

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
Of the 23rd Navajo Nation Council---First Year 2015

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A BORROW LEASE TO FNF CONSTRUCTION, INC., TO OPERATE AND MAINTAIN THE GANADO LAKE BORROW PIT AND AN ACCESS ROAD FOR A TOTAL OF 28,474 ACRES, MORE OR LESS, OF NAVAJO NATION TRUST LANDS LOCATED WITHIN THE GANADO CHAPTER VICINITY, NAVAJO NATION (APACHE COUNTY, ARIZONA) FOR ROAD IMPROVEMENT PROJECTS AND CONSTRUCTION RELATED PURPOSES

BE IT ENACTED:

Section One. Findings

- A. The pursuant to 2 N.N.C. Section 501(B)(2), the Resources and Development of the Navajo Nation Council has authority to give final approval of all land withdrawals, non-mineral leases, permits, licenses, rights-of-way, surface easements and bonding requirements on Navajo Nation lands and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfers, renewals and terminations; and
- B. The FNF Construction, Inc., 115 South 48th Street, Tempe, Arizona 85281, has submitted a request for a borrow lease and an access road totaling 28.474 acres, more or less, of Navajo Nation Trust lands. The proposed Borrow Lease is attached as Exhibit A; and
- C. The proposed Borrow Lease consists of 28.474 acres, more or less, of Navajo Nation Trust Lands located within Section 13, Township 27, North Range 26 East G&SRM, Apache County, Arizona. The location of the site is more particularly described on the map marked as Exhibit B; and
- D. The Project Review Section with the Navajo Land Department has obtained the consent from the affected land users, (i.e., grazing permittees). The consent documents are attached as Exhibit C; and.

- E. All environmental and archaeological studies and clearances, attached as Exhibit D, have been completed and are attached hereto and incorporated hereby by this reference.

Section Two. Approval:

- A. The Resources and Development Committee of the Navajo Nation Council hereby approves a Borrow Lease for FNF Construction, Inc., for 28.474 acres, more or less, of Navajo Nation Trust Lands in the Ganado Lake vicinity, Ganado Chapter, Navajo Nation (Apache County, Arizona) to operate and maintain Borrow pit and access road. The location is more particularly described on the survey map attached as Exhibit B.
- B. The Navajo Nation hereby approves the Borrow Lease subject to, but not limited to the terms and conditions in the Lease attached hereto as Exhibit A and made a part hereof.
- C. The Navajo Nation hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to implement the intent and purpose of this resolution.

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at Navajo Nation Council Chambers, Window Rock, Navajo Nation (Arizona), at which quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, 1 abstained this 20th day of August, 2015.



Benjamin Bennett, Vice-Chairperson
Resources and Development Committee
Of the 23rd Navajo Nation Council

Motion: Honorable Leonard Pete
Second: Honorable Walter Phelps
Vote: 4-0-1 (Presiding Vice-Chairman Not Voting)



EXHIBIT 'A'

NAVAJO NATION EARTH BORROW LEASE

THIS AGREEMENT for a Sand and Gravel Lease (Lease) is made and entered into this _____ day of _____, ____, by and between the Navajo Nation and whose address is at Window Rock Arizona, and FNF Construction, Inc. herein called the Lessee and whose address is at 115 South 48th Street, Tempe, Arizona 85281.

Definitions:

Sand & Gravel means: Earth Borrow, Sand, and Natural Gravel.

Department means: the Navajo Nation Minerals Department.

Navajo Nation (Nation) means: the Navajo Tribe of Indians.

Secretary means: the Secretary of the U.S. Department of Interior or his/her designated representative.

Performance bond means: a surety bond, collateral bond or self-bond or a combination thereof, by which a lessee assures faithful performance of all the requirements this lease and mining and reclamation plan.

Reclamation means: those actions taken to restore mined land as required to a post mining land use approved by the Department.

Resources Committee means: the Resources Committee of the Navajo Nation Council.

Slope means: average inclination of a surface, measured from the horizontal; normally expressed as a unit of horizontal distance to vertical distance.

Stabilize means: to control movement of soil or areas of disturbed earth by modifying the geometry of the mass, or by otherwise modifying physical or chemical properties, such as by providing a protective surface coating.

Ton means: 2000 pounds.

Water table means: the upper surface of a zone of saturation.

The Nation hereby grants Lessee a Lease right to extract earth borrow from SE ¼, Section 13, Township 27 North, Range 26 East, Apache County, State of Arizona. The Lease occupies an area of 26.436 acres, more or less, and the access road right-of-way consists of 2.038 acres, more or less. The location maps and legal descriptions of the Lease and the access road are shown in attached Exhibits _____ and _____, respectively. The Lease shall be subject to the following terms and conditions.

1. The Lease shall be valid for a period of two (2) years, effective the date it is approved by the Secretary. This date shall be known as the Effective Date of the Lease.

2. Payments to the Nation by the Lessee:

(i) An annual advance royalty for each lease year. The first payment in the amount of Eight-Thousand-Eight-Hundred-Sixty-One Dollars (\$8,861.00) is due within ten (10) days of the Effective Date. Subsequent annual advance royalty payments are due on or before each anniversary of the Effective Date. The annual advance royalty payment shall be credited against production royalties only during the year for which the advance royalty has been paid.

(ii) A royalty at the rate of \$1.42 per ton for each ton of material removed and sold from the Lease premises. The royalty payment shall be made on a monthly basis within fifteen (15) days following the month for which the royalty is due. Lessee must maintain an accurate and current record of borrow material produced and sold. This record must be available to the Nation and the U.S. Department of Interior (DOI) staff for inspection during business hours.

(iii) Annual consideration of \$1,590.00 for the access road right-of-way. The first payment is due (unless it is paid in lump sum for the entire term of the lease) within ten (10) days of the Effective Date and all subsequent payments shall be made on or before each anniversary of the Effective Date.

(iv) The subsequent annual advance royalty payment, the royalty rate, and the right-of-way consideration (if not paid in lump sum) shall be subject to annual adjustments on each anniversary of the Effective Date. The adjustments shall be based upon the increase in the Consumer Price Index (CPI), U.S. City Average for All Urban Consumers. The CPI for July 2015 shall be used as the base for all adjustments.

3. Mining and Reclamation Plan: The Lessee shall provide a mining and reclamation plan (Plan) to the Nation and to the DOI. The Lessee shall comply with all the requirements of the approved Plan. Lessee shall obtain the approval of the Nation and the DOI prior to making any changes in the approved Plan. The Plan will include the area to be mined with drainage control; annual tonnage estimates for the mining area; and the planned reclamation timing to coincide with the mining. As a general rule, slopes will not exceed 5:1 and majority of the revegetation species will be native to the area.

4. Bond: The Lessee shall furnish a performance and reclamation bond for Two-Hundred-Fifty-Thousand Dollars (\$250,000.00). The Lessee shall maintain this bond at all times even if the Lease has expired or is terminated. The bond shall only be released with the written consent of the Nation. The bond may also be increased by the Nation and/or the DOI. The Lessee shall request a bond release to DOI only after the Lease has been expired or terminated and Lessee has fulfilled all its obligations, including all payments due to the Nation and reclamation requirements, under the terms and conditions of this Lease.

5. Records and Reports: The Lessee shall maintain accurate records of all sand and gravel material extracted, stockpiled, sold and removed from the Lease and the royalty due and paid to the Nation. A copy of the records shall be provided to the DOI and the Nation Minerals Department (P.O. Box 1910, Window Rock, AZ: 86515) on a monthly basis within fifteen (15) days following the sale month. Monthly production reports must be filed even if there was no sale of material.

6. Method of Payments: All required payments under Section 2 of this Lease shall be made to the department, in lawful money of the United States. A copy of the payments shall be provided to the DOI.

7. Disposition of Minerals and Surface: The Nation expressly reserves the right to use, lease or otherwise dispose of the minerals not covered by this Lease and the surface of the lands embraced within this Lease under existing laws and laws hereinafter enacted. Lessor further reserves the right to grant additional leases for the extraction and removal of sand and gravel or for any other purposes from the lands described herein. Such disposition and use shall be subject to the prior rights of the Lessee herein to use of so much of the said surface as is necessary in the extraction and removal of sand and gravel described in accordance with this Lease.

8. Diligence: The Lessee shall exercise diligence in the conduct of its mining operation and the land described herein shall not be held for speculative purposes, but in good faith for the extraction of sand and gravel and shall begin operation within one (1) month of the Effective Date and shall continue production thereafter at the rate specified in the plan.

9. No work shall commence until the mandatory mine health and safety training has been provided to the workers pursuant to 30 CFR, Part 46. The Lessee shall maintain the required training plan pursuant to the provisions of 30 CFR, Part 46. The Department shall be listed in the training plan if the Lessee wants the Department to conduct the training. The Lessee may contact the Department to arrange for the training.

10. The Lessee may develop, use and occupy the area under the Lease for the purpose of removing sand and gravel material. The Lessee may not develop, use or occupy the area under the Lease for any other purpose without the prior written approval of the Nation and the Secretary. Such approval of the Nation may be granted upon conditions or withheld at the sole discretion of the Nation. The Lessee may not develop, use or occupy the area under the permit for any unlawful purpose. Any unlawful use of the land within the Lease shall render the Lease void at the option of the Nation and/or the Secretary.

11. Sand and gravel material shall not be used for projects outside the Nation unless it is expressly authorized by the Resources Committee of the Navajo Nation Council.

12. In all activities conducted by the Lessee within the Nation, the Lessee shall abide by all laws and regulations of the Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:

- a. Title 25, Code of Federal Regulations, Parts 162 and 169;
- b. Title 30, Code of Federal Regulations, Parts 46 and 56;
- c. The Navajo Nation Mine Safety Code 18 N.N.C. § 401;
- d. All applicable federal and Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery, all operations in the immediate vicinity of the discovery must cease and the Nation's Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archaeological deposits, human remains, or location reportedly associated with Native American religious/ traditional beliefs or practice.
- e. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq., and
- f. The Navajo Nation Water Code, 22 N.N.C. § et seq., Lessee shall apply for and submit all applicable permits and information to the Nation's Water Resources Department, or its successor.

13. The Lessee shall ensure that the air quality of the Nation is not unduly degraded during operations by violating federal and Nation's applicable laws and regulations.

14. The Lessee shall clear and keep clear the lands within the Lease area to the extent compatible with the purpose of the Lease, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during any surface disturbance activities.

15. The Lessee shall at all times during the term of the Lease and at the Lessee's sole cost and expense, maintain the land subject to the Lease and all improvements located thereon and make all necessary reasonable repairs.

16. The Lessee shall obtain prior written permission to cross an existing permit or lease areas, if any, from the appropriate parties.

17. The Lessee shall be responsible for and promptly pay all damages when they are sustained, from actions the Lessee causes.

18. The Lessee shall indemnify and hold harmless the Nation and the Secretary and their respective authorized agents, employees, land users and occupants against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of area under the Lease by the Lessee.

19. The Lessee shall not assign, convey, transfer or sublet in any manner whatsoever, the lease or any interest therein, or in or to any of the improvements on the land subject to the lease,

without the prior written consent of the Nation and the Secretary. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Nation may be granted, granted upon conditions or withheld at the sole discretion of the Nation.

20. The Nation may recommend termination of the Lease by DOI for violation of any of the terms and conditions stated herein.

21. At the termination of the Lease, the Lessee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear accepted. Upon the written request from the Nation, the Lessee shall provide the Navajo, at the Lessee's sole cost and expense, with an environmental audit assessment of the premises at least thirty (30) days after completion and notification to the Nation that all required reclamation has been performed.

22. Holding over by the Lessee after the termination of the Lease shall not constitute a renewal or extension thereof or give the Lessee any rights hereunder or in to the land subject to the Lease or to any improvements located thereon.

23. The Nation and the Secretary shall have the right, at any reasonable time during the term of the permit, to enter upon the premises, or any part thereof, to inspect the same and any improvements located therein. The Nation and Secretary have further right to audit all payments due to the Nation.

24. By acceptance of the grant of Lease, the Lessee consents to the full territorial legislative, executive and judicial jurisdiction of the Nation, including but not limited to the jurisdiction to levy fines and to enter judgments for compensatory and punitive damages and injunctive relief, in connection with all activities conducted by the Lessee within the Nation or which have a proximate (legal) effect on persons or property within the Nation.

25. By acceptance of the grant of the Lease, the Lessee covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Nation on the basis that such jurisdiction is inconsistent with the status of the Nation as an Indian nation, or that the Nation's government is not a government of general jurisdiction, or that the Nation's government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision shall be construed to negate or impair federal responsibilities with respect to the land subject to the Lease or to the Nation.

26. Any action or proceeding brought by the Lessee against the Nation in connection with or arising out of the terms and conditions of the Lease shall be brought only in the Courts of the Nation, and no such action or proceeding shall be brought by the Lessee against the Nation in any court of any state.

27. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Nation.

28. Except as prohibited by applicable federal law, the law of the Nation shall govern the performance and enforcement of the terms and conditions contained herein.

29. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of the Lessee, and the term "Lessee" whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.

30. There is expressly reserved to the Nation full territorial legislative, executive and judicial jurisdiction over the area under the Lease and all lands burdened by the Lease, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the area under the Lease and all lands burdened by the Lease shall be and forever remain Navajo Indian Country for purposes of the Nation's jurisdiction.

31. The Lessee is required to maintain and submit a certificate issued by an insurance company authorized to do business in the United States, and on the Nation, certifying that the applicant has a public liability insurance policy in force for the mining and reclamation operations pursuant to this Lease. Such policy shall provide for personal injury and property damage protection in an amount adequate to compensate any person injured or property damaged as a result of the mining and reclamation operations, including the use of explosives. Minimum insurance coverage for bodily injury and property damage shall be \$ 500,000 for each occurrence and \$1,000,000 aggregate.

(a) The policy shall be maintained in full force during the term of the Lease and the liability period necessary to complete all reclamation requirements under the Plan.

(b) The policy shall include a rider requiring that the insurer notify the Department and DOI whenever substantive changes are made in the policy including any termination or failure to renew.

THE NAVAJO NATION

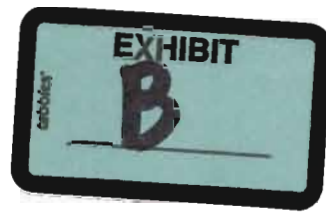
BY _____
Russell Begaye, President
The Navajo Nation

FNF CONSTRUCTION, INC.

BY _____
Tressia Contraras,
Environmental Manager
FNF Construction, Inc.

Date

Date



BORROW PIT

LEGAL DESCRIPTION

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 27 NORTH, RANGE 26 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, APACHE COUNTY, ARIZONA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND BRASS CAP MARKING THE NORTH QUARTER CORNER OF SAID SECTION 13 FOR WHICH A FOUND BRASS CAP MARKING THE NORTHWEST CORNER OF SAID SECTION 13 LIES SOUTH 89°44'53" WEST, 2638.93 FEET;

THENCE SOUTH 19°29'51" EAST, ALONG A TIE LINE, 3661.87 FEET TO THE **POINT OF BEGINNING**;

THENCE SOUTH 67°23'02" EAST, 560.17 FEET;

THENCE SOUTH 05°16'15" EAST, 1311.59 FEET;

THENCE NORTH 84°29'27" WEST, 1137.99 FEET;

THENCE NORTH 19°19'19" EAST, 1496.49 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 26.436 ACRES MORE OR LESS.

TOGETHER WITH:

A 20 FEET WIDE STRIP OF LAND TO BE USED AS AN INGRESS-EGRESS EASEMENT 10 FEET EITHER SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;

COMMENCING AT A FOUND BRASS CAP MARKING THE NORTH QUARTER CORNER OF SAID SECTION 13 FOR WHICH A FOUND BRASS CAP MARKING THE NORTHWEST CORNER OF SAID SECTION 13 LIES SOUTH 89°44'53" WEST, 2638.93 FEET;

THENCE SOUTH 28°17'37" EAST, ALONG A TIE LINE, 4835.38 FEET TO A POINT AT THE WESTERLY EDGE OF PAVEMENT OF B.I.A. ROUTE 27 AND THE **POINT OF BEGINNING**

THENCE SOUTH 87°10'31" WEST, 125.87 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 89.69 FEET, THROUGH A CENTRAL ANGLE OF 35°23'46", AN ARC DISTANCE OF 55.41 FEET;

THENCE SOUTH 51°46'53" WEST, 34.54 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 319.80 FEET, THROUGH A CENTRAL ANGLE OF 22°31'50", AN ARC DISTANCE OF 125.76 FEET;

THENCE SOUTH 29°14'52" WEST, 183.59 FEET TO THE BEGINNING OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 296.61 FEET, THROUGH A CENTRAL ANGLE OF 31°01'22", AN ARC DISTANCE OF 160.60 FEET;

THENCE SOUTH $1^{\circ}46'30''$ EAST, 96.91 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 204.75 FEET, THROUGH A CENTRAL ANGLE OF $100^{\circ}49'13''$, AN ARC DISTANCE OF 360.29 FEET TO A POINT OF REVERSE CURVATURE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 4536.98 FEET, THROUGH A CENTRAL ANGLE OF $5^{\circ}01'17''$ AN ARC DISTANCE OF 397.62 FEET;

THENCE NORTH $85^{\circ}58'34''$ WEST, 334.77 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 235.40 FEET, THROUGH A CENTRAL ANGLE OF $78^{\circ}06'00''$, AN ARC DISTANCE OF 320.88 FEET;

THENCE NORTH $1^{\circ}05'00''$ WEST, 412.56 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 293.64 FEET, THROUGH A CENTRAL ANGLE OF $47^{\circ}37'26''$, AN ARC DISTANCE OF 244.07 FEET;

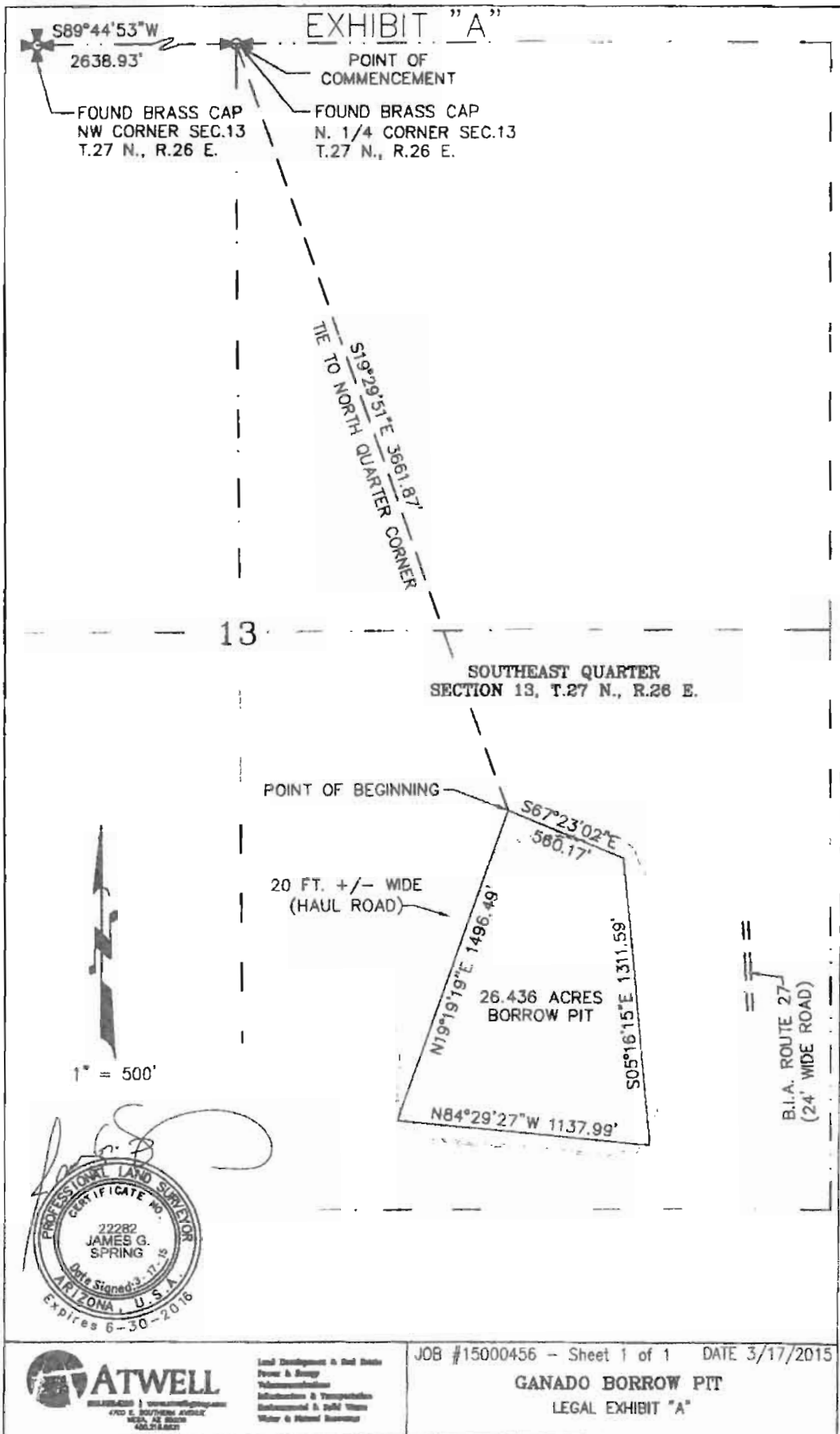
THENCE NORTH $46^{\circ}32'28''$ EAST, 99.18 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 1593.13 FEET, THROUGH A CENTRAL ANGLE OF $15^{\circ}52'48''$, AN ARC DISTANCE OF 441.55 FEET TO A POINT OF REVERSE CURVATURE, CONCAVE SOUTHEASTERLY WITH A RADIUS OF 207.90 FEET, THROUGH A CENTRAL ANGLE OF $37^{\circ}18'38''$, AN ARC DISTANCE OF 135.39 FEET TO A POINT OF COMPOUND CURVATURE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 692.06 FEET, THROUGH A CENTRAL ANGLE OF $34^{\circ}34'31''$, AN ARC DISTANCE OF 417.63 FEET TO A POINT OF COMPOUND CURVATURE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 234.16 FEET, THROUGH A CENTRAL ANGLE OF $59^{\circ}03'11''$, AN ARC DISTANCE OF 241.34 FEET;

