEC submits another EA and request for expansion of the Navajo Mine.	<b>PERMIT EXTENSION LAWSUIT:</b> Federal agencies publish the Draft Environmental Impact Statement (EIS) for an extension of FCPP's operating permit to 2041. SJCA, with the Western Environmental Law Center and other environmental groups, submit comments on the Draft EIS. <sup>viii</sup>  <b>DISCHARGE PERMIT:</b> SJCA and partners submit intent to sue the EPA and/or APS for illegally discharging pollutants from the FCPP without a valid permit. <sup>ix</sup>
2015	<b>MINE EXPANSION #2:</b> The courts conclude that OSMRE violated the National Environmental Policy Act in the mine expansion EA. <sup>x</sup> NTEC files a notice of appeal.  <b>MINE EXPANSION #3:</b> SJCA and partners file comments but do not challenge, deciding instead to focus on the comprehensive FCPP and Navajo Mine EIS. <sup>xi</sup>	<b>PERMIT EXTENSION LAWSUIT:</b> SJCA and partners file supplemental comments on the FCPP / Navajo Mine DEIS for extension to 2041, listing more concerns, including the social cost of carbon. <sup>xii</sup> The Department of the Interior publishes the Final EIS, approving the extension of FCPP's permit to 2041. SJCA and partners announce intent to sue over the EIS's compliance with the Endangered Species Act and National Environmental Policy Act. <sup>xiii</sup>  <b>DISCHARGE PERMIT:</b> The EPA drafts a renewal National Pollutant Discharge Elimination System Permit (NPDES) for the FCPP permitting discharge of effluent into a tributary of the San Juan River. SJCA and partners file comments protesting this permitting. <sup>xiv</sup>
2016	<b>MINE EXPANSION #2:</b> Appeals court vacates the	<b>PERMIT EXTENSION LAWSUIT:</b>

	case because OSM complied fully with the district court's ruling on remand.	SJCA and partners file suit against the US government's approval of the 25-year operations extension on the grounds of Endangered Species Act and National Environmental Policy Act violations. <sup>xv</sup>
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<sup>i</sup> *Diné Citizens Against Ruining the Environment v. Klein*, 747 F. Supp. 2d 1234, 1263-64 (D. Colo. 2010) (Civil Action No. 07-cv-1475-JLK)

<sup>ii</sup> *Diné Citizens Against Ruining the Environment v. Klein*, 747 F. Supp. 2d 1234, 1263-64 (D. Colo. 2010) (Civil Action No. 07-cv-1475-JLK)

<sup>iii</sup> Western Environmental Law Center, "RE: EA for BHP Navajo Coal Company Pre-2016 Mine Plan for Area III and Area IV North [OSM EA# NM-0003-F-Y-01]" (January 17, 2012).

<sup>iv</sup> *Diné Citizens Against Ruining our Environment, et al versus United States Office of Surface Mining, et al and Navajo Transitional Energy Company, LLC*, No. 15-1126 on appeal from Action No. 12-cv-1275-JLK

<sup>v</sup> Western Environmental Law Center, "RE: FOUR CORNERS-NAVAJO MINE EIS COMMENTS" (October 31, 2012).

<sup>vi</sup> Western Environmental Law Center, "RE: SUPPLEMENTAL COMMENTS ON ENVIRONMENTAL ASSESSMENT FOR NAVAJO MINE PERMIT TRANSFER APPLICATION" (September 27, 2013).

<sup>vii</sup> *Diné Citizens Against Ruining Our Environment*, Letter to Secretary Sally Jewell of the Department of the Interior, (November 1, 2013).

<sup>viii</sup> Western Environmental Law Center, "RE: Conservation Groups' Comments on the Draft Environmental Impact Statement for the Four Corners Power Plant and Navajo Mine Energy Project" (June 27, 2014).

<sup>ix</sup> Law Office of John M. Barth, Intent to Sue over Permit NM0000019 extension, (April 30, 2014).

<sup>x</sup> Memorandum Opinion and Order, for Civil Action No. 12-cv-01275-JLK, District of Colorado, (March 2, 2015); AND Court Decision for Civil Action No. 12-cv-01275-JLK, District of Colorado, (April, 6, 2015).

<sup>xi</sup> Western Environmental Law Center, "RE: Revised Environmental Assessment (EA) for Navajo Mine Area IV North Permit Revision Application" (November 25, 2015).

<sup>xii</sup> Western Environmental Law Center, "RE: SUPPLEMENTAL COMMENTS REGARDING THE DRAFT EIS FOR FOUR CORNERS POWER PLANT AND NAVAJO MINE" (February 18, 2015).

<sup>xiii</sup> Western Environmental Law Center, "SIXTY-DAY NOTICE OF INTENT TO SUE FOR VIOLATIONS OF SECTION 7 OF THE ENDANGERED SPECIES ACT IN CONNECTION WITH THE BIOLOGICAL OPINION AND RECORD OF DECISION AUTHORIZING THE FOUR CORNERS POWER PLANT AND NAVAJO MINE ENERGY PROJECT" (December 20, 2015).

<sup>xiv</sup> The Law Office of John M. Barth, "Re: Comments on draft renewal NPDES permit for Four Corners Power Plant, Permit NN0000019" (February 18, 2015); AND The Law Office of John M. Barth, "Re: Comments by San Juan Citizens Alliance and Center for Biological Diversity on NPDES draft permit No. NN0028193, NTEC Navajo Mine." (September 19, 2015.)

<sup>xv</sup> Western Environmental Law Center, Case 3:16-cv-08077-SPL filed, District of Arizona, (April 20, 2016).

[See sources here.](#)