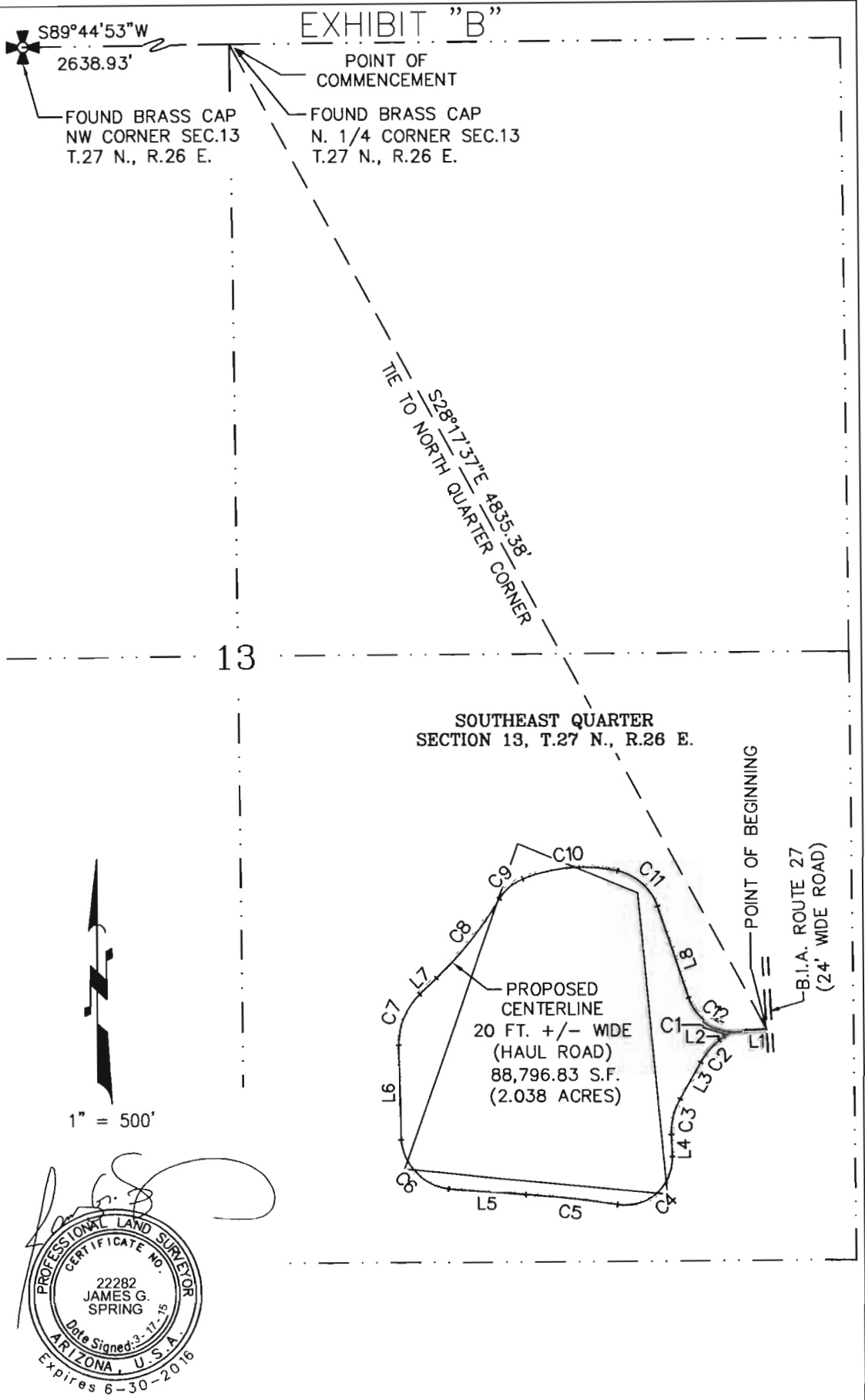
THENCE SOUTH $18^{\circ}24'22''$ EAST, 415.60 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 210.41 FEET, THROUGH A CENTRAL ANGLE OF $74^{\circ}25'08''$, AN ARC DISTANCE OF 273.30 FEET TO A POINT OF TERMINUS, ALSO BEING A POINT ON DESCRIBED CENTERLINE, LYING SOUTH $87^{\circ}10'31''$ WEST, 125.87 FEET FROM THE POINT OF BEGINNING.

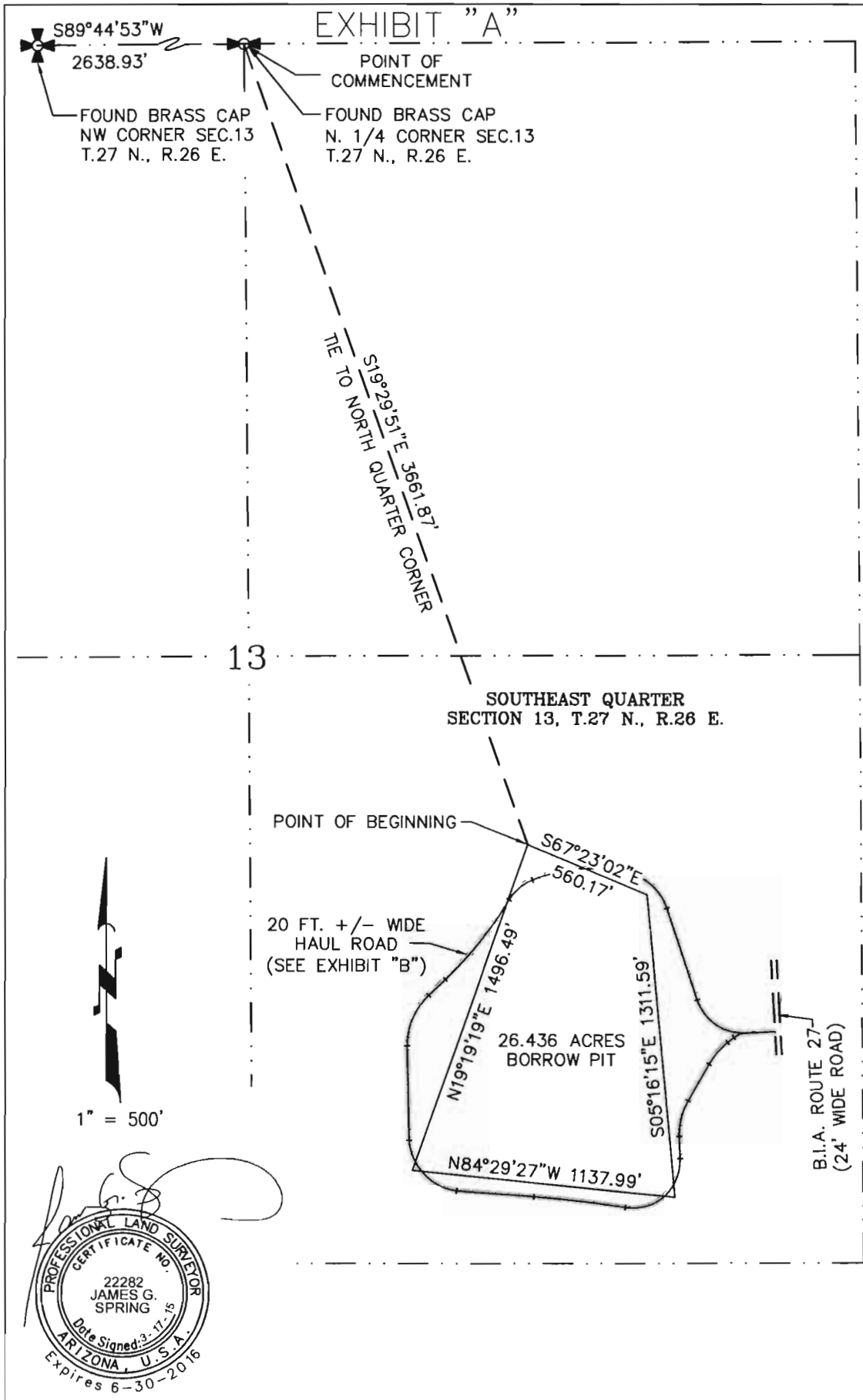
THE SIDELINES ON THE ABOVE DESCRIBED STRIP OF LAND SHALL BE EXTENDED OR SHORTENED TO MEET AT ANGLE AND END POINTS TO FORM A CONTINUOUS 20.00 FEET WIDE STRIP OF LAND THROUGH THE GRANTOR'S PROPERTY.

CONTAINING 88,796.83 SQUARE FEET OR 2.038 ACRES MORE OR LESS.









Land Development & Real Estate
Power & Energy
Telecommunications
Infrastructure & Transportation
Environmental & Solid Waste
Water & Natural Resources

JOB #15000456 - Sheet 1 of 1 DATE 3/17/2015
GANADO BORROW PIT
LEGAL EXHIBIT "A"

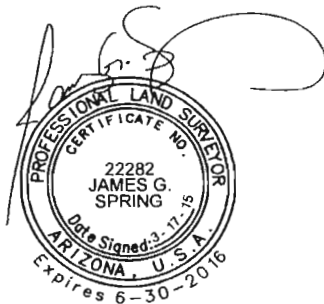
EXHIBIT "B"

LINE TABLE

LINE #	DIRECTION	LENGTH
L1	S87°10'31"W	125.87'
L2	S51°46'53"W	34.54'
L3	S29°14'52"W	183.59'
L4	S01°46'30"E	96.91'
L5	N85°58'34"W	334.77'
L6	N01°05'00"W	412.56'
L7	N46°32'28"E	99.18'
L8	S18°24'22"E	415.60'

CURVE TABLE

CURVE #	LENGTH	RADIUS	DELTA
C1	55.41'	89.69'	35°23'46"
C2	125.76'	319.80'	22°31'50"
C3	160.60'	296.61'	31°01'22"
C4	360.29'	204.75'	100°49'13"
C5	397.62'	4536.98'	5°01'17"
C6	320.88'	235.40'	78°06'00"
C7	244.07'	293.64'	47°37'26"
C8	441.55'	1593.13'	15°52'48"
C9	135.39'	207.90'	37°18'38"
C10	417.63'	692.06'	34°34'31"
C11	241.34'	234.16'	59°03'11"
C12	273.30'	210.41'	74°25'08"

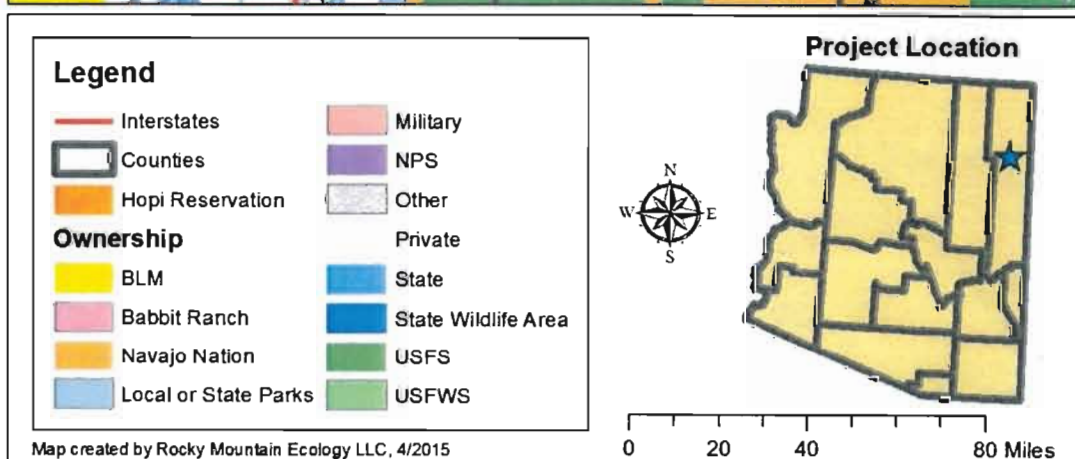
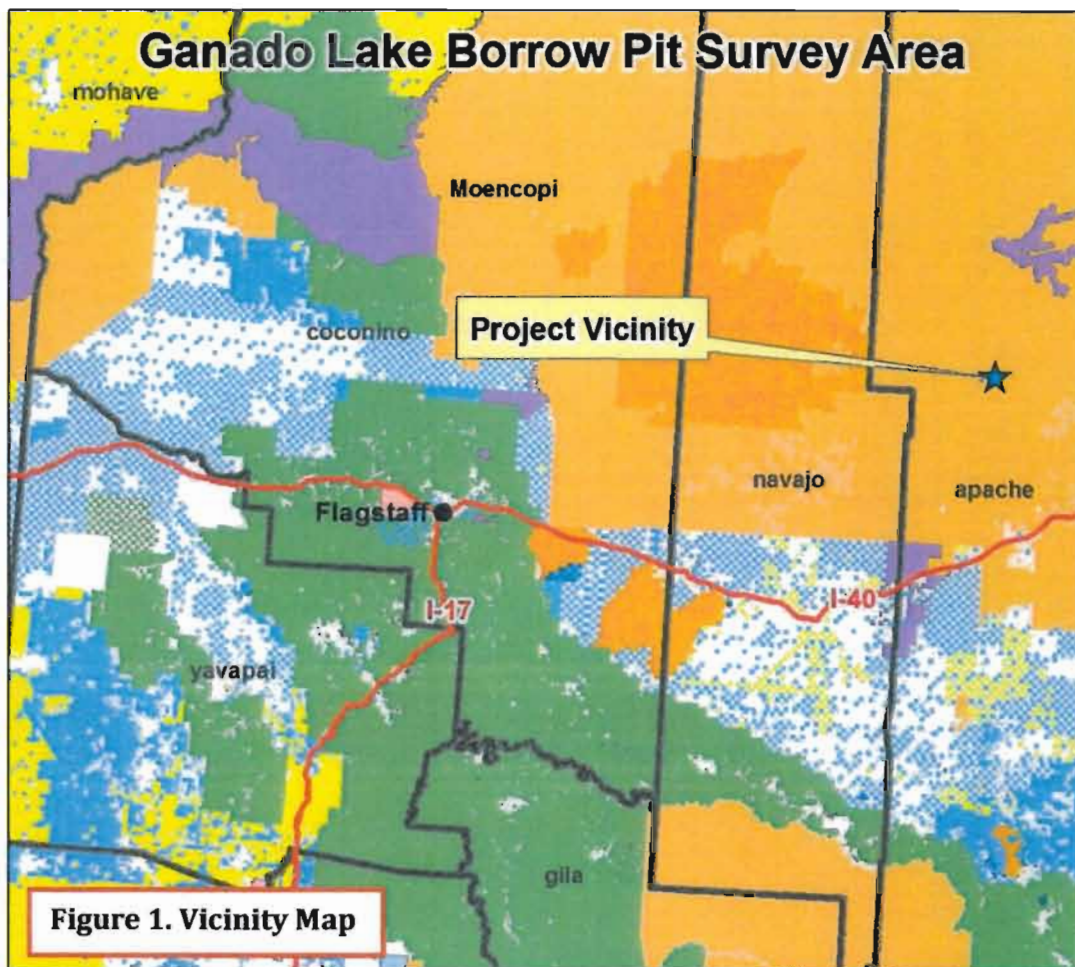


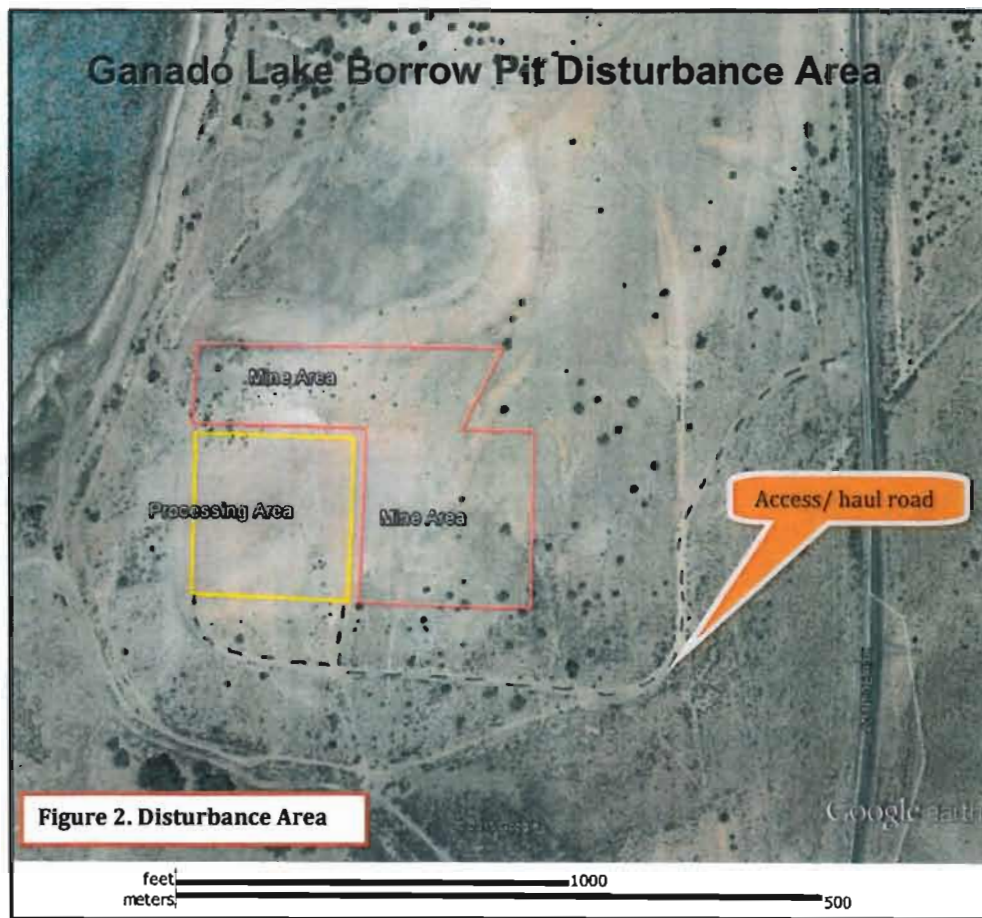
Land Development & Real Estate
Power & Energy
Telecommunications
Infrastructure & Transportation
Industrial & Solid Waste
Water & Natural Resources

JOB #15000456 - Sheet 2 of 2 DATE 3/17/2015

GANADO 20 FT WIDE ACCESS EASEMENT
LEGAL EXHIBIT "A"

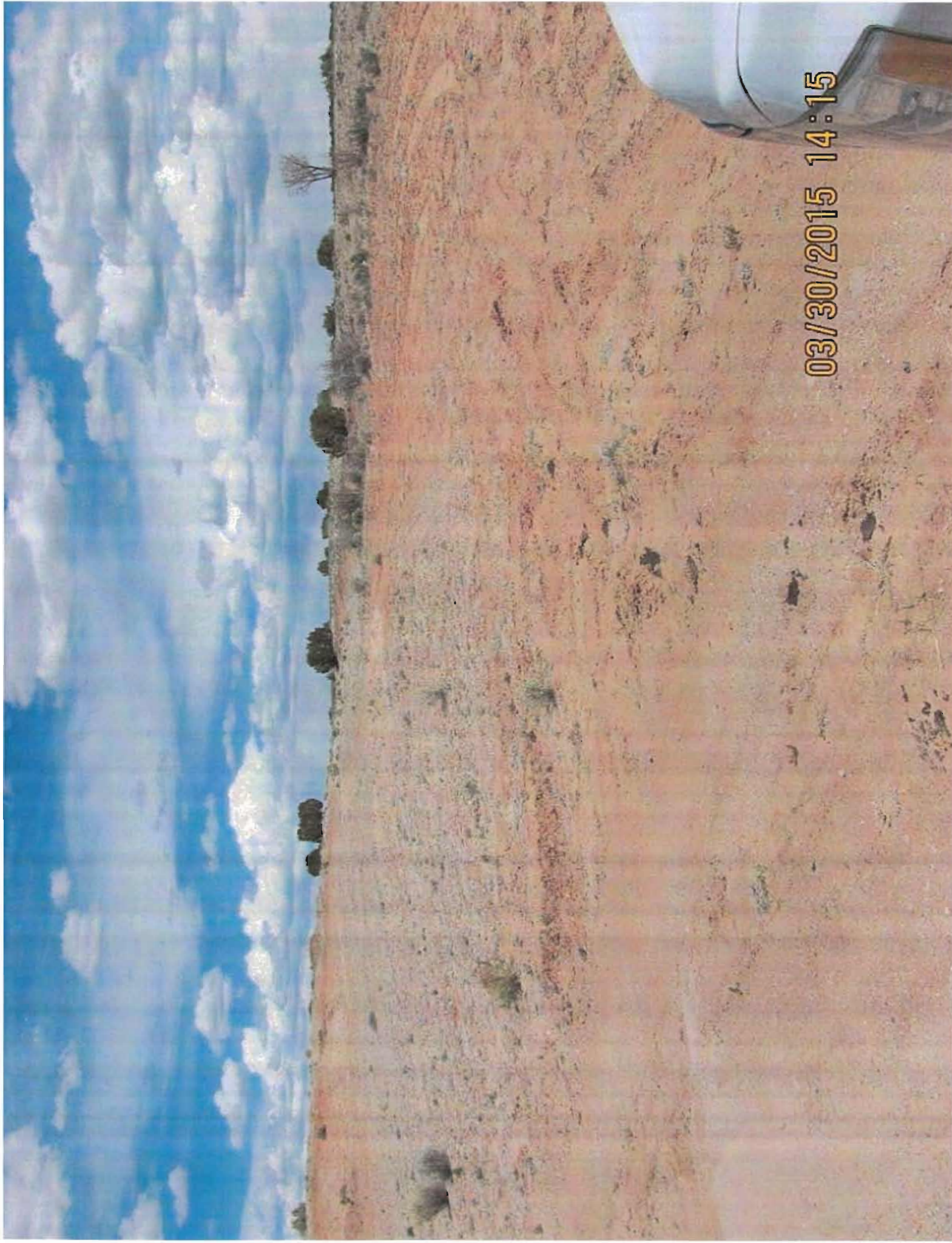






Attachment 2 Ground Level photographs of Existing Condition

03/30/2015 14:15



03/30/2015 14:16

03/30/2015 14:16

03/30/2015 15:01

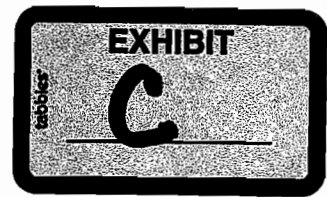




THE NAVAJO NATION

Navajo Land Department

P.O. Box # 2249 · Window Rock, Arizona 86515 · (928) 871-6401 · FAX: (928) 871-7039



MEMORANDUM

TO : Howard P. Draper, Supervisor
Project Review Section, NLD

FROM : Esther Kee
Esther Kee, R/W Agent
Project Review Section, NLD

DATE : May 15, 2015

SUBJECT: FNF Ganado Borrow Pit

FNF Construction, Inc., 115 South 48th Street, Tempe, Arizona 85281, submitted an application for Borrow Permit with Haul Road. FNF proposes to reopen and expand the existing Ganado Borrow Pit to extract borrow materials for ADOT SR264 MP 450-459.02 road project all Navajo Trust lands near Ganado Chapter.

The borrow pit consists of 26.436 acres, and 2.038 acres for haul road, all located in SE/4 of Section 13, T27N, R26E, G&SRM, Apache County, Arizona.

District 17 Grazing Committee member, Dickerson Smith, identified three grazing permittees; Marie Shepherd, Sharon Salabye, Beverly J. Begay, affected by the proposed request. I informed the affected land users on the proposed project, they had no objection and requested they be compensated. I obtained all the land users consent along with the concurrence of the District 17 Grazing Committee member. Land users will be compensated \$4, 270.80 (\$3,965.40/borrow pit, \$305.40/road) for surface damages.

Field clearance complete, land users consents, map and supporting documents are all attached for your information and reference.

cc: Project file

CONSENT 2

(Compensation for damages)

**CONSENT TO USE
NAVAJO TRIBAL LANDS**

TO WHOM IT MAY CONCERN:

I, Marie Shepherd, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit **FNF Construction, Inc., 115 S. 48th Street, Tempe, Arizona 85281** to use a portion of my land use area for the following purpose(s) **Borrow Permit of 26.436 acres, FNF will reopen & expand existing Ganado Lake Pit to extract borrow materials for the ADOT SR264 MP 450-459.02 road project, Pit located in SE/4 of Section 13, T27N, R26E, G&SRBM, Apache County, Arizona, as shown on the map showing the location of the proposed project on the back of this consent form.**

My consent is given subject to the receipt of compensation of \$1,423.60
(Borrow Pit 26.436 ac x \$150/ac = \$3,965.40 = Haul Road
~~2.038 ac x \$150. ac = \$305.40 = \$4,270.80 / 3 Landusers~~), which I acknowledge as good and adequate compensation for the diminishment in value of my land use rights as a result of the above-referenced project as proposed.

REMARKS:

5/15/15 [Signature] 12 4 17-19-06
Date Land User Signature/Thumbprint Social Security No. Census No. Permit No.
PO Box GANADO AZ 86505
Address (P.O. Box, City, State, Zip, Telephone No.)

WITNESS: _____

5/18/15 [Signature] 17.5
Date Grazing Committee or Land Board Member District No.

Acknowledgement of Field Agent

I acknowledge that the contents of this consent form was read// or fully explained to to the land user in Navajo to or English// (Check where applicable)

[Signature]
Field Agent Signature

CONSENT 2

(Compensation for damages)

**CONSENT TO USE
NAVAJO TRIBAL LANDS**

TO WHOM IT MAY CONCERN:

I, Beverly J. Hardy, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit **FNF Construction, Inc., 115 S. 48th Street, Tempe, Arizona 85281** to use a portion of my land use area for the following purpose(s) **Borrow Permit of 26.436 acres, FNF will reopen & expand existing Ganado Lake Pit to extract borrow materials for the ADOT SR264 MP 450-459.02 road project, Pit located in SE/4 of Section 13, T27N, R26E, G&SRBM, Apache County, Arizona, as shown on the map showing the location of the proposed project on the back of this consent form.**

My consent is given subject to the receipt of compensation of \$1,423.60

(Borrow Pit 26.436 ac x \$150/ac = \$3,965.40 + Haul Road
~~2.038 ac x \$150. ac = \$305.40 = \$4,270.80 / 3 Land users~~) which I acknowledge as good and adequate compensation for the diminishment in value of my land use rights as a result of the above-referenced project as proposed.

REMARKS:

05-15-15 Beverly J. Hardy 17-0215
Date Land User Signature/Thumbprint Social Security No. Census No. Permit No.
P.O. Box Ganado, Arizona 86505
Address (P.O. Box, City, State, Zip, Telephone No.)

WITNESS: _____

5-18-15 Dickie Smith 17-5
Date Grazing Committee or Land Board Member District No.

Acknowledgement of Field Agent

I acknowledge that the contents of this consent form was read// or fully explained to the land user in Navajo or English// (Check where applicable)

Ether Lee
Field Agent Signature

CONSENT 2

(Compensation for damages)

CONSENT TO USE
NAVAJO TRIBAL LANDS

TO WHOM IT MAY CONCERN:

I, Sharon Salabye, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit **FNF Construction, Inc., 115 S. 48th Street, Tempe, Arizona 85281** to use a portion of my land use area for the following purpose(s) **Borrow Permit of 26.436 acres, FNF will reopen & expand existing Ganado Lake Pit to extract borrow materials for the ADOT SR264 MP 450-459.02 road project, Pit located in SE/4 of Section 13, T27N, R26E, G&SRBM, Apache County, Arizona, as shown on the map showing the location of the proposed project on the back of this consent form.**

My consent is given subject to the receipt of compensation of \$1,423.60
(Borrow Pit 26.436acx\$150/\$3965.40 + Rd 2.038x150/\$305.40=
\$4,270.80 / 3 Land users) which I acknowledge as good and
adequate compensation for the diminishment in value of my land use rights as a
result of the above-referenced project as proposed.

REMARKS:

5/15/15 Sharon Salabye 17-03-15
Date Land User Signature/Thumbprint Social Security No. Census No. Permit No.
P.O. Box Ganado, Az 86505
Address (P.O. Box, City, State, Zip, Telephone No.)

WITNESS: _____

5.18.15 Diana Smith 175
Date Grazing Committee or Land Board Member District No.

Acknowledgement of Field Agent

I acknowledge that the contents of this consent form was read// or fully explained ☒ to the land user in Navajo ☒ or English// (Check where applicable)

Eckley Kue
Field Agent Signature

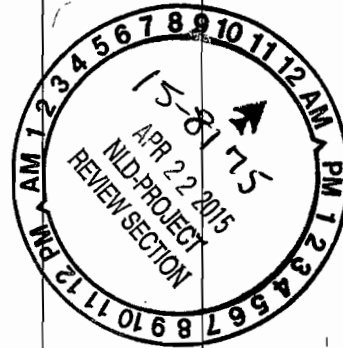
FNF CONSTRUCTION, INC.

29975

NAVAJO NATION

CHECK NO. 3057626

TRANS NUMBER	REFERENCE	DATE	DESCRIPTION	GROSS	DISCOUNT TAKEN	RETAINAGE	PREVIOUS PAID+DISCOUNT	BALANCE	NET AMOUNT
415 214	41015	4/10/15	1639 REVOCABLE USE P	500.00	0.00	0.00	0.00	0.00	500.00
29975	VENDOR NO.	TOTALS		500.00	0.00	0.00	0.00	0.00	500.00



CONSTRUCTION, INC.

115 South 48th Street • Tempe, AZ 85281

Five hundred and xx / 100 Dollars

WELLS FARGO BANK, N.A.
PHOENIX, AZ

11-24
1210(B)

DATE	CHECK NO.	AMOUNT
4/15/15	3057626	\$500.00

PAY
TO THE
ORDER
OF

NAVAJO NATION

FNF CONSTRUCTION, INC.
TWO SIGNATURES REQUIRED OVER \$1000.00
VOID IF NOT CASHED WITHIN 6 MONTHS

[Handwritten signatures]

WARNING: Do not accept this document unless you can see a true watermark. Hold to light to view.

3057626 121000248 4121038814



APPROVED

THE NAVAJO NATION DIVISION OF NATURAL RESOURCES Water Code Administration

P.O. Box 678 • Fort Defiance, Arizona 86504 • (928) 729-4132 • FAX: (928) 729-4421

BEN SHELLY
PRESIDENT

REX LEE JIM
VICE PRESIDENT

PRE-PAYMENT OR PROMPT PAYMENT OF INVOICE IS REQUIRED FOR VALIDITY

Water Source: Pipestand Pond, Ganado, Operated by Apache

County District II (Water and Land owned by the

PROVISIONAL PERMISSION TO USE OR IMPORT WATER Navajo
Must remain in compliance with District II requirements at all times. Nation.

-Issued in Response to a Verified Pressing or Emergency Need-

VALID ONLY FOR THE DATES OF 5/14/15 **THROUGH** 8/31/16

Issued to: Parker Brownell (Responsible Party; sign at lower left)

Title: Project Facilitator

As agent for: FNF Construction

Email Address: ARosar@fnfinc.com

Address: 115 S. 48th St.

Tempe, AZ 85281

Phone: 480-784-2910

Fax: -968-7580 Water Hauler: Same or agent

PURPOSE & VOLUME:

Widening of Hiway 264 for about 10 miles, from Ganado east. 5,000,000 gallons over the term, overage will be reported. Permittee and District II will finalize their water access plans, as pre-approved by this office.

Conditions- This is not a standard Navajo Nation water use permit, but is temporary permission to use water. It is issued to the responsible party for the limited time designated above in response to a stated pressing or emergency need. In this case it is for: Notice to proceed issuance is imminent.

The responsible party, by accepting this temporary permit, agrees to adhere to all applicable provisions of the Navajo Nation Water Code, and any other applicable laws and regulations.

S: Parker Brownell
Responsible Party
(Must be signed to be valid)

S: Jack Utter
Water Code Administrator or Delegated

Print name: PARKER BROWNELL

Print name: Jack Utter

Date: MAY 14, 2015

Date: 5/13/15

Fax or E-Mail back right after signing!

WATER ACCESS AGREEMENT

Preamble

This Water Access Agreement ("Agreement") is entered into this ~~14th~~ day of May, 2015, by Apache County District II ("District II"), whose address is P.O Box 1170, Fort Defiance, AZ 86504, and FNF Construction, Inc. ("FNF"), whose address is 115 S. 48th St., Tempe, AZ 85281: collectively "the Parties."

Assurances

The following assurances constitute matters accepted by both Parties, and are incorporated herein.

A. District II represents and warrants it has authority to allow construction contractors to access water from the District II-administrated well and holding-pond complex immediately south of Ganado Lake. Such contractors must also obtain appropriate water use permits from the Navajo Nation Water Code Administration ("WCA") in Fort Defiance before accessing any water. (WCA: 928-729-4132).

B. FNF is awarded Arizona Department of Transportation Project # HSIP-STP-264-A(217)T/H813301C (Project) located on State Route 264 between mileposts 450 and 459.02.

Agreement

NOW, THEREFORE, the Parties concur as follows:

1. District II agrees to allow FNF to access water from the District II-administered pipestand/holding pond site ("holding pond," just south of Ganado Lake) for road construction purposes, along with reasonable access to the holding pond site for the term of this Agreement.
2. FNF agrees to obtain a Water Use Permit ("WUP") from the Navajo Nation Water Code Administration, as required by law.
3. FNF will install a hurricane or transfer pump and meter at the holding pond for FNF's use. FNF will not be responsible for damage caused to District II's own hurricane or transfer pump by others because FNF and its subcontractors will not be using it.
4. The quantity of water pumped will be metered to determine the quantity of use. Reasonably expected water use over the term of the permit is 5,000,000 gallons, plus or minus.

5. The term of this Agreement will be for the period of time necessary for FNF to complete the Project, and will coincide with the term of the Navajo Nation WUP.
6. FNF will pay District II a \$5.00 dollars per thousand gallons operations fee for water pumped from the holding pond. Payment to District II will be made on a monthly basis (in a governmentally appropriate manner, to be identified by District II) for water used the previous month, based on the quantities of water measured by the FNF meter.
7. To eliminate confusion and potential and costly inaction in the event of a well pump failure, or other pumphouse equipment failure, FNF will be responsible for maintenance/repair of the well pump and related pump and pumphouse equipment during the term of FNF's access to, and use of, the holding pond (which has a capacity of about 100,000 gallons, plus or minus). With any such failure, a brief repair proposal shall be promptly submitted to District II and approved before repairs proceed. Submission may be in person or by facsimile or e-mailed pdf scan. The WCA (representative of the owner of the well and water, i.e., the Navajo Nation) will also be informed and may or may not have to approve the action, depending on the nature of the needed repair(s). This shall be determined by the WCA. Yet both District II and the WCA shall promptly make their determinations within 24 hours of a bona fide contact by FNF; and District II and the WCA may respond in person, by telephone, or by e-mail—with at least an e-mail confirmation. If decisions are delayed past the 24 hours by either District II or the WCA, the non-delaying agency may make the determination. In the event of a disagreement between District II and the WCA, a District II decision regarding the personal property of District II (e.g., pump, drop pipe, wire, switch box, etc.) shall prevail. In decision conflicts where the real property of the Nation is involved (as Navajo Nation law defines real property) and is affected, the WCA shall prevail. If both District II and the WCA fail to respond to FNF within the 24 hour period, then FNF may make a workman-like decision for necessary repairs, and proceed with getting necessary repairs done consistent with appropriate law and regulations and standards of the industry that are applicable to water well, pumphouse, and related equipment repairs.
8. FNF will be responsible for other equipment damage caused by FNF and its subcontractors under this Agreement, and not already covered in provision 7 above. FNF will not be responsible for contactors using the District II holding pond, etc., that are not subcontractors of FNF.
9. FNF will be responsible for monitoring the surface equipment located at the District II-administered holding pond site, and keep District II timely informed of any noteworthy damages, developments, or changes.

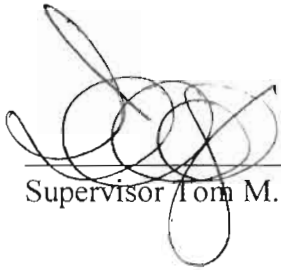
10. FNF may withdraw up to 45,000 gallons per day from the holding pond (if available), and will alert District II at least 24 hours ahead of time if more volume is intended to be withdrawn on a certain day or set of days.
11. FNF and District II will discuss ways in which FNF may assist in operating the on/off switch at the pump house, and monitoring the proper filling of the holding pond when District II is unable to do this, e.g., late at night, early in the morning, on weekends, etc.
12. District II will retain its senior right to access water from the holding pond under its WUP with the Navajo Nation. FNF will remain junior to only District II. The only time this may change is in the event of an emergency, such as a fire, where one or both of these entities shall defer to emergency needs. On occasion, District II may be an emergency agency working with others and accessing holding pond water for that purpose. The WCA, as part of its general regulatory responsibilities, will work with District II and FNF in determining if and when other smaller volume users may access Navajo Nation water from the holding pond.
13. District II, FNF, and the WCA (not as a party, but solely as a regulatory agency) will be exchanging appropriate contact information (such as staff names, phone numbers, e-mails, etc.) to facilitate communications for this agreement and all related WUPs.
14. Any disagreements between District II and FNF will first be addressed by those two parties.
15. In the event of a bona fide dispute between District II and FNF, that the two parties cannot resolve, either party, or both, shall refer the dispute, in writing (hand-delivered, mailed, and/or emailed) to the WCA for an informal (in the legal sense) administrative determination, in writing, from the WCA. (The WCA, at its discretion, commonly employs informal Peacemaking techniques and Alternative Dispute Resolution as part of its administrative decision making.) That should settle the matter. A dissatisfied party may then submit an informal request, in writing, for a reconsideration to the WCA. A further dissatisfied party may submit an informal administrative petition, in writing, to the Executive Director of the Division of Natural Resources in Window Rock.
16. Any notice under this Agreement may be by electronic means—such as by facsimile or pdf/e-mail—but dispute notifications between the parties shall ultimately and promptly be written and sent by certified mail to the locations in the Preamble, and to Attention of :

Supervisor Tom M. White, Jr., for District II
David James for FNF

17. All parties represent and warrant that they are authorized to execute the Agreement on behalf of the respective parties hereto and do so freely and voluntarily.

IN WITNESS WHEREOF, the Parties hereto have executed the Agreement on the day and year first written above.

Apache County, District II



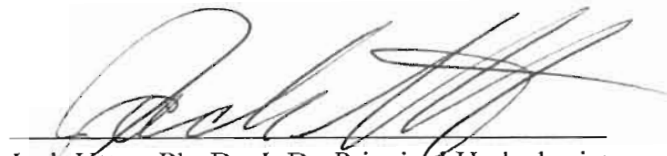
Supervisor Tom M. White, Jr.

FNF Construction, Inc.

By: 

Ang

Regulatory acknowledgment by the Navajo Nation Water Code Administration (not a party to the agreement).



Jack Utter, Ph. D., J. D., Principal Hydrologist,
Navajo Nation Water Code Administration



THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT



ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF EXECUTIVE DIRECTOR/ADMINISTRATION

OFFICE OF ENVIRONMENTAL REVIEW

PO BOX 339 WINDOW ROCK ARIZONA 86515 Office: 928/871-7188 Fax: 928/871-7996

Website: www.navajonationepa.org

M E M O R A N D U M

TO: Howard Draper, Program & Project Specialist
Project Review Office
Navajo Land Department
Division of Natural Resources

FROM:

Rita Whitehorse-Larsen, Senior Environmental Specialist
Office of Executive Director/Administration
Office of Environmental Review
NNEPA

DATE: July 8, 2015

SUBJECT: 164 EOR 003982 FNF Construction Inc for Borrow Lease

The FNF Construction Inc., 115 South 48th Street, Tempe, Arizona, 85281, submitted a borrow lease to use 28.474 acres, more or less, of Navajo Nation Trust Lands for borrow lease area for road improvements specifically for Arizona Department of Transportation (ADOT) State Highway 264. FNF Construction, Inc., was awarded ADOT Project Tuba City – Window Rock Hwy (SR 264), Fish Wash – Cross Canyon ADOT Project No. HSIP-STP-264-A(217)T, 264 AP 450, H813301C, located on SR264 between milepost 450 and 459.02. FNF proposes to obtain 39,000 cubic yards of borrow material from Navajo Nation.

Navajo Nation Environmental Protection Agency (NNEPA) reviewed¹ and recommends ***conditional approval*** for the proposed borrow lease at the former borrow source located east of Ganado Lake. FNF Construction, Inc., anticipates only 6.7 acres of borrow material will be excavated and an additional 3.0 acres will be used for equipment parking and material processing. An additional access road will be 1 acre. The total acres of disturbance is 10 acres.

The proposed action is required to meet the following and attain each required permit before commencing any construction activities.

¹ FNF Construction, Inc. Environmental Assessment for Ganado Borrow Source. April 2015.

1. ***Navajo Nation Clean Water Act:***

- a. *§401 and 404 are not required for the proposed action. There are no filling or excavating of a jurisdictional water. Best Management Practices (BMPs) is highly recommended to be in place to prevent sediment runoff. Determined by Patrick Antonio, Principal Hydrologist, NNEPA Water Quality.*
- b. **§402 Navajo Pollutant Discharge Elimination System (NPDES):** The proposed action is greater than 1 acre. FNF Construction, Inc., including sub-contractors are subject to complete the requirements under the Clean Water Act Section 402. *Borrow pits and sand and gravel operations are covered by the federal general permit for storm water discharges associated with industrial activities known as the Multi Sector General Permit (MSGP). Borrow pits is under Sector J for Mineral Mining and Dressing and J1 for Construction Sand and Gravel. Full compliance with the MSGP requirements should adequately protect jurisdictional waters including Ganado Lake. USEPA recently reissued the MSGP that became effective June 4, 2015. Under the MSGP, the discharge authorization date is 30 days after USEPA notifies you that after receiving the Notice of Intent (NOI) and the SWPPP must be prepared before submission of the NOI. The NOI should be submitted to USEPA. ADOT is not the appropriate approval authority for NOI on projects within Navajo Nation. Determined by Patrick Antonio, Principal Hydrologist, NNEPA Water Quality. Technical assistance is available with NNEPA Water Quality Staff in Section 402 application, Stormwater Pollution Prevention Plan (SWPPP), Best Management Practices (BMPs) and Notice of Intent (NOI). All should be submitted to USEPA Region 9 and a copy shall be provided to Patrick Antonio, Principal Hydrologist with NNEPA Water Quality Program. His office phone is 928/871-7185. The SWPPP template can be found online at the following weblink: <http://cfpub.epa.gov/npdes/stormwater/swppp.cfm#template>.*

2. ***Navajo Nation Air Pollution Prevention and Control Act:***

- a. The proposed action is not located in an attainment area.
- b. Visibility is good to excellent.
- c. Dust suppression must be implemented in the Best Management Practice.
- d. The Air Quality Control Program: Activity Application must be completed and submitted to NNEPA Operating Permit Program.

3. ***Navajo Nation Safe Drinking Water Act:***

- a. No proposed drinking water system is expected to be at the proposed borrow pit site.
- b. No proposed domestic waste water system is expected to be at the proposed borrow pit.
- c. Portable toilet rentals should be provided for construction workers at the expense of FNF Construction, Inc. The portable toilet rentals shall be maintained and protected from vandalism during off working hours and holidays by FNF Construction, Inc.

4. ***Navajo Nation Solid Waste Act:***

- a. Do not allow public to take construction waste, cumulatively NNEPA receives complaints and reports on illegal trash dumpings on rural areas and in the waters of the US and Navajo Nation.
- b. The FNF Construction, Inc., is subject to control the solid waste littering and shall provide solid waste bins for construction workers. The bins shall be maintained and protected from vandalism during off working hours and holidays by FNF Construction, Inc.

5. ***Navajo Nation Comprehensive, Environmental Response, Compensation and Liability Act (CERLA):***

- a. No hazardous material will be stored, transported, generated and distributed from

the proposed 10 acres borrow pit site.

- b. According to the Navajo CERCLA, petroleum is considered hazardous material and any spills \geq 25 gallons should be reported to NNEPA Office of Executive Director/Administration at 928/871-7692.
6. **Navajo Nation Storage Tank Act (NNSTA)** (*formerly Underground Storage Tank (UST) Act; amended February 2012*):
 - a. No storage tanks are proposed on the 10-acre borrow pit site.
 - b. If there are plans to install underground and/or aboveground storage tanks greater than 100 gallons, the plans must meet the design specifications as outlined by NNEPA Storage Tank Program. The specifications must be approved by the Storage Tank Program. Contact the Storage Tank Program at 928/871-7993 for further technical assistance.
 - c. NNEPA Storage Tank Program staff will need to be onsite before installing any above and underground storage tanks.
7. **Federal Insecticide Fungicide and Rodenticide Act (FIFRA)/NN Pesticide Act:**
 - a. The FNF Construction, Inc., is subject to control and prevent the spread of invasive and noxious weeds.
 - b. Contact the NNEPA Pesticide Program at 928/871-7815/7810 before applying any pesticides and herbicides to control noxious and invasive plant species to ensure the product is in compliance and appropriately applied by a certified and licensed applicator.
 - c. Pesticide staff will also may need to be onsite to monitor during pesticide/herbicide application.
8. **Others To Contact Within Navajo Nation:**
 - a. Existing public roads will be used for access during the construction activities.

If there are any questions, you may contact Rita Whitehorse-Larsen at 928/871-7188. Thank you.

Cc: NNEPA Water Quality; Operating Permit Program; Administration chrono file
Contact Person: Tressia Contreras, Environmental Manager, 480-929-6733 tressia@fnfin.com

BIOLOGICAL EVALUATION & ASSESSMENT
OF
THE GANADO BORROW PIT – SECTION 13, T27N, R26E,
APACHE COUNTY, ARIZONA

PREPARED BY:

ROCKY MOUNTAIN ECOLOGY, LLC
306 ROSALIE DRIVE
DURANGO, CO 81301
(505) 992-6150
KNOX@ROCKYMOUNTAINECOLOGY.COM

PREPARED FOR:

FNF CONSTRUCTION, INC.
TRESSIA CONTRERAS
115 S. 48TH ST. TEMPE, AZ 85281



APRIL 2015

BIOLOGICAL EVALUATION & ASSESSMENT
OF
THE GANADO BORROW PIT – SECTION 13, T27N, R26E,
APACHE COUNTY, ARIZONA

PREPARED BY:

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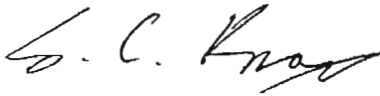
PREPARED FOR:

FNF CONSTRUCTION, INC.
TRESSIA CONTRERAS
115 S. 48TH ST. TEMPE, AZ 85281

APRIL 2015

INVESTIGATOR:

SHAWN C. KNOX
Co-OWNER, ROCKY MOUNTAIN ECOLOGY, LLC



Signature

Table of Contents

1.0 INTRODUCTION.....	1
1.1 Summary.....	1
1.2 Purpose & Need.....	1
2.0 METHODS & CONSULTATION	2
3.0 DESCRIPTION OF ANALYSIS AREA	2
4.0 DESCRIPTION OF PROPOSED PROJECT	5
4.1 Project Location.....	5
4.2 Proposed Action	10
5.0 FEDERAL THREATENED, ENDANGERED, PROPOSED & CANDIDATE SPECIES HABITAT ANALYSIS AND EFFECTS DETERMINATIONS	10
6.0 NAVAJO-LISTED SPECIES HABITAT ANALYSIS AND IMPACT DETERMINATIONS.....	14
7.0 MIGRATORY BIRDS	20
8.0 BALD AND GOLDEN EAGLE PROTECTION ACT	20
9.0 ENVIRONMENTAL COMMITMENTS	20
10.0 PERSONNEL.....	21
11.0 CONSULTATION/ COORDINATION	21
12.0 REFERENCES	22
APPENDICES.....	23
Appendix A. Photographs	
Appendix B. Consultation Responses/ Master Species Lists	
TABLES	
Table 1 – Federal Threatened, Endangered, Proposed and Candidate Species Master List for the Project Area in Apache County, Arizona	11
Table 2 – Navajo-Listed Species Master List.....	14
Table 3 – Summary of Contacts Made During Preparation of Document.....	21
FIGURES	
Figure 1 – Vicinity Map.....	6
Figure 2 – Disturbance Area.....	7
Figure 3 – Topographic Map - Survey Area.....	8
Figure 4 – Aerial Photograph - Survey Area	9

1.0 INTRODUCTION

1.1 Summary

FNF Construction, Inc. (FNF) proposes to expand an existing borrow pit near Ganado Lake in Apache County, Arizona (From here on "Ganado Borrow Pit"). The project is located in the SW1/4 of Section 13, Township 27 North, Range 26 East of the Gila and Salt River Base and Meridian (Figure 1; Appendix A. Photographs). The proposed Ganado Borrow Pit would require vegetation clearance and mining of borrow material on 10.7 acres (9.7 for the pit and 1.0 for the access road) (Figure 2). The material would be used for reconstruction of Arizona State Route 264 (SR 264) between mileposts (MP) 450 and 459.02. The Project is located on Tribal Trust Land. The project (#HSIP-STP-264-A(217)T) is funded by the Federal Highway Administration (FHWA), though it is administered by the Arizona Department of Transportation (ADOT). The total funding amount is \$12,308,985.00.

Rocky Mountain Ecology, LLC (RME) was contracted to prepare this Biological Evaluation and Assessment (BE/BA) in compliance with Section 7 of the Endangered Species Act (ESA) (19 U.S.C. 1536 (c), 50 CFR 402.12 (F) and 402.14 (c)) and other relevant Federal, State and Tribal laws and regulations. This BE/BA discloses and analyzes impacts associated with the disturbance activities related to mining borrow material at the project location.

1.2 Purpose & Need

The purpose of the Proposed Action is to allow FNF to mine borrow material from the Ganado Borrow Pit, in support of SR 264 reconstruction activities between MP 450 and 459.02 (Fish Wash to Cross Canyon).

The need for the action is to mine the borrow material, which would be used to support highway rehabilitation, widening and bridge replacement work. The highway within the project corridor has deteriorated in numerous locales, including Fish Wash Bridge, which poses safety concerns at present.

This BE/BA has been prepared to analyze impacts and determine effects of the Proposed Action on federally proposed, threatened, endangered, candidate, and species of concern, and on species listed on the Navajo Endangered Species List (NESL). Specifically, this BE/BA would provide knowledge regarding protected, and assist the proponent in determining if formal consultation with the U.S. Fish and Wildlife Service (USFWS) is prudent. This document would also aid in determining if the Proposed Action would lead

toward the federal listing of any candidate species on the Endangered Species Act of 1973 as amended. This BE/BA adheres to requirements specified in Section 7 of the Endangered Species Act (ESA) (19 U.S.C. 1536 (c), 50 CFR 402.12 (F) and 402.14 (c)).

2.0 METHODS & CONSULTATION

The USFWS list of proposed, threatened, endangered and candidate species was evaluated prior to fieldwork using the USFWS Information, Planning and Conservation (IPaC) System website (ecos.fws.gov/ipac) (Table 2). Moreover, NESL species were evaluated and reviewed in correspondence with the Navajo Nation Department of Fish and Wildlife (NNDFW) (Appendix B. Consultation Responses/ Master Species Lists). Effect Determinations were made for federally listed species based on analysis of habitat requirements, and field verification (Table 2). A Determination of Impacts was made for NESL species, also based on analysis of habitat requirements, and field verification (Table 3).

RME staff conducted field reconnaissance of the project area on 1 April 2015. All global positioning system (GPS) coordinates were collected using the Universal Transverse Mercator (UTM) system in the North American Datum 1983 (NAD 83) projection. The area surveyed totaled approximately 28.47 acres (Figures 3 & 4), which included the haul road. *The survey area was significantly larger than the 10.7-acre proposed disturbance area.* Habitat suitability for all species listed within Tables 2 and 3 was ascertained in the field. Dominant vegetation communities and common plant and animal species noted within the project area are described in Section 3.0. Photographs of the area are included in Appendix A.

3.0 DESCRIPTION OF ANALYSIS AREA

The project area is located on the Colorado Plateau in Apache County, Arizona. Elevations within the project area range from 6,460 to 6,503 feet above sea level (southwest and northeast corners, respectively), with annual precipitation of 11.06 inches. Mean annual temperatures are approximately 17° to 89° degrees Fahrenheit (US Climate Data 2015). The average slope across the site ranges from 3 to 8 percent.

The project area is located within the Dinétah Tablelands Subregion of the Arizona-New Mexico Plateau Ecoregion (USEPA 2013). Specifically, the site is located just east of Ganado Lake. Drainage through the project area flows southwest, and historically flowed into the Pueblo Colorado Wash, located below Ganado Lake Dam. Pueblo Colorado Wash eventually flows into the Little Colorado River, over 60 miles southwest of the Project Area.

The project area is located just east of Ganado Lake, which had standing water at the time of the survey. The project area occurs within a zone that harbors plant species indicative of the Great Basin Desert Scrub (Brown 1980). The site is dominated by a blue grama (*Bouteloua gracilis*) – sand dropseed (*Sporobolus cryptandrus*) – shadscale saltbush (*Atriplex confertifolia*) – green rabbitbrush (*Chrysothamnus Greenei*) – big sagebrush (*Artemisia tridentata*) – one-seed juniper (*Juniperus monosperma*) – Utah juniper (*Juniperus utahensis*) association. Pinyon pine (*Pinus edulis*), snakeweed (*Gutierrezia sarothrae*), prickly pear (*Opuntia polyacantha*), Mormon tea (*Ephedra cutleri*), narrowleaf yucca (*Yucca angustissima*), Indian ricegrass (*Achnatherum hymenoides*), black grama (*Bouteloua eriopoda*) and sandhill muhly (*Muhlenbergia pungens*) are also present throughout. Disturbed areas are dominated by species such as Russian thistle (*Salsola kali*) and globemallow (*Sphaeralcea parvifolia*). Salt cedar (*Tamarix* spp.) is present near the western project boundary. Russian olive (*Elaeagnus angustifolia*) is present within the historic Ganado Lake Borrow pit area. No standing water was observed within the survey area, nor was any evidence of wetland vegetation.

Soils within the project area include the Penistaja family-Bettonie complex (80%), common on 1 to 10 percent slopes; and the Aquima-Hawaikuh complex (20%), common on 1 to 5 percent slopes. Penistaja family-Bettonie complex soils are located on fan terraces with parent material from eolian deposits and fan alluvium derived from sandstone, and/or eolian deposits and fan alluvium derived from sandstone and shale. These are well-drained soils with no frequency of flooding or ponding and surface horizons dominated by fine sandy loams (NRCS 2015). Aquima-Hawaikuh complex soils are located on fan remnants and stream terraces with parent material from fan alluvium over stream alluvium derived from sandstone and shale. These are well-drained soils with no frequency of flooding or ponding (NRCS 2015), and surface horizons dominated by silty clay loams.

No hydric soils are present, nor do prime or unique farmlands occur within the project area (NRCS 2015). Range production on this site averages between 700 and 800 pounds of forage per acre, per year (NRCS 2015).

Wildlife in the vicinity of the project area includes various small mammals, diverse avifauna, reptiles, amphibians, and big game species (Brown and Lowe 1980). Wildlife typical of the general area include coyotes (*Canis latrans*), desert cottontails (*Sylvilagus audubonii*), kangaroo rats (*Dipodomys* spp.), common ravens (*Corvus corax*), turkey vultures (*Cathartes aura*), mourning doves (*Zenaidura macroura*), red-tailed hawks (*Buteo jamaicensis*), bull snakes (*Pituophis catenifer*), and whiptail lizards (*Cnemidophorus* spp.). Other small mammals with potential to occur on the project site that could serve as prey for raptor species include the dwarf shrew (*Sorex nanus*), pocket mice (*Perognathus* spp.), kangaroo rats (*Dipodomys* spp.), pocket gophers (*Thomomys* spp.), various mice

(*Peromyscus* spp.), and woodrats (*Neotoma* spp.). Small mammal burrows were distributed throughout the project area, though no prairie dog (*Cynomys gunnisoni*) burrows were observed throughout. Moreover, no burrowing owls (*Athene cunicularia*) or their burrows were observed during the field survey.

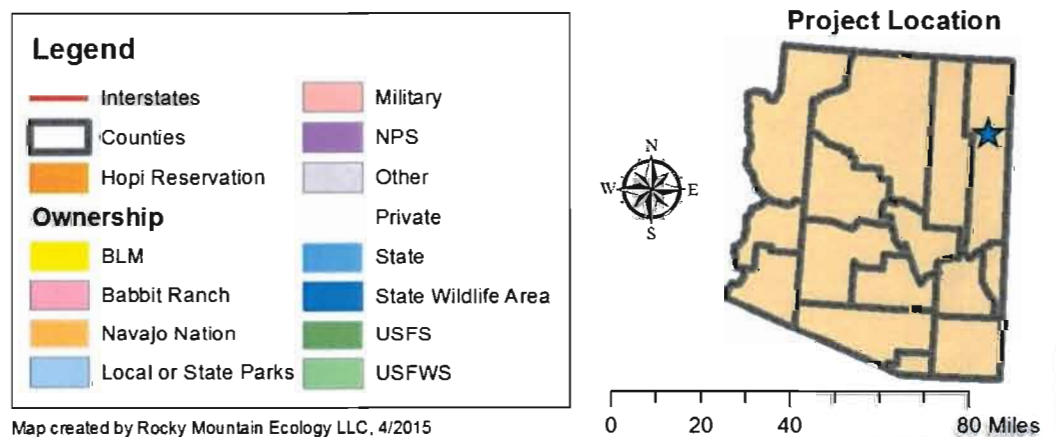
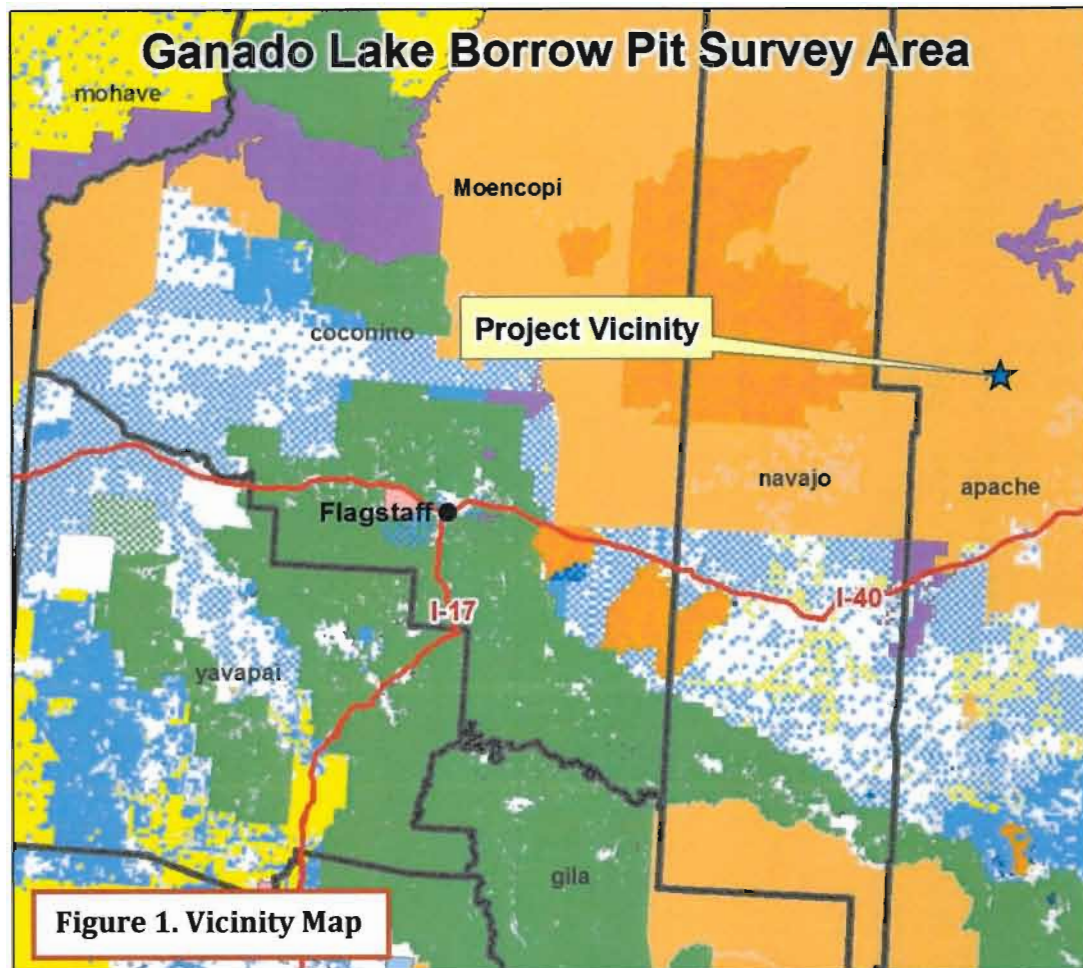
Wildlife observed within the survey area include fence lizards (*Sceloporus undulatus*), coyote, black-tailed jackrabbits (*Lepus californicus*) and common ravens. American white pelicans (*Pelecanus erythrorhynchos*), Canada geese (*Branta canadensis*), mallard ducks (*Anas platyrhynchos*) and other undetectable waterfowl were observed outside of the survey area, within Ganado Lake.

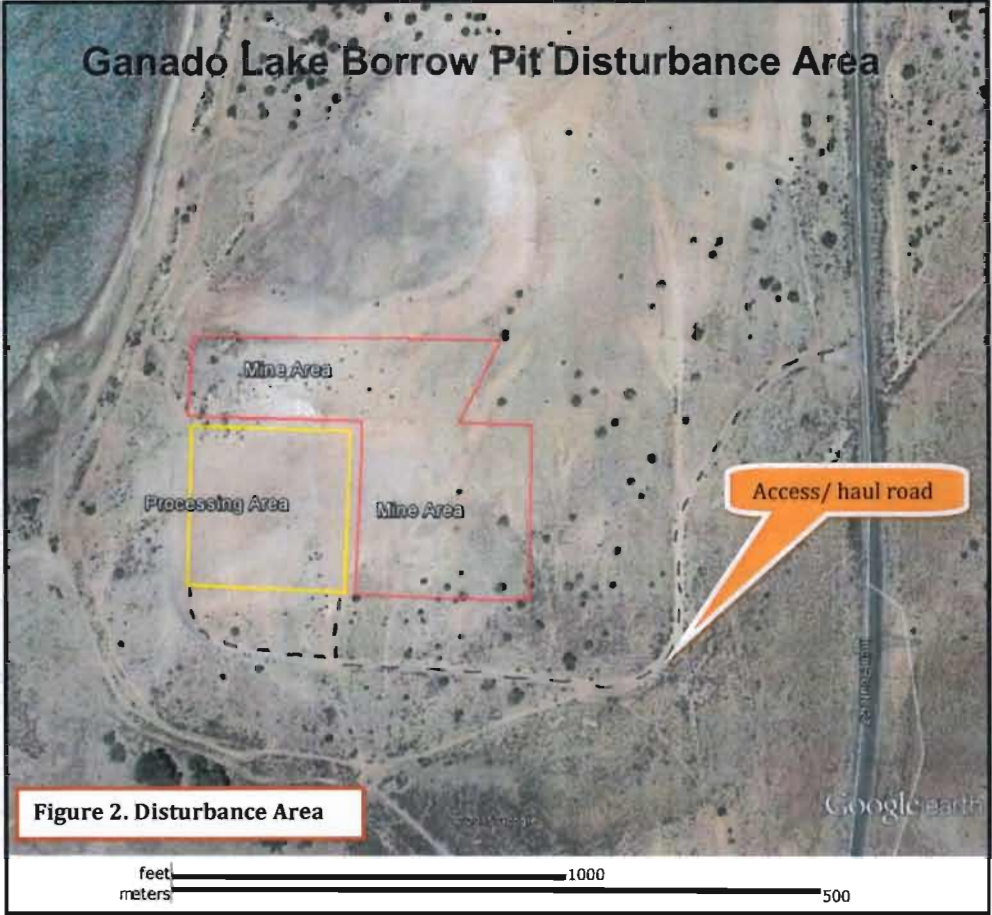
According to the Navajo Natural Heritage Program, no raptor nests are known within three miles of the project area (Appendix B – Consultation Responses/ Master Species Lists).

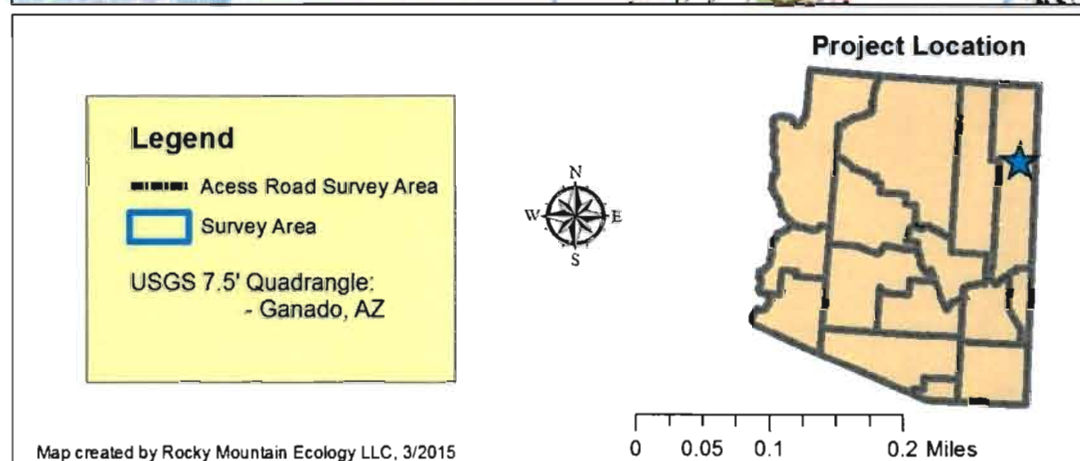
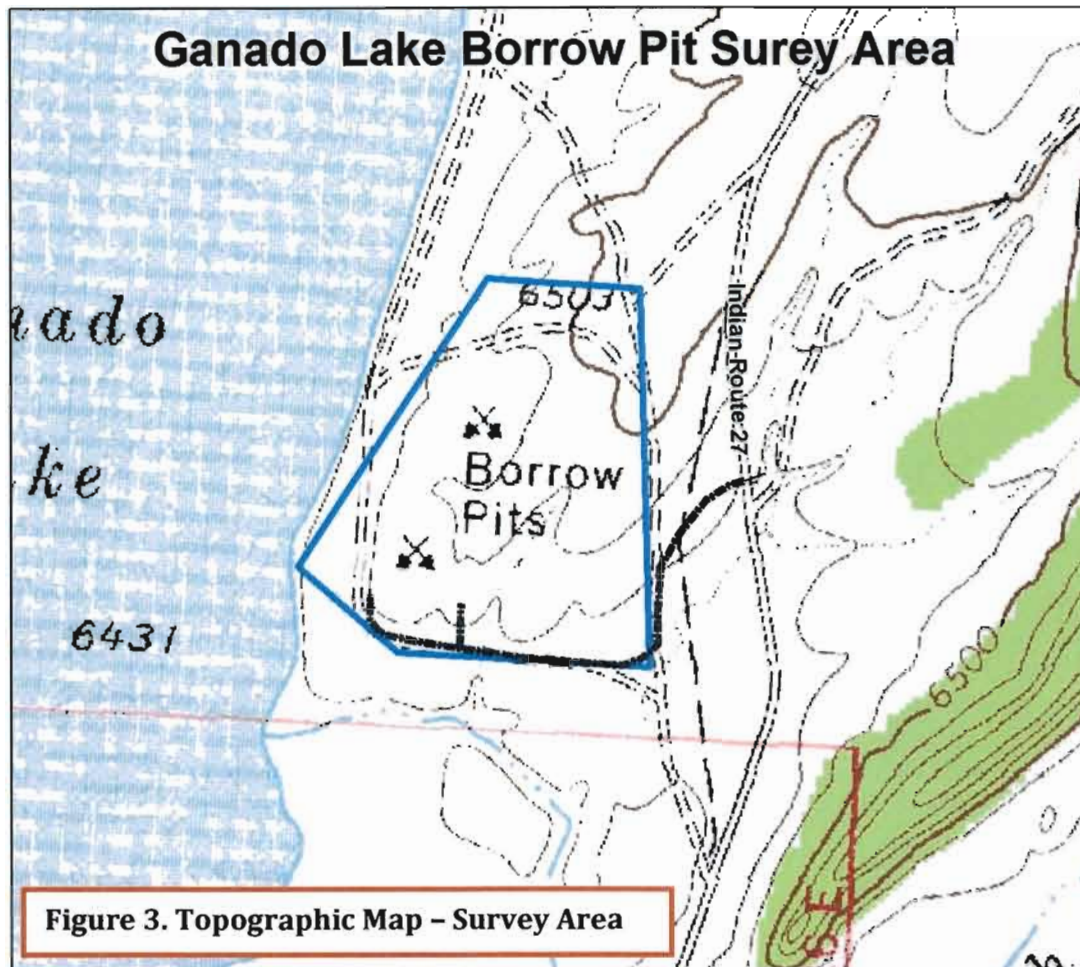
4.0 DESCRIPTION OF PROPOSED PROJECT

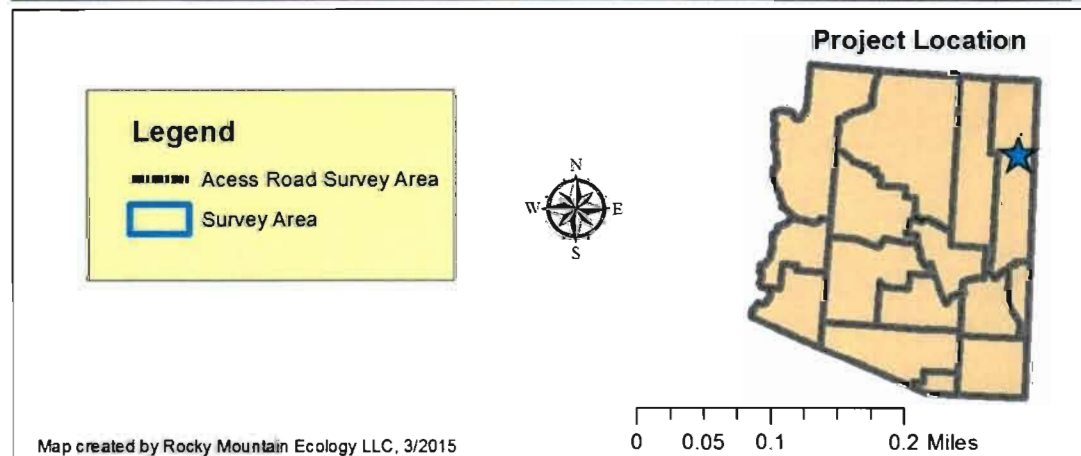
4.1 Project Location

The project is located just northeast of Ganado, AZ within Section 13 of Township 27 North, Range 26 East, on Navajo Tribal Trust lands in Apache County, AZ. Access to the site would be from Bureau of Indian Affairs (BIA) Route 27. Center coordinates are provided in the Universal Transverse Mercator system, in North American Datum 1983, Zone 13: 91883 E, 3964332 N. The project is mapped on the Ganado, AZ USGS 7.5 minute quadrangle (Figure 3).









4.2 Proposed Action

Expansion of an existing borrow pit by the proponent – FNF, is proposed near Ganado Lake in Apache County, Arizona. The project is located in the SW1/4 of Section 13, Township 27 North, Range 26 East of the Gila and Salt River Base and Meridian (Figures 1 – 3; Appendix A. Photographs). The proposed Ganado Borrow Pit would require clearance of 10.7 acres (9.7 for the pit and 1.0 for the access road). The Project is located on Tribal Trust Land. The project would occur approximately between 1 July and 31 December 2015.

The material would support reconstruction of SR 264 between MP 450 and 459.02. The material would be used for rehabilitation, widening and bridge replacement. Specifically, the work would include overlaying the existing pavement with asphaltic concrete, shoulder widening with asphaltic concrete aggregate base, placing asphalt-rubber/ asphalt-concrete friction coarse (AR-ACFC), and construction of a new Fish Wash Bridge to replace the existing bridge. Further, the work would include construction of guardrail, installation of new pipes, extension of the existing pipes, installation of barbed wire fence and cattle guards, pavement markings and other related work.

Up to 39,000 cubic yards of material would be excavated from the 10.7-acre project area. Excavation of the material would entail the use of bulldozers, front-end loaders, trackhoes, backhoes and other heavy equipment as necessary. Upon site closure, it would be reclaimed and reseeded with a native seed mix approved by the ADOT.

5.0 FEDERAL PROPOSED, THREATENED, ENDANGERED AND CANDIDATE SPECIES EVALUATED

Based on the field survey and verification with the master species list for Apache County (Table 2), no suitable habitat exists for federal proposed, endangered, threatened, or candidate species within the project area. All species listed on the USFWS IPAC consultation letter (Appendix B) for Apache County were analyzed in Table 2, below.

Table 1. Federal Threatened, Endangered, Proposed and Candidate Species List for the Project Area, Apache County, Arizona
 (Source: <http://ecos.fws.gov/ipac/wizard/trustResourceList!prepare.action>; Appendix B)

Birds	Status	Critical Habitat	Habitat Present	Habitat Requirements	Affected Habitat Description & Effects (Indirect, Direct, Cumulative)	Effect Determination
California condor (<i>Gymnogyps californianus</i>); Population: Entire, except where listed as an experimental population	E	Final designated critical habitat	No	"Nests within walls of major river canyons or tall, steep cliffs within desert scrub and grasslands. (Mikesic and Roth 2008). Only two extant populations are currently known: Southern Californian and Northern Arizona. Condors have not been documented breeding on the Navajo Nation, but are known to roost in Marble Canyon (Mikesic and Roth 2008).	The project area does not have significant cliffs that could support California condors. The nearest marginally suitable cliffs are over three miles east near Round Top. The closest Critical Habitat is hundreds of miles away. No direct, indirect or cumulative effects to populations or individuals of this species are anticipated from the Proposed Action, due to the lack of nesting habitat.	<u>No effect</u> – The Proposed Action would have no effect on the California condor, or on Critical Habitat.
Southwestern Willow flycatcher (<i>Empidonax traillii extimus</i>) Population: Entire	E	Final designated critical habitat	No	This species prefers multi-layered riparian zones (BISON-M 2015). Flycatchers are known to form territories and nest in very dense riparian vegetation ranging in height from about 12 to 29 feet. These habitats are most frequently dominated by willow but may also contain cottonwood, Russian olive and/or saltcedar. The primary habitat requirement is for very dense twig structure at the 12- to 29-foot height, plus proximity to water.	The project area does not contain any of the habitat structural or functional features. Specifically, there is no riparian habitat component within the project area. The Ganado lakeshore habitat does not harbor any of the structural features required. The closest Critical Habitat is 40 miles away north in the San Juan River valley. No indirect, direct or cumulative effects would be incurred from the Proposed	<u>No effect</u> – The Proposed Action is would have no effect on the Southwestern Willow Flycatcher, or on Critical Habitat.

					Action, due to the lack of habitat.	
Yellow-Billed Cuckoo (<i>Coccyzus americanus</i>) Population: Western U.S. DPS	T	Proposed	No	Western cuckoos breed in large blocks of riparian habitats, particularly woodlands with cottonwoods (<i>Populus fremontii</i>) and willows (<i>Salix</i> sp.). Dense understory foliage appears to be an important factor in nest site selection. This species occurs along waterways in lowland deciduous woods and thickets throughout New Mexico (BISON-M 2015).	The project area does not contain any of the habitat structural or functional features. Specifically, there is no riparian habitat component within the project area. The Ganado lakeshore habitat does not harbor any of the structural features required. The closest Critical Habitat is over 100 miles away in Northwestern New Mexico. No indirect, direct or cumulative effects would be incurred from the Proposed Action, due to the lack of habitat.	No effect – The Proposed Action is would have no effect on the yellow-billed cuckoo, or on Proposed Critical Habitat
Fishes						
Zuni bluehead sucker (<i>Castostomus discobolus yarrowi</i>)	E	Proposed	No	Zuni bluehead suckers occur within perennial streams of the Southwestern U.S. They utilize stream reaches with shade and pool and riffle habitats with coarse substrates. This species is generally found between 2,000 and 6,760 ft in elevation. They are known to occur in Kin Li Chee Creek in Arizona. (AZDGD 2015).	The project area does not contain any of the habitat structural or functional features described above (i.e., perennial water). The proposed disturbance would occur > 300 ft from the Ganado lakeshore (Figure 2), and thus would not impact it. The closest Proposed Critical Habitat is less than ten miles away to the Southeast in the Kinlichee Creek Unit. No indirect, direct or cumulative effects would be incurred from the Proposed	No effect – The Proposed Action would have no effect on the Zuni bluehead sucker, or on Proposed Critical Habitat.

					Action, due to the lack of habitat.	
Roundtail chub (<i>Gila robusta</i>); Population: Lower Colorado River Basin	C	No	No	This species occurs within the Little Colorado River, the Bill Williams river basin, the Salt River, the Verde River, Arivaipa Creek and Eagle Creek within Arizona (AZDGF 2015). It breeds in spring and early summer. "Adults inhabit the most permanent water in cool to warm water mid-elevation streams, typically using pools and eddies, adjacent to rapids and boulders" (Mikesic and Roth 2008).	The project area does not contain any of the habitat structural or functional features described above (i.e., perennial water). The proposed disturbance would occur > 300 ft from the Ganado lakeshore (Figure 2), and thus would not impact it. No indirect, direct or cumulative effects would be incurred from the Proposed Action, due to the lack of habitat.	<u>Not Likely to jeopardize</u> – The Proposed Action is not likely to jeopardize the continued existence of the roundtail chub.
Mammals						
Black-footed ferret (<i>Mustela nigripes</i>)	Exp	No	No	"Medium to large active prairie dog towns (> 197ac) or complex of towns. Prairie dogs are their main food source and burrows are used for denning and rearing young." The species historically utilized plains, desert grassland and desertscrub habitats" (Mikesic and Roth 2008). However, the species has been extirpated across its range.	No prairie dogs or prairie dog burrows were located during the field survey. No indirect, direct or cumulative effects would be incurred from the Proposed Action, due to the lack of prey base, and thus, suitable habitat.	<u>No effect</u> – The Proposed Action would have no effect on the black-footed ferret.
Reptiles						
Northern Mexican gartersnake (<i>Thamnophis eques megalops</i>)	T	Proposed	No	The species is found in both lotic and lentic habitats and occurs up to 8,500 ft in elevation. It forages along the banks of waterbodies and feeds primarily upon fish and leopard frogs (USFWS	The project area does not contain any of the habitat structural or functional features described above (i.e., lotic or lentic habitats). The closest Proposed	<u>No effect</u> – The Proposed Action would have no effect on the Northern Mexican gartersnake

				2015b).	Critical Habitat is approximately 120 miles away to the South. No indirect, direct or cumulative effects would be incurred from the Proposed Action, due to the lack of habitat.	
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E = US Endangered PE = US Proposed

T = US Threatened PT = US Proposed

C = US Candidate

Exp: Experimental Population

6.0 NAVAJO-LISTED SPECIES

NESL species data for land-use actions was furnished by NNDFW (Appendix B). The NESL contains taxa from the entire Navajo Nation. NESL species whose distribution includes the project area were analyzed for impacts in Table 3, below.

Table 2. Navajo-Listed Species from the Navajo Endangered Species List
(Source : Consultation Responses – Appendix B)

Birds	Status	Critical Habitat	Habitat Present	Habitat Requirements	Affected Habitat Description & Impacts (Indirect, Direct, Cumulative)	Determination of Impacts
Clark's grebe (<i>Aechmophorus clarkii</i>)	G4	NA	No	"Nests on fresh-water lakes and marshes with extensive areas of open water bordered by emergent vegetation; uses lakes and occasionally small ponds during migration" (Mikesic and Roth 2008)	The project area does not contain any of the habitat structural or functional features described previously (i.e., perennial water). No lakeshore habitat or perennial water would be impacted by the Proposed Action. The proposed disturbance would occur > 300 ft from the Ganado lakeshore (Figure 2), and thus would not impact it. Thus, no indirect, direct or cumulative effects would be incurred from the Proposed	Individuals of this species would not be negatively impacted, and the Proposed Action is not likely to result in a trend toward federal listing, or loss of population viability

					Action, due to the lack of habitat.	
Burrowing owl (<i>Athene cunicularia</i>)	G4	NA	Yes	This species inhabits both grassland and scrubland habitat types from elevations of 3,000 to 9,000 ft in elevation (BISON-M 2015). Specifically, burrowing owls inhabit dry, open, shortgrass, treeless plains, often associated with burrowing mammals.	<p>Marginal habitat exists within the scrub habitat at the project area; however no burrows or burrowing owls were located during the field surveys.</p> <p><u>Potential direct effects:</u> No direct impacts are expected.</p> <p><u>Potential indirect effects:</u> Indirect impacts could include loss of up to 10.7 acres of habitat for owls that could otherwise inhabit the landscape in the future.</p> <p><u>Potential cumulative effects:</u> Cumulative effects could consist of habitat degradation from other mining projects, road construction projects, or livestock grazing activities in the surrounding area. However, suitable foraging habitat exists adjacent to the project area and burrowing owls in the vicinity are expected to forage in those locales.</p> <p>Moreover, Environmental Commitments discussed in Section 9.0 would be implemented to avoid or minimize any potential effects.</p>	Individuals of this species would not be negatively impacted, and the Proposed Action is not likely to result in a trend toward federal listing or loss of population viability.
Golden eagle (<i>Aquila chrysaetos</i>)	G3	NA	Yes	"During the breeding season, golden eagles occur primarily in areas of mountain cliffs or canyons. In the West, it is often associated with	Marginal habitat exists within the scrub habitat at the project area; however no steep cliffs exist within or near then project area that would provide nesting	Individuals of this species would not be negatively impacted, and the Proposed Action is not likely to result in

				<p>rimrock terrain adjacent to open desert or grassland areas. Suitable nesting sites may exist within a variety of surrounding habitats, from desert to mountain areas, although dense forests tend to be avoided. In Utah, Golden Eagles nest in grass, shrub, pinyon-juniper, and aspen-conifer habitats. In Arizona, the species prefers desert grasslands and chaparral habitats. Most common nesting areas in New Mexico are steep-walled mountain canyons. Although cliffs are the most common nesting substrate, trees or man-made structures are also sometimes used. Many nests have a wide view of surrounding area or are on prominent escarpments. Proximity to hunting grounds is an important factor in nest-site selection.</p> <p>Golden Eagles typically forage in open grassland or shrubland habitat, and tend to avoid agricultural areas. Although capable of killing large prey, including small ungulates and young domestic livestock, this species subsists primarily on rabbits, hares, ground squirrels, and prairie dogs", (New Mexico Avian Conservation Partners (NMACP) 2014).</p>	<p>habitat. The nearest marginally suitable cliffs are over three miles west near Round Top. No eagles were observed during the field surveys.</p> <p><u>Potential direct effects:</u> No direct impacts are expected.</p> <p><u>Potential indirect effects:</u> Indirect impacts could include loss of up to 10.7 acres of foraging habitat for eagles that could otherwise inhabit the landscape in the future.</p> <p><u>Potential cumulative effects:</u> Cumulative effects could consist of foraging habitat degradation from other mining projects, road construction projects, or livestock grazing activities in the surrounding area. However, suitable foraging habitat exists adjacent to the project area and golden eagles in the vicinity are expected to forage in those locales.</p> <p>Moreover, Environmental Commitments discussed in Section 9.0 would be implemented to avoid or minimize any potential effects.</p>	<p>a trend toward federal listing or loss of population viability.</p>
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Mountain Plover (<i>Charadrius montanus</i>)	G4	NA	Yes	The breeding range of the Mountain Plover includes prairie grassland and open mesa portions of southern Canada, Montana, Wyoming, Colorado, and the northern half of New Mexico. The range may have formerly extended into southern New Mexico, and isolated breeding records exist for west Texas and the central Mexican Plateau. Most of the species population winters in central and southern California, but some birds winter in northern and central Mexico and southern Arizona. The species prefers grassland, semi-desert or badlands with short, sparse vegetation and significant bare areas for nesting. The species is known to breed on the Navajo Nation in New Mexico. Mountain plovers tend to be strongly associated with prairie dog colonies" (NMACP 2014).	<p>Marginal foraging and nesting habitat exists within the grassland habitat components of the project area; however no mountain plovers were located during the field surveys.</p> <p><u>Potential direct effects:</u> No direct impacts are expected.</p> <p><u>Potential indirect effects:</u> Indirect impacts could include loss of up to 10.7 acres of habitat for mountain plovers that could otherwise inhabit the landscape in the future.</p> <p><u>Potential cumulative effects:</u> Cumulative effects could consist of habitat degradation from other mining projects, road construction projects, or livestock grazing activities in the surrounding area. However, suitable foraging habitat exists adjacent to the project area and mountain plovers in the vicinity are expected to forage in those locales.</p> <p>Moreover, Environmental Commitments discussed in Section 9.0 would be implemented to avoid or minimize any potential effects.</p>	Individuals of this species would not be negatively impacted, and the Proposed Action is not likely to result in a trend toward federal listing or loss of population viability.
American Peregrine Falcon (<i>Falco peregrinus anatum</i>)	G4	NA	Yes	"Peregrine Falcons inhabit open spaces usually associated with high cliffs and bluffs overlooking rivers and coasts. Recently, many cities with tall buildings have become	<p>Suitable foraging habitat does occur within the project area; suitable nesting habitat does not. The nearest marginally suitable cliffs are over three miles west near Round Top. No falcons were</p>	Individuals of this species would not be negatively impacted, and the Proposed Action is not likely to result in a trend toward federal listing

				<p>home to some peregrines. Some populations are migratory and travel great distances (as their Latin name implies)" (BISON-M 2015).</p>	<p>observed during the field surveys.</p> <p><u>Potential direct effects:</u> No direct impacts are expected.</p> <p><u>Potential indirect effects:</u> Indirect impacts could include loss of up to 10.7 acres of foraging habitat for falcons that could otherwise inhabit the landscape in the future.</p> <p><u>Potential cumulative effects:</u> Cumulative effects could consist of foraging habitat degradation from other mining projects, road construction projects, or livestock grazing activities in the surrounding area. However, suitable foraging habitat exists adjacent to the project area and peregrine falcons in the vicinity are expected to forage in those locales.</p> <p>Moreover, Environmental Commitments discussed in Section 9.0 would be implemented to avoid or minimize any potential effects.</p>	<p>or loss of population viability.</p>
<p>Bald eagle (<i>Haliaeetus leucocephalus</i>)</p>	G2	NA	No	<p>"Typically nest within trees in forested areas, especially mature and old-growth stands, adjacent to large bodies of water with suitable forage of waterfowl and fish" (Mikesic and Roth 2008). "Winter roost in large trees in forests, river bottoms or near canyon rim</p>	<p>The project area does not contain any of the habitat structural or functional features described previously (i.e., perennial water). No lakeshore habitat or perennial water would be impacted by the Proposed Action. The proposed disturbance would occur > 300 ft from the Ganado lakeshore (Figure 2), and</p>	<p>Individuals of this species would not be negatively impacted, and the Proposed Action is not likely to result in a trend toward federal listing or loss of population viability.</p>

				usually within a few miles of ponds, lakes and rivers with adequate prey" (Mikesic and Roth 2008).	thus would not impact it. Thus, no indirect, direct or cumulative effects would be incurred from the Proposed Action, due to the lack of habitat.	
Southwestern Willow flycatcher (<i>Empidonax traillii extimus</i>)	G2	Final designated critical habitat	No	See Table 2, above	See Table 2, above	See Table 2, above
Mammals						
Black-footed ferret (<i>Mustela nigripes</i>)	G2	NA	No	See Table 2, above	See Table 2, above	See Table 2, above
Reptiles and Amphibians						
Northern leopard frog (<i>Lithobates pipiens</i>)	G2	NA	No	This species occurs from 3280 - 8530 ft in elevation, and in a variety of permanent aquatic habitats where adequate depth provides escape from predators. These habitats include montane springs, streams, ponds, lakes, marshes, stock ponds, and plunge pools of canyon streams (BISON-M 2015).	The project area does not contain any of the habitat structural or functional features described previously (i.e., perennial water). No lakeshore habitat or perennial water would be impacted by the Proposed Action. The proposed disturbance would occur > 300 ft from the Ganado lakeshore (Figure 2), and thus would not impact it. Thus, no indirect, direct or cumulative effects would be incurred from the Proposed Action, due to the lack of habitat.	This species would not be negatively impacted, and the Proposed Action is not likely to result in a trend toward federal listing of loss or population viability

G1 = No longer occur on Navajo Nation, G2 "Endangered" = prospects of survival and recruitment unlikely, G3 "Endangered" = prospects of survival and recruitment likely in jeopardy in future, G4 = NNDFWL lacks sufficient data to make determination of listing in G2 or G3.

7.0 Migratory Birds

Due to the Executive Order 13186, signed on January 10, 2001 by President Clinton, emphasis has been placed on conservation of migratory birds, as defined by the Migratory Bird Treaty Act of 1918. Should vegetation clearance activities be proposed between 1 April and 31 August (i.e., during the avian breeding and nesting period), a migratory bird survey may be required by the Navajo Nation or ADOT within one week of vegetation clearance activities to identify and flag bird nests for avoidance.

8.0 Bald and Golden Eagles

The 1940 Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668-668c), prohibits "take" without a permit, of bald eagles, including their parts, nests, or eggs. The Act provides criminal penalties for persons who "take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle ... [or any golden eagle], alive or dead, or any part, nest, or egg thereof." The Act defines "take" as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb." Disturbance means: "to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior." Other impacts covered under the Act include human-induced alterations around a previously used nest when eagles are not present. If these alterations agitate or bother an eagle (upon its return) such that breeding, feeding or sheltering habitats are disturbed or interrupted, and injury, death or nest abandonment occur, this shall be considered "take."

No eagles were observed within the project area during the field surveys. The closest cliffs that could provide marginally suitable nesting sites are more than three miles away.

9.0 Environmental Commitments

- 1) Impacts to terrestrial habitats would be minimized by limiting heavy equipment operation to the most open area available, and all efforts would be made to minimize damage to native vegetation.
- 2) To avoid direct impacts to migratory birds protected by the Migratory Bird Treaty Act (16 United States Code [USC] 703, et seq.), if deemed necessary by the Navajo Nation or the ADOT, a migratory/ nesting bird survey would be conducted within one week of commencing vegetation clearance (should work occur during the avian nesting period of 1 April – 31 August) to locate and flag any active birds nests for avoidance.

Construction would cease in the location if migratory bird nesting, is observed during the survey and the USFWS and/or Navajo Nation would be notified.

- 3) All stormwater discharges would be evaluated for compliance with National Pollutant Discharge Elimination System (NPDES) guidance, an NPDES permit, and/or a Stormwater Pollution Prevention Plan.
- 7) Existing roads would be used for access (where feasible) to minimize disturbance to vegetation.

10.0 Personnel

Shawn C. Knox

- Principal – Rocky Mountain Ecology, LLC
- Eighteen years of experience in natural resource surveys, environmental compliance and management

Clayton P. Bowers

- Senior Project Manager – Rocky Mountain Ecology, LLC
- Nine years of experience in natural resource surveys, environmental compliance and management

11.0 Consultation/ Coordination

This section includes individuals from the interdisciplinary team that were consulted during the development of this document.

Table 3 - Summary of agencies contacted during preparation of this document.

Organization
Navajo Natural Heritage Program
US Fish and Wildlife Service, Albuquerque Ecological Services
FNF Construction

11.0 References

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APPENDICES

Appendix A. Photographs

Photo 1. View from southeast corner facing northwest.



Photo 2. Road on the west boundary facing south.



Photo 3. View from the west boundary facing east.



Photo 4. Road on the south boundary.



Photo 5. View from the east boundary facing west.



Appendix B. Consultation Responses/ Master Species Lists

This is draft copy and is not official until you receive a paper copy. If NNHP information changes or is updated within the project area in the interim those changes will be reflected on the paper copy and will supersede this digital copy.



PO Box 1480
Window Rock, AZ
86515

P 928.871.6472
F 928.871.7603

<http://nnhp.nndfw.org>

15roke101

02-April-2015

Shawn C. Knox
Rocky Mountain Ecology, LLC
P.O. Box 1441
Bernalillo, NM 87004

SUBJECT: Proposed Ganado Materials Pit

Shawn C. Knox,

NNHP has performed an analysis of your project in comparison to known biological resources of the Navajo Nation and has included the findings in this letter. The letter is composed of seven parts. The sections as they appear in the letter are:

1. **Known Species** – a list of all species within relative proximity to the project
2. **Potential Species** – a list of potential species based on project proximity to respective suitable habitat
3. **Quadrangles** – an exhaustive list of quads containing the project
4. **Project Summary** – a categorized list of biological resources within relative proximity to the project grouped by individual project site(s) or quads
5. **Conditional Criteria Notes** – additional details concerning various species, habitat, etc.
6. **Personnel Contacts** – a list of employee contacts
7. **Resources** – identifies sources for further information

Known Species lists "species of concern" known to occur within proximity to the project area. Planning for avoidance of these species is expected. If no species are displayed then based upon the records of the Navajo Nation Department of Fish and Wildlife (NNDFW) there are no "species of concern" within proximity to the project. Refer to the Navajo Endangered Species List (NESL) Species Accounts for recommended avoidance measures, biology, and distribution of NESL species on the Navajo Nation (http://nnhp.nndfw.org/sp_account.htm).

Potential Species lists species that are potentially within proximity to the project area and need to be evaluated for presence/absence. If no species are found within the Known or Potential Species lists, the project is not expected to affect any federally listed species, nor significantly impact any tribally listed species or other species of concern. Potential for species has been determined primarily on habitat characteristics and species range information. A thorough habitat analysis, and if necessary, species specific surveys, are required to determine the potential for each species.

Species of concern include protected, candidate, and other rare or otherwise sensitive species, including certain native species and species of economic or cultural significance. For legally protected species, the following tribal and federal statuses are indicated: NESL, federal Endangered Species Act (ESA), Migratory Bird Treaty Act (MBTA), and Eagle Protection Act (EPA). No legal protection is afforded species with only ESA candidate, NESL group 4 status, and species listed on the Sensitive Species List. Please be aware of

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these species during surveys and inform the NNDFW of observations. Reported observations of these species and documenting them in project planning and management is important for conservation and may contribute to ensuring they will not be up listed in the future.

In any and all correspondence with NNDFW or NNHP concerning this project please cite the Data Request Code associated with this document. It can be found in this report on the top right corner of the every page. Additionally please cite this code in any biological evaluation documents returned to our office.

1. Known Species (NESL=Navajo Endangered Species List, FE=Federally Endangered, FT=Federally Threatened, FC=Federal Candidate)

Species

None

2. Potential Species

Species

AECL = Aechmophorus clarkii / Clark's Grebe NESL G4
 AQCH = Aquila chrysaetos / Golden Eagle NESL G3
 ATCU = Athene cunicularia / Burrowing Owl NESL G4
 CHMO = Charadrius montanus / Mountain Plover NESL G4
 EMTREX = Empidonax traillii extimus / Southwestern Willow Flycatcher NESL G2 FE
 FAPE = Falco peregrinus / Peregrine Falcon NESL G4
 HALE = Haliaeetus leucocephalus / Bald Eagle NESL G2
 LIPI = Lithobates pipiens / Northern Leopard Frog NESL G2
 MUNI = Mustela nigripes / Black-footed Ferret NESL G2 FE

3. Quadrangles (7.5 Minute)

Quadrangles

Ganado (35109-F5) / AZ

4. Project Summary (EO1 Mile/EO 3 Miles=elements occurring within 1 & 3 miles., MSO=mexican spotted owl PACs, POTS=potential species, RCP=Biological Areas)

SITE	EO1MI	EO3MI	QUAD	MSO	POTS	AREAS
Ganado Lake Borrow Pit	None	None	Ganado (35109-F5) / AZ	None	LIPI, MUNI, HALE, FAPE, EMTREX, CHMO, ATCU, AQCH, AECL	Area 6

5. Conditional Criteria Notes *(Recent revisions made please read thoroughly. For certain species, and/or circumstances, please read and comply)*

- A. **Biological Resource Land Use Clearance Policies and Procedures (RCP)** - The purpose of the RCP is to assist the Navajo Nation government and chapters ensure compliance with federal and Navajo laws which protect, wildlife resources, including plants, and their habitat resulting in an expedited land use clearance process. After years of research and study, the NNDFW has identified and mapped wildlife habitat and sensitive areas that cover the entire Navajo Nation.
The following is a brief summary of six (6) wildlife areas:
1. **Highly Sensitive Area** – recommended no development with few exceptions.
 2. **Moderately Sensitive Area** – moderate restrictions on development to avoid sensitive species/habitats.
 3. **Less Sensitive Area** – fewest restrictions on development.
 4. **Community Development Area** – areas in and around towns with few or no restrictions on development.
 5. **Biological Preserve** – no development unless compatible with the purpose of this area.
 6. **Recreation Area** – no development unless compatible with the purpose of this area.
- None** - outside the boundaries of the Navajo Nation
This is not intended to be a full description of the RCP please refer to the our website for additional information at <http://www.nndfw.org/clup.htm>.
- B. **Raptors** – If raptors are known to occur within 1 mile of project location: Contact Chad Smith at 871-7070 regarding your evaluation of potential impacts and mitigation.
- o **Golden and Bald Eagles**- If Golden or Bald Eagle are known to occur within 1 mile of the project, decision makers need to ensure that they are not in violation of the Golden and Bald Eagle Nest Protection Regulations found at http://nnhp.nndfw.org/docs_reps/gben.pdf.
 - o **Ferruginous Hawks** – Refer to “Navajo Nation Department of Fish and Wildlife’s Ferruginous Hawk Management Guidelines for Nest Protection” http://nnhp.nndfw.org/docs_reps.htm for relevant information on avoiding impacts to Ferruginous Hawks within 1 mile of project location.
 - o **Mexican Spotted Owl** - Please refer to the Navajo Nation Mexican Spotted Owl Management Plan http://nnhp.nndfw.org/docs_reps.htm for relevant information on proper project planning near/within spotted owl protected activity centers and habitat.
- C. **Surveys** – Biological surveys need to be conducted during the appropriate season to ensure they are complete and accurate please refer to NN Species Accounts http://nnhp.nndfw.org/sp_account.htm. Surveyors on the Navajo Nation must be permitted by the Director, NNDFW. Contact Jeff Cole at (928) 871-7068 for permitting procedures. Questions pertaining to surveys should be directed to the NNDFW Zoologist (Chad Smith) for animals at 871-7070, and Botanist (Andrea Hazelton) for plants at (928)523-3221. Questions regarding biological evaluation should be directed to Jeff Cole at 871-7068.
- D. **Oil/Gas Lease Sales** – Any settling or evaporation pits that could hold contaminants should be lined and covered. Covering pits, with a net or other material, will deter waterfowl and other migratory bird use. Lining pits will protect ground water quality.
- E. **Power line Projects** – These projects need to ensure that they do not violate the regulations set forth in the Navajo Nation Raptor Electrocution Prevention Regulations found at http://nnhp.nndfw.org/docs_reps/repr.pdf.

- F. **Guy Wires** – Does the project design include guy wires for structural support? If so, and if bird species may occur in relatively high concentrations in the project area, then guy wires should be equipped with highly visual markers to reduce the potential mortality due to bird-guy wire collisions. Examples of visual markers include aviation balls and bird flight diverters. Birds can be expected to occur in relatively high concentrations along migration routes (e.g., rivers, ridges or other distinctive linear topographic features) or where important habitat for breeding, feeding, roosting, etc. occurs. The U.S. Fish and Wildlife Service recommends marking guy wires with at least one marker per 100 meters of wire.
- G. **San Juan River** – On 21 March 1994 (Federal Register, Vol. 59, No. 54), the U.S. Fish and Wildlife Service designated portions of the San Juan River (SJR) as critical habitat for *Ptychocheilus lucius* (Colorado pikeminnow) and *Xyrauchen texanus* (Razorback sucker). Colorado pikeminnow critical habitat includes the SJR and its 100-year floodplain from the State Route 371 Bridge in T29N, R13W, sec. 17 (New Mexico Meridian) to Neskahai Canyon in the San Juan arm of Lake Powell in T41S, R11E, sec. 26 (Salt Lake Meridian) up to the full pool elevation. Razorback sucker critical habitat includes the SJR and its 100-year floodplain from the Hogback Diversion in T29N, R16W, sec. 9 (New Mexico Meridian) to the full pool elevation at the mouth of Neskahai Canyon on the San Juan arm of Lake Powell in T41S, R11E, sec. 26 (Salt Lake Meridian). All actions carried out, funded or authorized by a federal agency which may alter the constituent elements of critical habitat must undergo section 7 consultation under the Endangered Species Act of 1973, as amended. Constituent elements are those physical and biological attributes essential to a species conservation and include, but are not limited to, water, physical habitat, and biological environment as required for each particular life stage of a species.
- H. **Little Colorado River** - On 21 March 1994 (Federal Register, Vol. 59, No. 54) the U.S. Fish and Wildlife Service designated Critical Habitat along portions of the Colorado and Little Colorado Rivers (LCR) for *Gila cypha* (humpback chub). Within or adjacent to the Navajo Nation this critical habitat includes the LCR and its 100-year floodplain from river mile 8 in T32N R6E, sec. 12 (Salt and Gila River Meridian) to its confluence with the Colorado River in T32N R5E sec. 1 (S&GRM) and the Colorado River and 100-year floodplain from Nautuloid Canyon (River Mile 34) T36N R5E sec. 35 (S&GRM) to its confluence with the LCR. All actions carried out, funded or authorized by a federal agency which may alter the constituent elements of Critical Habitat must undergo section 7 consultation under the Endangered Species Act of 1973, as amended. Constituent elements are those physical and biological attributes essential to a species conservation and include, but are not limited to, water, physical habitat, and biological environment as required for each particular life stage of a species.
- I. **Wetlands** – In Arizona and New Mexico, potential impacts to wetlands should also be evaluated. The U.S. Fish & Wildlife Service's National Wetlands Inventory (NWI) maps should be examined to determine whether areas classified as wetlands are located close enough to the project site(s) to be impacted. In cases where the maps are inconclusive (e.g., due to their small scale), field surveys must be completed. For field surveys, wetlands identification and delineation methodology contained in the "Corps of Engineers Wetlands Delineation Manual" (Technical Report Y-87-1) should be used. When wetlands are present, potential impacts must be addressed in an environmental assessment and the Army Corps of Engineers, Phoenix office, must be contacted. NWI maps are available for examination at the Navajo Natural Heritage Program (NNHP) office, or may be purchased through the U.S. Geological Survey (order forms are available through the NNHP). The NNHP has complete coverage of the Navajo Nation, excluding Utah, at 1:100,000 scale; and coverage at 1:24,000 scale in the southwestern portion of the Navajo Nation. In Utah, the U.S. Fish & Wildlife Service's National Wetlands Inventory maps are not yet available for the Utah portion of the Navajo Nation, therefore, field surveys should be completed to determine whether wetlands are located close enough to the project site(s) to be impacted. For field surveys, wetlands identification and delineation methodology contained in the "Corps of Engineers Wetlands Delineation Manual" (Technical Report Y-87-1) should be used. When wetlands are present, potential impacts must be addressed in an environmental assessment and the Army Corps of Engineers, Phoenix office, must be contacted. For more information contact the Navajo Environmental Protection Agency's Water Quality Program.

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- J. **Life Length of Data Request** – The information in this report was identified by the NNHP and NNDFW's biologists and computerized database, and is based on data available at the time of this response. If project planning takes more than two (02) years from the date of this response, verification of the information provided herein is necessary. It should not be regarded as the final statement on the occurrence of any species, nor should it substitute for on-site surveys. Also, because the NNDFW information is continually updated, any given information response is only wholly appropriate for its respective request.
- K. **Ground Water Pumping** - Projects involving the ground water pumping for mining operations, agricultural projects or commercial wells (including municipal wells) will have to provide an analysis on the effects to surface water and address potential impacts on all aquatic and/or wetlands species listed below. NESL Species potentially impacted by ground water pumping: *Carex specuicola* (Navajo Sedge), *Cirsium rydbergii* (Rydberg's Thistle), *Primula specuicola* (Cave Primrose), *Platanthera zothecina* (Alcove Bog Orchid), *Puccinellia parishii* (Parish Alkali Grass), *Zigadenus vaginatus* (Alcove Death Camas), *Perityle specuicola* (Alcove Rock Daisy), *Symphyotrichum welshii* (Welsh's American-aster), *Coccyzus americanus* (Yellow-billed Cuckoo), *Empidonax traillii extimus* (Southwestern Willow Flycatcher), *Rana pipiens* (Northern Leopard Frog), *Gila cypha* (Humpback Chub), *Gila robusta* (Roundtail Chub), *Ptychocheilus lucius* (Colorado Pikeminnow), *Xyrauchen texanus* (Razorback Sucker), *Cinclus mexicanus* (American Dipper), *Speyeria nokomis* (Western Seep Fritillary), *Aechmophorus clarkia* (Clark's Grebe), *Ceryle alcyon* (Belted Kingfisher), *Dendroica petechia* (Yellow Warbler), *Porzana carolina* (Sora), *Catostomus discobolus* (Bluehead Sucker), *Cottus bairdi* (Mottled Sculpin), *Oxyloma kanabense* (Kanab Ambersnail)

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6. Personnel Contacts

Wildlife Manager

Sam Diswood

928.871.7062

sdiswood@nndfw.org

Zoologist

Chad Smith

928.871.7070

csmith@nndfw.org

Botanist

Andrea Hazelton

928.523.3221

ahazelton@nndfw.org

Biological Reviewer

Pamela Kyselka

928.871.7065

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GIS Supervisor

Dexter D Prall

928.871.6489

prall@nndfw.org

Wildlife Tech

Sonja Detsoi

928.871.6472

sdetsoi@nndfw.org

DRAFT

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7. Resources

National Environmental Policy Act

Navajo Endangered Species List:

<http://nnhp.nndfw.org/endangered.htm>

Species Accounts:

http://nnhp.nndfw.org/sp_account.htm

Biological Investigation Permit Application

http://nnhp.nndfw.org/study_permit.htm

Navajo Nation Sensitive Species List

http://nnhp.nndfw.org/study_permit.htm

Various Species Management and/or Document and Reports

http://nnhp.nndfw.org/docs_reps.htm

Consultant List

(Coming Soon)

If you have any questions I may be reached at (928) 871-6472.

Sonja Detsoi, Wildlife Tech.

Natural Heritage Program

Department of Fish and Wildlife

xc: file/chrono



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Arizona Ecological Services Field Office
2321 WEST ROYAL PALM ROAD, SUITE 103
PHOENIX, AZ 85021
PHONE: (602)242-0210 FAX: (602)242-2513
URL: www.fws.gov/southwest/es/arizona/;
www.fws.gov/southwest/es/EndangeredSpecies/lists/

Consultation Code: 02EAAZ00-2015-SLI-0426

April 16, 2015

Event Code: 02EAAZ00-2015-E-00452

Project Name: Ganado Lake Borrow Pit

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The Fish and Wildlife Service (Service) is providing this list under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). The list you have generated identifies threatened, endangered, proposed, and candidate species, and designated and proposed critical habitat, that *may* occur within one or more delineated United States Geological Survey 7.5 minute quadrangles with which your project polygon intersects. Each quadrangle covers, at minimum, 49 square miles. Please refer to the species information links found at http://www.fws.gov/southwest/es/arizona/Docs_Species.htm or <http://www.fws.gov/southwest/es/arizona/Documents/MiscDocs/AZSpeciesReference.pdf> for a quick reference, to determine if suitable habitat for the species on your list occurs in your project area.

The purpose of the Act is to provide a means whereby threatened and endangered species and the habitats upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of Federal trust resources and to determine whether projects may affect federally listed species and/or designated critical habitat. A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If the Federal action agency determines that listed species or critical habitat *may be affected* by a federally funded, permitted or authorized activity, the agency must consult with us pursuant to 50 CFR 402. Note that a "may affect" determination includes effects that may not be adverse and that may be beneficial, insignificant, or discountable. An effect exists even if only one individual or habitat segment may be affected. The effects analysis should include the entire action area, which often extends well outside the project boundary or "footprint" (e.g., downstream). If the Federal action agency determines that the action may jeopardize a *proposed* species or adversely modify *proposed* critical habitat, the agency must enter into a section 7 conference. The agency may choose to confer with us on an action that may affect proposed species or critical habitat.

Candidate species are those for which there is sufficient information to support a proposal for listing. Although candidate species have no legal protection under the Act, we recommend that they be considered in the planning process in the event they become proposed or listed prior to project completion. More information on the regulations (50 CFR 402) and procedures for section 7 consultation, including the role of permit or license applicants, can be found in our Endangered Species Consultation Handbook at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>.

In addition to species listed under the Act, we advise you to consider species protected under the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703-712) and the Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668 *et seq.*). Both laws prohibit the take of covered species. The list of MBTA-protected birds is in 50 CFR 10.13 (for an alphabetical list see <http://www.fws.gov/migratorybirds/RegulationsPolicies/mbta/MBTANDX.HTML>). The Service's Division of Migratory Birds is the lead for consultations under these laws (Southwest Regional Office phone number: 505/248-7882). For more information regarding the MBTA, BGEPA, and permitting processes, please visit the following web site:

<http://www.fws.gov/migratorybirds/mbpermits.html>. Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g. cellular, digital television, radio, and emergency broadcast) can be found at:

<http://www.fws.gov/southwest/es/arizona/CellTower.htm>

Although bald eagles (*Haliaeetus leucocephalus*) are no longer listed under the Act, they are protected under both the BGEPA and the MBTA. If a bald eagle nest occurs in or near the proposed project area, our office should be contacted. An evaluation must be performed to determine whether the project is likely to disturb nesting bald eagles (see <http://www.fws.gov/southeast/es/baldeagle/>) and the Division of Migratory Birds consulted if necessary. The National Bald Eagle Management Guidelines provide recommendations to minimize potential project impacts to bald eagles (see <http://www.fws.gov/midwest/eagle/pdf/NationalBaldEagleManagementGuidelines.pdf>).

Activities that involve streams and/or wetlands are regulated by the U.S. Army Corps of Engineers (Corps). We recommend that you contact the Corps to determine their interest in proposed projects in these areas. For activities within a National Wildlife Refuge, we recommend that you contact refuge staff for specific information about refuge resources.

If your action is on Indian land or has implications for off-reservation tribal interests, we encourage you to contact the tribe(s) and the Bureau of Indian Affairs (BIA) to discuss potential

tribal concerns, and to invite any affected tribe and the BIA to participate in the section 7 consultation. In keeping with our tribal trust responsibility, we will notify tribes that may be affected by proposed actions when section 7 consultation is initiated. For more information, please contact our tribal coordinator, John Nystedt, at (928) 556-2160 or John_Nystedt@fws.gov.

The State of Arizona protects some species not protected by Federal law. We recommend you contact the Arizona Game and Fish Department (AGFD) for animals and Arizona Department of Agriculture for plants to determine if species protected by or of concern to the State may occur in your action area. The AGFD has an Environmental Review On-Line Tool that can be accessed at <http://www.azgfd.gov/hgis/>. We also recommend that you coordinate with the AGFD regarding your project.

For additional communications regarding this project, please refer to the consultation Tracking Number in the header of this letter. We appreciate your concern for threatened and endangered species. If we may be of further assistance, please contact Brenda Smith at 928/556-2157 for projects in Northern Arizona, our general Phoenix number (602/242-0210) for central Arizona, or Jean Calhoun at 520/670-6150 (x223) for projects in southern Arizona.

Sincerely,

/s/

Steven L. Spangle

Field Supervisor

Attachment



United States Department of Interior
Fish and Wildlife Service

Project name: Ganado Lake Borrow Pit

Official Species List

Provided by:

Arizona Ecological Services Field Office

2321 WEST ROYAL PALM ROAD, SUITE 103

PHOENIX, AZ 85021

(602) 242-0210

<http://www.fws.gov/southwest/es/arizona/>

<http://www.fws.gov/southwest/es/EndangeredSpecies/lists/>

Consultation Code: 02EAAZ00-2015-SLI-0426

Event Code: 02EAAZ00-2015-E-00452

Project Type: Mining

Project Name: Ganado Lake Borrow Pit

Project Description: The proponent proposed to mine 10.7 acres of borrow material to support SR 264 Reconstruction.

Please Note: The FWS office may have modified the Project Name and/or Project Description, so it may be different from what was submitted in your previous request. If the Consultation Code matches, the FWS considers this to be the same project. Contact the office in the 'Provided by' section of your previous Official Species list if you have any questions or concerns.



United States Department of Interior
Fish and Wildlife Service

Project name: Ganado Lake Borrow Pit

Project Location Map:



Project Coordinates: MULTIPOLYGON (((-109.5145038 35.7364822, -109.5121863 35.7406623, -109.5100406 35.740314, -109.5097831 35.7359249, -109.5102981 35.7356114, -109.5134309 35.7355069, -109.5145038 35.7364822)))

Project Counties: Apache, AZ



United States Department of Interior
Fish and Wildlife Service

Project name: Ganado Lake Borrow Pit

Endangered Species Act Species List

There are a total of 7 threatened, endangered, or candidate species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section further below for critical habitat that lies within your project. Please contact the designated FWS office if you have questions.

Birds	Status	Has Critical Habitat	Condition(s)
California condor (<i>Gymnogyps californianus</i>) Population: Entire, except where listed as an experimental population	Endangered	Final designated	
Southwestern Willow flycatcher (<i>Empidonax traillii extimus</i>) Population: Entire	Endangered	Final designated	
Yellow-Billed Cuckoo (<i>Coccyzus americanus</i>) Population: Western U.S. DPS	Threatened	Proposed	
Fishes			
Roundtail chub (<i>Gila robusta</i>) Population: Lower Colorado River Basin DPS	Candidate		
Zuni Bluehead Sucker (<i>Catostomus discobolus yarrowi</i>)	Endangered	Proposed	
Mammals			
Black-Footed ferret (<i>Mustela nigripes</i>)	Experimental		



United States Department of Interior
Fish and Wildlife Service

Project name: Ganado Lake Borrow Pit

Population: U.S.A. (specific portions of AZ, CO, MT, SD, UT, and WY)	Population, Non-Essential		
Reptiles			
Northern Mexican gartersnake (<i>Thamnophis eques megalops</i>)	Threatened	Proposed	



United States Department of Interior
Fish and Wildlife Service

Project name: Ganado Lake Borrow Pit

Critical habitats that lie within your project area

There are no critical habitats within your project area.

ENVIRONMENTAL ASSESSMENT FOR GANADO BORROW SOURCE

Proposed By:
FNF Construction, Inc.
115 S. 48th St.
Tempe, Arizona 85281

Prepared For:
Navajo Nation
Land Department – Project Review
Window Rock, Arizona 86515

April 17, 2015

TABLE OF CONTENTS

I.	Purpose of and need for action	Page 1
II.	Alternatives.....	Page 2
III.	Existing Environment.....	Page 2
IV.	Impacts.....	Page 5
V.	Mitigation Measures	Page 7
VI.	Conclusions Regarding Significance	Page 9
VII.	Consultation and Coordination	Page 10

APPENDIX

Mine and Reclamation Plan	A
Archeological Clearance/Report	B
Biological Evaluation	C

I. PURPOSE OF AND NEED FOR ACTION

A. Project Description

FNF Construction, Inc. (FNF) has been awarded Arizona Department of Transportation (ADOT) Project: Tuba City – Window Rock Hwy (SR 264), Fish Wash – Cross Canyon (ADOT Project No. HSIP-STP-264-A(217)T, 264 AP 450, H813301C), located on SR 264 between milepost 450 and 459.02. The work on this project will include overlaying the existing pavement with asphaltic concrete, shoulder widening with asphaltic concrete over aggregate base, placing AR-ACFC and construction of a NEW Fish Wash Bridge to replace the existing bridge. The work also includes construction of guardrail, installation of new pipes, extension of the existing pipes, installation of barbed wire fence and cattle guards, pavement markings and other related work.

A significant part of the project requirements will be obtaining approximately 39,000 cubic yards of borrow material to be incorporated into the construction project. After consultation with the Navajo Land Department, the Navajo Mineral Resources Department and the Navajo EPA Department, FNF feels that the existing borrow source located east of Ganado Lake would be the most economical and environmentally suited location for this project. The site is located about 2 miles north of the SR 264 and BIA Route 27 Junction and then just west of BIA Route 27. (See Attachment 1 in the Mine Plan Figures 1-4 for a site map) The permit will be issued for the duration of the ADOT project, (approximately 200 working days). Based on samples obtained from the site, the material will meet ADOT material quality specifications.

The excavation of borrow material will be managed by the approved Mine and Reclamation Plan (Appendix A).

The site is located in Apache County, Arizona, within the southeast quarter of Section 13, Township 27 North, Range 26 East of the Gila and Salt River Base and Meridian. Being more particularly described in the Survey documents in Appendix A. The area surveyed was approximately 26.436 acres for the borrow area and 2.038 for the haul road. Due to archaeological avoidance areas at the site the entire 26.436 acres will not be mined. We anticipate that only about 6.7 acres will be excavated and an additional 3 acres will be used for equipment parking and material processing, access roads to the site will include an additional 1 acre for a total of 10.7 acres of disturbance. Roads to the ADOT project will be via BIA Route 27 and then to the ADOT project on SR 264 (MP 450 to 459.02)

B. Decision Needed

The purpose of this document is to identify environmental effects in adequate detail and compare them to economic and technical analyses to determine if there are significant impacts which would prohibit the project moving forward.

C. Permits

FNF has applied for a sand and gravel lease permit from the Navajo Lands Department and the Navajo Minerals Department. An EPA Stormwater permit will be obtained for the site. No other permits will be required.

II. ALTERNATIVES

A. Proposed Alternative

The proposed alternative is to locate the borrow pit within the area described in Section I. A. located east of Ganado Lake. Upon completion of the borrow removal the area will be reclaimed per the attached "Mine and Reclamation Plan".

B. No Action Alternative

The permit would not be approved. The action would preclude the Navajo Nation from developing their resources for economic gain and employment opportunities.

C. Alternative Three.

This alternative is to locate the borrow pit on another site. However, this alternative does not address the issues, but merely transfers them. Other possible locations would not be on Navajo Nation lands and farther from the ADOT project area of need. These other locations have severe economic disadvantages from excess trucking costs and significant project delays due to the simple logistics of moving the material such a great distance. Timely completion of the highway project benefits all users, of which the Navajo Nation is certainly one. Therefore, it does not appear reasonable to give this alternative further consideration unless the analysis indicates environmental damages are severe and lasting and cannot be mitigated.

III. EXISTING ENVIRONMENT

The project area is located on the Colorado Plateau in Apache, Arizona. Elevations within the project area range from 6,460 to 6,503 feet above sea level (southwest and northeast corners, respectively), with annual precipitation of 11.06 inches. Mean annual temperatures are approximately 17 degrees to 89 degrees Fahrenheit (US Climate Data 2015). The average slope across the site ranges from 3 to 8 percent.

The project area is located within the Dinetah Tablelands Subregion of the Arizona-New Mexico Plateau Ecoregion (USEPA 2013). Specifically, the site is located just east of Ganado Lake. Drainage through the project area flows southwest, and historically flowed into the Pueblo Colorado Wash, located below Ganado Lake Dam. Pueblo Colorado Wash eventually flows into the Little Colorado River, over 60 miles southwest of the Project Area.

Extensive previous disturbance occurs at the site from previous borrow removal operations. Cattle currently graze the area, and trash has been randomly dumped at the site. Perennial water does occur at Ganado Lake which is located more than 300' to the west of the site.

A. Vegetation

The project area occurs within a zone that harbors plant species indicative of the Great Basin Desert Scrub (Brown 1980). The site is dominated by a blue grama (*Bouteloua gracilis*), sand dropseed

(*Sporobolus cryptandrus*), shadscale saltbush (*Atriplex confertifolia*), green rabbit brush (*Chrysothamnus greenii*), big sagebrush (*Artemisia tridentata*), one-seed juniper (*Juniperus monosperma*), Utah juniper (*Juniperus utahensis*) association. Pinyon pine (*Pinus edulis*), snakeweed (*Gutierrezia sarothrae*), prickly pear (*Opuntia polyacantha*), Mormon tea (*Ephedra cutleir*), narrowleaf yucca (*Yucca agustissima*), Indian ricegrass (*Achnatherum hymenoides*), black grama (*Bouteloua eriopoda*) and sandhill muhly (*Muhlenbergia pungens*) are also present throughout. Disturbed areas are dominated by species such as Russian thistle (*Salsola kali*) and globemallow (*Sphaeralcea parvifolia*). Salt cedar (*Tamarix soo.*) is present near the western project boundary. Russaan olive (*Elaeagnus angustifolia*) is present within the historic Ganado Lake Borrow pit area. There is no standing water within the project area and no evidence of wetland vegetation. A Biological Evaluation of the site is located in Appendix C.

B. Wildlife

Wildlife in the vicinity of the project area includes various small mammals, diverse avifauna, reptiles, amphibians, and big game species (Brown and Lowe 1980). Wildlife typical of the general area include coyotes (*Canis latrans*), desert cottontails (*Sylvilagus audubonii*), kangaroo rats (*Dipodomys* spp.), common ravens (*Corvus corax*), turkey vultures (*Cathartes aura*), mourning doves (*Zenaida macroura*), red tailed hawks (*Buteo jamaicensis*), bull snakes (*Pituophis catenifer*), and whiptail lizards (*Cnemidophorus* spp.). Other small mammals with potential to occur on the project site include the dwarf shrew (*Sorex nanus*), pocket mice (*Perognathus* spp.), kangaroo rats (*Dipodomys* spp.) pocket gophers (*Thomomys* spp.) various mice (*Peromyscus* spp.) and woodrats (*Neotoma* spp.).

Wildlife actually observed within the survey area included fence lizards (*Sceloporus undulates*), coyote, black tailed jackrabbits (*Lepus californicus*) and common ravens. No prairie dog or burrowing owls or their burrows were observed at the site. A Biological Evaluation of the site is located in Appendix C.

C. Geology

The elevation of the pit floor will not change. There are small hills located on site (about 20' high) that will be removed to obtain the needed material. Based on observations and calculations made by FNF the needed 39,000 cubic yards of material needed for the project is available in the permit area. Soils within the project area include the Penistaja family-Betonnies complex (80%), common on 1 to 10 percent slopes; and the Aquima-Hawaikuh complex (20%), common on 1 to 5 percent slopes. Penistaja family-Betonnies complex soils are located on fan terraces with parent material from eolian deposits and fan alluvium derived from sandstone, and/or eolian deposits and fan alluvium derived from sandstone and shale. These are well drained soils with no frequency of flooding or ponding and surface horizons dominated by fine sandy loams (NRCS 2015). Aquima-Hawaikuh complex soils are located on fan remnants and stream terraces with parent material from fan alluvium over stream alluvium derived from sandstone and shale. These are well drained soils with no frequency of flooding or ponding (NRCS 2015), and surface horizons dominated by silty clay loams.

No hydric soils are present, nor do prime or unique farmlands occur within the project area (NRCS 2015).

D. Water

There is no surface water in the permit area. Ground water has not been encountered in the pit area. The elevation of the pit floor will not change so encountering ground water is not anticipated. The Ganado Lake lies more than 300' to the west of the site. A large berm has been constructed between the lake and the pit area which will keep stormwater or pollutants from entering the lake.

E. Archeological

Complete Archaeological Service Associates (CASA) has completed a Cultural Resource Survey on the project site and their report has been included in Appendix B. Two previously recorded sites, one new site and one isolated occurrence were identified during the survey. All sites are considered significant and are recommended as eligible for nomination to the NRHP under criterion d and for protection under ARPA. One site is eligible for protection under AIRFA and NAGPRA. FNF has committed to avoiding the sites and placing flagging/fencing around the areas, including a buffer zone, to ensure project activities will not disturbed/encroach upon the avoidance areas. CASA has made the determination of "No Historic Properties Affected".

F. Air Quality

Except for the occasional strong wind or dust storm the air quality in the area is pristine.

G. Topography

The elevation of the pit floor will not change. There are small hills located on site (about 20' high) that will be removed to obtain the needed material. The proposed pit area encompasses the southern slopes of a prominent, north-south trending dunal ridge overlooking the alluvial flats of the Pueblo Colorado Wash valley. The western half of the pit, which has been extensively mined numerous times, lies just east of Ganado Lake. Several track roads cross the proposed pit area. The access road was constructed and used during previous borrow removal projects.

H. Threatened and Endangered Species

A Biological Evaluation and Assessment of the project area was completed by Rocky Mountain Ecology (RME) and their report has been included in Appendix C. During the course of their studies they consulted with the Navajo Natural Heritage Program, and the U. S. Fish and Wildlife Service (Albuquerque Ecological Services). Based on their field survey and verification with NNHP and USFW no suitable habitat exists for federal proposed endangered, threatened or candidate species within the project area. Navajo Listed Species from the Navajo Endangered Species List was also evaluated and it was determined that the listed species would not be negatively impacted, and the proposed action is not likely to result in a trend toward federal listing or loss of population viability.

I. Resource Use Patterns

The land's present uses are cattle grazing and sand and borrow excavation/removal. There are established roads and trails which appear to be used to support these activities. There is a dedicated access road to the site from BIA Route 27. The site is located about 2 miles north of the SR 264 and BIA Route 27 Junction and then just west of BIA Route 27.

J. Socioeconomic

The land's present uses are cattle grazing and sand borrow excavation/removal. The implementation of a plan to monitor and control the use of the pit and assure proper reclamation will assure that the sand and gravel pit would economically benefit the Navajo Nation and its members through materials royalties and employment opportunities.

K. Other Values

The only other consideration is visual impact. The present state of the area has been left with extensive mining, cattle grazing and occasionally the area is used for dumping trash. The implementation of a proper management plan of the permit site and the final reclamation should assure that its visual impact will be improved and become an appealing location. The reclamation plan will slope and reshape the permit area to return it to a more aesthetic appearance.

IV. IMPACTS

A. Vegetation Impacts

The proposed area would cover approximately 10.7 acres. There is minimal vegetative cover that will need to be removed from the actual excavation area. Topsoil removed from the excavation area will be stockpiled for later use during reclamation. This, along with sloping and grading, will assure the long term return of the area to a natural condition. Erosion from air and water action on soil disturbed by vegetation removal and vehicle activity will probably occur to a slight degree. Soil erosion will be minimized by the construction of dikes and berms wherever they are required. Ground water within the proposed excavation area is not anticipated

Due to the sparse vegetation of the area to be disturbed, only minimal amounts of trees, brush and forbs will be damaged or destroyed in the use area. All disturbed areas will be reclaimed by sloping and seeding at the completion of mining. Weed growth will be controlled under routine operations and maintenance programs.

B. Wildlife Impacts

The proposed action will only have minor impact on the animals in the area.

Wildlife diversity and productivity on the permit area in general are low because of the lack of habitat structure. Over the period of time the borrow pit is in operation, the area will receive additional noise and traffic. This could affect animals in the area. Taking into account the comparatively small size of the areas which will be disturbed the impact on wildlife in the area will

be minimal. If cattle's grazing in the area becomes a problem adequate fencing will be provided to keep animals and employees safe.

C. Geology Impacts

Area will be mined and resources removed.

D. Water Impacts

The temporary removal of the natural vegetative cover will make surface more susceptible to water erosion, but maintaining the excavation in a topographically negative condition will minimize any deleterious effects to runoff water quality. On-going operations will not materially affect surface or underground water. The only surface water in the permit area is the runoff from bordering landscape. The on-going operations will not materially affect surface or underground water or the drainage pattern.

E. Archeological Impacts

The proposed permit area has been surveyed for cultural resources. Significant archeological, historical or cultural sites are present and will be flagged and avoided. The area has therefore been recommended for cultural resource clearance.

It is not anticipated that any archeological, historical, or cultural sites will be affected by the projected mining operations described in the Mine and Reclamation Plan.

F. Air Quality Impacts

A moderate amount of particulate matter (dust) will rise into the air when the vegetation and topsoil is removed. Dust will also be generated during the mining operations. Total dust generation, when considered for the general area, should not be significant. In any case the control of dust from mining and processing, as well as hydrocarbons from operation of internal combustion engines are controlled by federal regulations which the operator must obey. The area has good air drainage; therefore, the total impacts will be of low significance. Temporary or short term equipment noise will also be present during the operations at the site.

G. Topography Impacts

At the completion of mining and reclamation the permit area, although sloped for aesthetic purposes, will be topography negative with respect to the surrounding area.

H. Threatened and Endangered Species Impacts

Based on the field survey and verification with NNHP and USFW no suitable habitat exists for federal proposed endangered, threatened or candidate species within the project area. Navajo Listed Species from the Navajo Endangered Species List was also evaluated and it was determined that the listed species would not be negatively impacted, and the proposed action is not likely to result in a trend toward federal listing or loss of population viability.

I. Resource Use Patterns Impacts

By and large, the grazing of cattle will have to take place in other nearby areas until reclamation is completely affected. FNF's presents in the pit area may deter people from dumping trash at the site. Obviously, an active borrow pit will be added to the use patterns in the area for the duration of the permit.

J. Socioeconomic Impacts

The granting of this permit will allow the Navajo Nation to use its own resources to fulfill the construction needs of SR 264 with the significant positive impacts of financial gain from materials royalties and employment opportunities.

K. Other Values Impacts

The implementation of a proper management plan of the permit site and the final reclamation should assure that its visual impact will be improved. The reclamation plan will slope and reshape the permit area to return it to a more aesthetic appearance.

V. MITIGATION MEASURES

A. Vegetation

Due to the sparse vegetation of the site only minimal amounts of trees, brush and forbs will be damaged or destroyed in the use area. All disturbed areas will be reclaimed by sloping and reseeding of the site at the completion of mining. Weed growth will be controlled under routine operations and maintenance programs.

The disturbed areas will be prepared to provide a seedbed for reestablishment of desired vegetation. Reseeding will be accomplished by acceptable methods using the seed mixture required by the Navajo Nation. The disturbed area will then be seeded as directed by the Navajo Nation.

B. Wildlife

Wildlife diversity and productivity on the permit area in general are low because of the lack of habitat structure. Over the period of time the borrow pit is in operation, the area will receive additional noise and traffic. This could affect animals in the area. Taking into account the comparatively small size of the areas which will be disturbed during mining, the impact on wildlife in the area will be minimal.

C. Geology

The soils that will be exposed by mining are considered well-drained soils with no frequency of flooding or ponding. The mineral resource that has been removed cannot be replaced. Therefore this impact cannot be mitigated, except by its replacement with cash royalties to the Navajo Nation.

D. Water

There is no surface water in the permit area. Runoff and erosion from the area should be minimal and should be contained within the pit area. Areas down slope of the area also have moderate permeability and infiltration rates. Surface runoff should be almost non-existent. On-going operations will not materially affect surface or underground water. Maintenance of the drainage from the pit site will be dealt with in the Mine and Reclamation Plan.

All operations will be conducted so as to minimize pollution to ground or surface waters. An EPA approved storm water pollution prevention plan will be in effect at all times. Oil and other liquid pollutants will be collected on site and disposed of properly. The operation will conform with existing federal regulations and laws. Waste materials from the operations will be disposed of by acceptable land fill methods.

Where erosion is likely to be a problem, dikes, berms and contour ditches will be constructed as the need arises. All roads will be properly maintained. All trucks will maintain safe speeds at all times.

E. Archeological Resources

Since areas of concern will be flagged and avoided, there will be no adverse impact on archeological resources. Therefore no further mitigation is necessary.

F. Air Quality

A moderate amount of particulate matter (dust) will rise into the air when the vegetation and topsoil is removed. Dust will also be generated during the mining operations. Total dust generation, when considered for the general area, should not be significant. In any case the control of dust from mining and processing, as well as hydrocarbons from operation of internal combustion engines are controlled by federal regulations which the operator must obey. The area has good air drainage; therefore, the total impacts will be of low significance. Temporary or short term equipment noise will also be present during the operations at the site.

G. Topography

The topographic changes that will occur during borrow excavation operations will be mitigated by post operation reclamation activities that will re-slope and seed the site so that it ultimately will blend into the native environment. The mining operation will be conducted as to leave a general 4:1 slope across the permit area. As the mining proceeds across the site, reclamation will begin as it is feasible. Reclamation work would include the reduction of final slopes to a maximum steepness of one vertical component to four horizontal (4:1). All waste material would be graded to conform with the pit slopes and terraces and to provide good drainage of the area. The final slopes will be contour ripped to a depth of eight (8) inches to reduce the potential for water erosion.

H. Threatened and Endangered Species

Based on the field survey and verification with NNHP and USFW no suitable habitat exists for federal proposed endangered, threatened or candidate species within the project area. Navajo Listed Species from the Navajo Endangered Species List was also evaluated and it was determined that the listed species would not be negatively impacted, and the proposed action is not likely to result in a trend toward federal listing or loss of population viability. No mitigation measures are proposed.

I. Resource Use Patterns

The proposed action will have a positive effect and will not require any mitigation measures.

J. Socioeconomic Resources

The Navajo Nation and its residents will benefit financially from the revenues generated from material royalties and employment opportunities.

K. Other Values

The implementation of a proper management plan of the permit site and the final reclamation should assure that its visual impact will become appealing. The reclamation plan will slope and reshape the permit area to return it to a more aesthetic appearance.

Tribal Culture

There will be no adverse impact on Tribal Culture, therefore no mitigation is necessary.

VI. CONCLUSIONS REGARDING SIGNIFICANCE

The permitting of this pit by the Navajo Nation will allow the Navajo Nation to market their resources for royalties and profits, local employment opportunities and the completion of the ADOT road project which will benefit the traveling public. All these factors will be for the betterment of the Navajo Nation. The significant impacts are: 1. surface damage, 2. pollution concerns, 3. wildlife 4. archaeological and 5. reclamation.

The resource cannot be removed without the displacement of the surface cover. Trees, brush and forbs will be damaged or destroyed; however, all disturbed areas will be reclaimed. The topography will be changed by the removal of the borrow material. Reclamation would include the reduction of final slopes to a maximum steepness of 4:1. The operations will be conducted as to minimize all potential pollution problems. The effect on wildlife, threatened and endangered species and archeological resources are minimal to non-existent. We have addressed all aspects of reclamation and the operations needed to return the permit area, upon completion of all mining, to a productive and useful area.

The following measures will be undertaken at the borrow pit:

Archaeological avoidance areas will be flagged/fenced along with an adequate buffer sone.

Sloping and seeding will be done as part of the reclamation process. The disturbed area will be reseeded upon completion of the excavation activity, to the requirements of the Navajo Nation.

When dust becomes a problem, due to weather conditions or working conditions, then the area will be sprayed regularly with water to reduce the dust problem.

Dikes and berms will be constructed to avoid erosion if deemed necessary.

Sanitation measures will conform to State of Arizona and Navajo Nation standards.

The site will be maintained in a clean, orderly and safe manner.

Onsite dumping of oil and other liquid pollutants is not allowed. All solid debris will be removed to an established sanitary landfill.

Cattle guards will be installed if necessary.

The overall impacts to the resources are minimal and the benefits that the Navajo Nation derives from the exploitation of this mineral resource are positive.

VII. CONSULTATION AND COORDINATION

A. Personnel

Tressia Contreras
Environmental Manager
FNF Construction, Inc.
115 S. 48th Street
Tempe, Arizona 85281

Archaeologist
Complete Archaeological Service Associates
12400 Highway 666
Cortez, Colorado 81321

Shawn Knox
Biologists
Rocky Mountain Ecology
306 Rosalie Drive
Durango, Colorado 81301

James Spring
Land Survey
Atwell, LLC
4700 E. Southern Ave.
Mesa, AZ 85206

B. Consultation/Coordination

Navajo Land Department, Mr. Howard Draper

Navajo Mineral Resources, Mr. Ram Das

CRCS, NNHPD, Ms. Tamara Billie

Ganado Community Service, Mr. Harry J. Yazzie

Navajo Natural Heritage Program, Ms. Sonja Detsoi

Navajo EPA, Ms. Rita Whitehorse-Larsen

U.S. Fish & Wildlife

MINE / RECLAMATION PLAN
FOR
GANADO BORROW SOURCE
APACHE COUNTY, ARIZONA

Prepared By:

FNF Construction, Inc. (FNF)
Tressia Contreras, Environmental Manager
115 S. 48th St.
Tempe, AZ 85281
(480) 929-6733

April 17, 2015

TABLE OF CONTENTS

MINE PLAN

Proponent.....	Page 1
Preparer of Document.....	Page 1
Location of the Planned Work.....	Page 1
Schedule.....	Page 1
Mining Activities.....	Page 1
Processing Activities	Page 1
Production Water.....	Page 2
Overburden ..	Page 2
Fugitive Dust	Page 2
Slope Treatment.....	Page 2
Erosion Protection	Page 2
Fuel Storage	Page 2
Equipment Parking and Servicing.....	Page 2
Emergency Plan for Spills	Page 2
Insurance	Page 2

RECLAMATION PLAN

Shaping Contours Drainage.....	Page 4
Runoff.....	Page 4
Cleanup	Page 4
Final Reclamation.....	Page 4
Post Reclamation	Page 4

ATTACHMENTS

- Attachment 1 Maps showing outline of subject property and haul routes
- Attachment 2 Ground Level photographs of Existing Condition
- Attachment 3 Aerial Photograph
- Attachment 4 Land Survey of the Site

MINE PLAN

- A. **Proponent:** FNF Construction, Inc. (FNF), 115 S. 48th Street, Tempe, AZ 85281, (480) 784-2910, Contact person: Tim Diekmann (FNF's Project Manager) 602-558-0996.
- B. **Preparer of Document:** Ms. Tressia Contreras, Environmental Manager, FNF Construction, Inc., 115 S. 48th Street, Tempe, AZ 85281 (480) 929-6733, FAX 480-921-8720, Tressia@fnfinc.com.
- C. **Location of the Planned Work:** The area proposed for these activities is part of the Navajo Nation near Ganado Lake. The subject area is an existing sand and borrow source that has been extensively mined in the past. The site is located in Apache County, Arizona, within the southeast quarter of Section 13, Township 27 North, Range 26 East of the Gila and Salt River Base and Meridian. Being more particularly described in the Survey documents in Attachment 4. The site is located about 2 miles north of the SR 264 and BIA Route 27 Junction and then just west of BIA Route 27. The area surveyed was approximately 26.436 acres for the borrow area and 2.038 for the haul road. However, due to archaeological avoidance areas at the site the entire 26.436 acres will not be mined. We anticipate that only about 6.7 acres will be excavated and an additional 3 acres will be used for equipment parking and material processing with an additional 1 acre of access roads. There is an existing access point to the site via BIA Route 27. Borrow material will be hauled to the ADOT project located on SR 264 between MP 450 and 459.02.
- D. **Schedule:** Construction activity is expected to commence once permission has been granted by the Navajo Nation, and is expected to continue until the completion of the ADOT project (August 2016). FNF will need to start the borrow excavation in early July 2015 to meet the construction schedule.
- E. **Mining Activities:** The project consists of excavating borrow material from the permit area after removal of vegetation. The existing pit floor elevations will remain the same. Several small hills at the site (approximately 20' high) will be excavated for the borrow material. Slopes altered by FNF activities will be contoured to a neat appearance and left at a 4:1 or flatter slope. The material will be mined with a 988 loader. The potential area of excavation disturbance is approximately \pm 6.7 acres.
- F. **Processing Activities:** Mined borrow material will be loaded into belly dump haul trucks and hauled to the nearby ADOT project site for incorporation into the roadway construction project. Haul trucks along with excavation equipment, will be parked in the 3 acre processing area when not in use.

Anticipated Equipment List:

1 - 4,000 Gal Water Truck
1 988 Loaders
10 – Belly Dump Hauling Trucks
Equipment Service Vehicles

Anticipated Support Facilities:

Equipment Service Vehicles
Dumpster
Portable Toilets
Sanitation Service Vehicle
Supply Deliveries
ADOT Inspectors with vehicles, Employee parking

Heavy equipment will be cleaned prior to entering the site to prevent the introduction of noxious weeds. Weed control will be conducted through the life of the permit to prevent the spread of undesirable plants.

- G. Production Water: This project will use water daily to control fugitive dust on the processing equipment, dirt access roads and pit working area. Water will be obtained from a source located outside of the Navajo Nation lands. Water will be applied to surface areas by a 4,000 gallon water truck.
- H. Overburden: This operation will not produce overburden. All material excavated will be used as borrow material and hauled from the site.
- I. Fugitive Dust: It is not anticipated that fugitive dust from this site will be a problem for property or people. However fugitive dust sources-haul road, excavation area and parking areas will be water sprayed as much as 3 times daily if necessary.
- J. Slope Treatment: Pit slopes altered or created by FNF activities will be constructed at an inclination no steeper than 4:1 with maximum height of about 20 feet. Slopes constructed at this inclination are considered stable.
- K. Erosion Protection: Once approvals for the site have been obtained FNF will apply for an EPA Storm Water permit for this area and provide a Storm Water Pollution Prevention Plan (SWPPP) written specifically for the proposed operations. The SWPPP will contain Best Management Practices (BMPs) designed to contain runoff on site and prevent runoff from entering the site. A spill containment and countermeasures plan will also be included in the SWPPP.
- L. Fuel Storage: A mobile re-fueling vehicle will service the equipment at the site. Good housekeeping rules will be followed to keep chemicals and waste materials from entering Waters of the U.S. These rules include: proper disposal of oil and greasy substances to preclude them from mixing with the runoff; and if necessary lined storage pits for chemical storage.
- M. Equipment Parking and Servicing: All equipment will be serviced in the existing processing area. Care will be taken to see that no oil, grease or used filters can contaminate the soil. Proper containers will be provided for these items. Used wiping rags will also be containerized. A contract recycling facility will pick up all these items on a regular basis. Heavy equipment will be parked in the existing processing area along with haul trucks, other equipment parking and employee parking.
- N. Emergency Plan for Spills: In the event of a spill or other accidental discharge, the on-site Emergency Coordinator will direct an immediate cleanup and notify Mr. Tim Diekmann FNF's Project Manager at 602-558-0996 and corporate office Risk Assessment personnel at 480-784-2910. A copy of this plan and emergency phone numbers must remain on site and placed in a readily accessible area.
- O. Insurance: At all times FNF will carry public liability insurance in the primary amount as specified in the Lease Agreement, per claim or incident with coverage for personal injury, bodily injury, including death, and property damage resulting for each incident. FNF also agrees to carry such insurance covering all FNF's employees working in, on, or in connection with the

Leased Premises and will fully comply with the provisions of the statutes of the State of Arizona covering workers' compensation and occupation disease as such statutes are now in force or as they may be amended. Further, FNF agrees to comply with all the terms and provisions of all applicable laws of the Navajo Nation and the United States, as now exist or as may be amended, pertaining to Social Security, unemployment compensation, wages, hours, and conditions of labor; and to indemnify and hold the Navajo Nation harmless from payment of any damages occasioned by FNF's failure to comply with such law.

RECLAMATION PLAN

P. Shaping, Contours - Drainage: The existing pit floor elevations will remain the same. Several small hills at the site (approximately 20' high) will be excavated for the borrow material. Slopes altered by FNF activities will be contoured to a neat appearance and left at a 4:1 or flatter slope. The processing area is currently level and will not require contouring. Reclamation will include contouring of the mine area to return them to as near their pre-project appearance as feasible. It is concluded that post-project drainage patterns and volumes will remain essentially the same and pose no threat to adjacent property from increased runoff, sedimentation, stream bed stability or stream flow.

Q. Runoff: Precipitation falling within the pit will be confined therein avoiding surface runoff. Precipitation will be contained so that the water will either percolate or evaporate without creating surface runoff.

R. Cleanup: The area will be kept clean and neat in appearance. The collection of trash and waste generated by site employees will be contained in the proper receptacle and maintained regularly by contract services. The excavation equipment will be hauled by truck from the site. This will be accomplished as soon as borrow excavation has been completed.

Upon completion of the project the area will be left without stockpiles, equipment, trash or miscellaneous items. All items not removed by contract services will be removed by the company to a landfill for proper disposal.

S. Final Reclamation: Final Reclamation will commence with the mining activities at the site and will consist of the following measures:

1. All equipment will be removed from the site.
2. The area will be scarified and contoured to as natural an appearance as possible. FNF will provide seeding utilizing the Navajo Nation recommended seed mix for the area:

T. Post - Reclamation: At completion of reclamation, the areas impacted by FNF activities will have slopes which are constructed at 4:1 or flatter. No structures or equipment will be left on site after closure of this facility. Reclamation will not adversely affect potential future use of this site or adjacent property. It is anticipated the future use of this property will be a continued sand and borrow operation and or livestock grazing.



COMPLETE ARCHAEOLOGICAL SERVICE ASSOCIATES

P.O. Box 1777 • Cortez, Colorado 81321 • (970) 565-9229

April 13, 2015

April 13, 2015

Tamara Billie
CRCS, NNHPD
P.O. Box 4950
Window Rock, AZ 86515

RE: Permit B15162 - FNF Construction Inc.'s Proposed Ganado Borrow Pit and Access Road -
CASA 15-16

Dear Tamara,

Enclosed are two copies of an inventory report for a borrow pit expansion and access road in Ganado, Arizona for FNF Construction, Inc. Three sites were identified during the project. It is recommended that all sites be fenced for the duration of the undertaking.

The NNHPD permit fee of \$ 110.00 (B15162) has been sent directly to the Tribal Accounting Office.

Please review and give me a call if you have any questions.

Sincerely,

Mary Erickson
CASA

Enclosures: 2 copies report
 2 copies of 3 site forms
 1 copy AIRS Form
 2 copies of Burial Form

cc: ✓ Tressia Contreras, FNF Construction, Inc.

Cultural Resource Inventory

**FNF Construction Inc's
Proposed Ganado Borrow Pit and Access Road
ADOT project HSIP-STP-264-A(217)T
Apache County, Arizona**

Prepared by:

Mary Errickson
Complete Archaeological Service Associates
P.O. Box 1777
Cortez, Colorado 81321

CASA 15-16



Prepared for:

FNF Construction, Inc.
P.O. Box 5005
115 South 48th Street
Tempe, Arizona 85281

Submitted to:

Navajo Nation Historic Preservation Department
P.O. Box 4950
Window Rock, Arizona 86515

Permit:
NNCRIP B15162

April 10, 2015

Abstract

A cultural resource inventory was carried out for a proposed 26.436 acre materials pit and 0.92 mile access road in Ganado, Arizona. FNF Construction, Inc. proposes to re-open and expand a borrow pit for use in construction along State Road 264 between mileposts 450 - 459.02 for ADOT project HSIP-STP-264-A(217)T. The inventory was conducted by Mary Errickson of Complete Archaeological Service Associates (CASA) between March 30 and April 6, 2015. The project areas are located on Navajo Tribal Trust lands within the Ganado Chapter of the Fort Defiance Agency. The project was carried out under the provisions of Navajo Nation Cultural Resource Inventory Permit B15162, issued to CASA.

A total of 43.049 acres was inventoried for the project in Apache County, Arizona. A 31.832 acre tract, including the staked pit and a 50 foot buffer zone, was inventoried for the 26.436 acre gravel pit. A 100 foot-wide corridor (11.217 ac) was inventoried for a 20 foot-wide ROW (2.038 ac) along the access road. The portion of the access road between Curves 11 and 12 (Attachment B) will not be used due to avoidance fencing stipulations around site AZ-P-20-82. Total area of potential effect is 28.474 acres for the gravel pit and access road.

Two previously recorded sites, AZ-P-20-70 and AZ-P-20-82, one new site, AZ-P-20-177, and one Isolated Occurrence (IO) were identified during the project. All sites are considered significant and are recommended as eligible for nomination to the NRHP under criterion d and for protection under ARPA. Site AZ-P-20-70 is eligible for protection under AIRFA and NAGPRA. A determination of "No Historic Properties Affected" is recommended for FNF Construction Inc.'s proposed Ganado Borrow Pit and access road with the following stipulations for avoidance: 1) under the direction of a qualified archaeologist, a 100 foot-wide buffer zone should be fenced around site AZ-P-20-70 for the duration of the project and 2) under the direction of a qualified archaeologist, 50 foot-wide buffer zones should be fenced around sites AZ-P-20-82 and AZ-P-20-177 for the duration of the project.

INTRODUCTION

A cultural resource inventory was carried out for FNF Construction Inc. for a proposed sand borrow pit and access road near Ganado Lake, Arizona. (Figures 1-2; Attachment B). Materials obtained from the pit will be utilized in construction along U.S. 264 between MP 450 and 459.2 under ADOT Project HSIP-STP-264-A(217)A. The fieldwork was conducted by Mary Errickson of Complete Archaeological Service Associates (CASA) between March 30 and April 6, 2015. The project areas are located on Navajo Tribal Trust lands within the Ganado Chapter of the Ft. Defiance Agency. The project was carried out under the provisions of Navajo Nation Cultural Resource Inventory Permit B15162, issued to CASA.

PROJECT LOCATION AND DESCRIPTION

The project area is located approximately two miles northeast of Ganado and two miles north of U.S. 264 in Apache County, Arizona. FNF Construction, Inc. will re-open and expand an existing borrow pit located between BIA 27 and Ganado Lake. Approximately half of the proposed borrow pit has been previously mined and most of the access road has been previously bladed, levelled, and partially graveled. The 7.5 minute USGS quadrangle map for the project is Ganado, Arizona dated 1973. A complete legal description of the proposed project is presented below.

Legal Location: T 27N, R 26E:

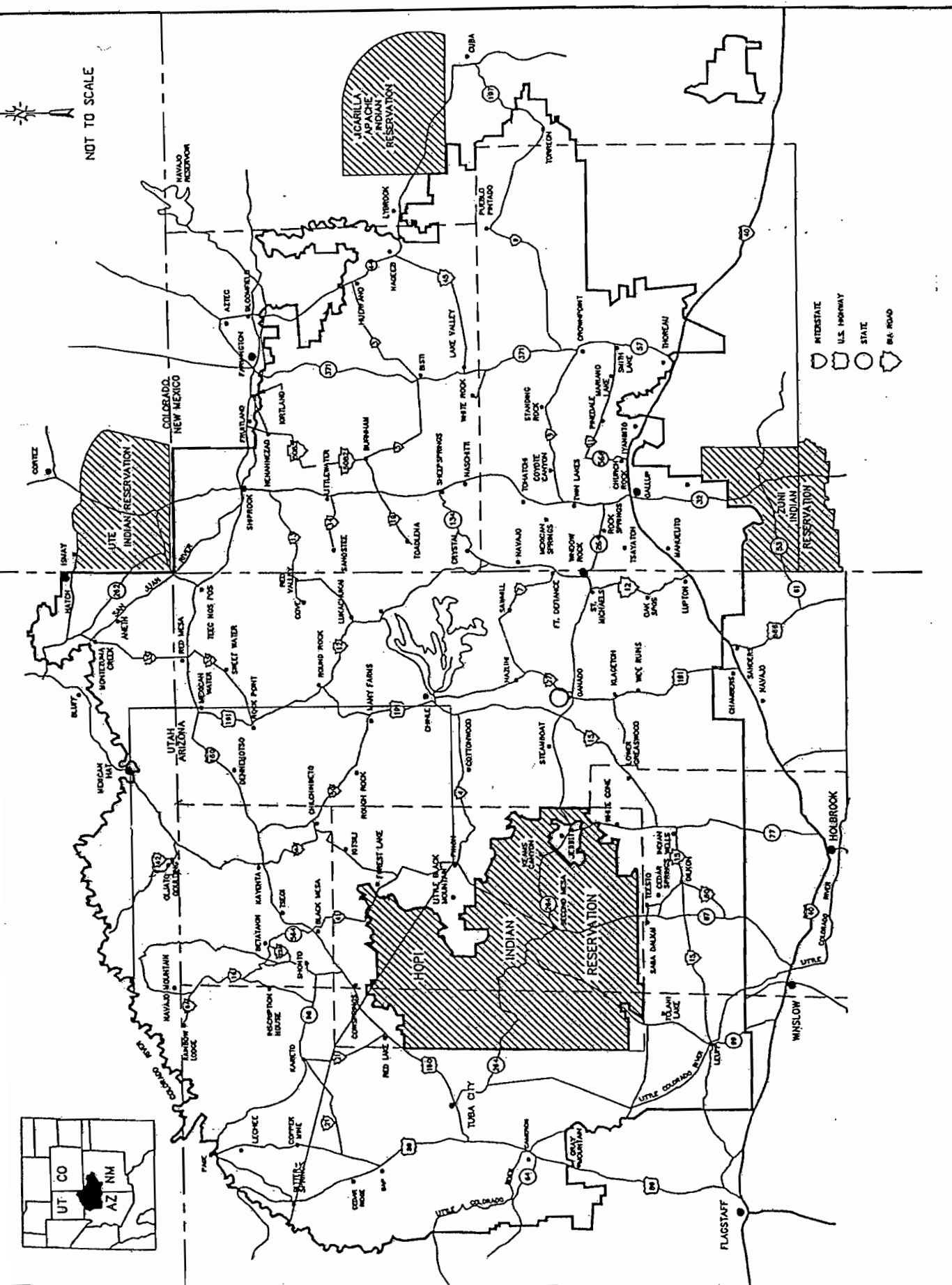
Pit / Access Road: Section 13: portions of the SE 1/4

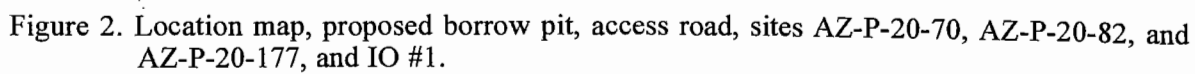
UTM Location: Pit: NW Corner Pt. a - Zone 12, 634559mE / 3956139mN
NAD 83 SW Corner Pt. b - Zone 12, 634410mE / 3955708mN
SE Corner Pt. c - Zone 12, 634751mE / 3955507mN
NE Corner Pt. d - Zone 12, 634719mE / 3956074mN

Road: BOL at BIA 27 - Zone 12, 634872mE / 3955888mN
Curve 1 - Zone 12, 634762mE / 3955908mN
Curve 4 - Zone 12, 634751mE / 3955507mN
Curve 7 - Zone 12, 634405mE / 3955885mN
EOL Curve 11 - Zone 12, 634709mE / 3956108mN

The project area lies within the general physiographic province of the Colorado Plateau along the southwestern slopes of the Defiance Plateau. The Defiance Plateau is an uplifted oval area characterized by rolling-to-flat topography, with rock outcrops and steep canyons along the periphery of the plateau. This portion of the Plateau is comprised primarily of De Chelly Sandstone. Soils, predominantly sandy and sandy clay loams, are derived from the underlying sandstone. Vegetation zones include pine forest, pinyon-juniper woodland, shrubland, and grassland. An overview of the environment and physical setting of the general project area has been published as a result of the Transwestern Pipeline Project (Eck 1994).

The proposed pit area encompasses the southern slopes of a prominent, north-south trending dunal ridge overlooking the alluvial flats of the Pueblo Colorado Wash valley. The western half of the pit, which has been previously mined numerous times, lies just east of Ganado Lake. Several track roads cross the proposed pit expansion area. The access road was constructed and used during previous borrow projects and is presently used by local residents and hikers as access to the eastern shore of Ganado Lake. The proposed access road commences at BIA Route 27 at MP 2, bends southward, and continues around the periphery of the pit. The portion of the road between Curves 11 and 12 (Attachment B) will not be used due to avoidance fencing around site AZ-P-20-82.





Elevation of the undisturbed pit area varies slightly between 6500 feet on the north side to 6460 on the south side. The project area is located within the Upper Sonoran Life Zone. The dominant plant community is a scrub-grassland. Vegetation within the undisturbed pit area includes sagebrush, rabbitbrush, snakeweed, bunch grasses, prickly pear, and wolfberry.

PREVIOUS RESEARCH AND CULTURE HISTORY

A record search was conducted at the offices of the Cultural Resource Compliance Section and the Traditional Cultural Program of the Navajo Nation Historic Preservation Department in Window Rock on March 30, 2015. Previously recorded sites located within 100 m of project areas are listed in Table 1. The entire pit and access road areas were previously inventoried under three projects in the early 1990s (HPD 91-065; HPD 93-302; HPD 93-594). The original reference for sites AZ-K-6-19 and AZ-K-6-20 was not readily available at NNHPD but the sites were re-recorded as AZ-P-20-70 (HPD 93-302).

Table 1. Previously recorded sites within 100 m of project areas.

Site No.	Affiliation	Site Type	Reference
AZ-P-20-70	Basketmaker III-Pueblo I	Habitation	93-302
AZ-P-20-71	Re-recorded as part of AZ-P-20-70		93-302
AZ-P-20-81	Unknown	Lithic Scatter	91-065
AZ-P-20-82	Basketmaker III-Pueblo I	Artifact Scatter	91-065
AZ-K-6-19	No information		
AZ-K-6-20	No information		

Excavations by Fuller and Chang (1978) and Mount and others (1993) at Wide Reed Ruin indicate that the Ganado area was occupied continuously from BMIII through PIII. Excavation of the Sand Dune Site (Jones 1988) places the historic occupation of the Ganado area as early as the mid-eighteenth century. According to Van Valkenburgh (1941) Ganado is named after Ganado Mucho, the last peace chief of the Navajo in the late 1800s. Trading posts were established in Ganado in the 1870s, of which the most famous is the Hubbell Trading Post.

One Traditional Cultural Property (TCP) is located in the vicinity of the project area. *Be' ek' id Hatsoh* / Big Lake / Ganado Lake (#43) lies on the western side of the project area. Mr. Tim Begay of the TCP Department indicated that the TCP refers to the channel which feeds the lake and determined that the present undertaking will have no adverse impacts to the TCP (Attachment A).

SURVEY METHODOLOGY

The Class III inventory was conducted by Mary Errickson between March 30 and April 6, 2015. The project area was inventoried by the archaeologist walking multiple, parallel, zig-zag, pedestrian transects spaced no more than 15 m apart within the staked pit and a 50 foot buffer zone. A 100 foot-wide corridor was inventoried for a 20 foot-wide easement for the access road.

Sites are defined as cultural manifestations containing ten or more artifacts in a 10 square meter area and/or the location of an event, a prehistoric or historic activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historic, archaeological, or traditional cultural value regardless of the value of the existing structure. Isolated occurrences (IOs) are any non-architectural feature or assemblage of less than 10 artifacts in an area

10 square meters or less.

During the inventory, a discussion was conducted with the Ganado Community Service Coordinator, Harry J. Yazzie, concerning TCPs, graves, or other concerns within or near the project area. Mr. Yazzie was aware of the project area and the location of AZ-P-20-70. Mr. Yazzie stated that the Chapter had no concerns about re-using the pit as long as the cultural resources were adequately protected.

INVENTORY RESULTS

Two previously recorded sites, AZ-P-20-70 and AZ-P-20-82, one new site, AZ-P-20-177, and one IO were identified during the project.

SITE DESCRIPTIONS

Site Number: AZ-P-20-70
USGS Map: Ganado, AZ 1973
Legal Location: NE, SW, SE and the SE, NE, SE of Sec. 13, T 27N, R 26E, G&SRPM, Apache County, Arizona
UTM: Zone 12, 634570mE / 3955950mN (NAD 83)
Site Type: Habitation
Affiliation: Basketmaker III - middle Pueblo I, A.D. 550 - 800
Site Size: 250 m x 62 m = 15,500 m²

Setting: The site is situated on the crest of a north-south trending dunal slope. The site has been partially disturbed by erosion along the steep, upper eastern slope of a borrow pit and by a track road. Vegetation is sparse and includes snakeweed, various grasses, dropseed, narrow leaf yucca, and prickly pear.

Description: The site was previously recorded during an earlier borrow pit project (HPD 93-302 - 93-302.2). The site (Figure 3) is a Basketmaker III or early-middle Pueblo I habitation which is exposed along the upper eastern edge of a borrow pit and within a track road. Erosion along the upper edge of the borrow pit wall and on-going local use of the track road are heavily impacting the western edge of the site.

Feature 1 contains the remnants of a small roomblock and a probable pithouse associated with two prehistoric burials. A roomblock of 2-3 rooms is indicated by upright slab wall lines and rubble which are collapsing downslope into the borrow pit. The roomblock extends approximately 5 m x 2 m and is cut by a small erosional channel. A squarish ash stain suggestive of a burned pithouse lies east of the roomblock. During flagging and re-evaluation of the site in 2002, two burials were observed eroding out of the roomblock area. Subsequently, Ron Maldonado of NNHPD assessed the condition of the burials but it was not noted in NNHPD files whether the burials were stabilized or re-interred elsewhere within the site boundaries.

Feature 2 is a large, faint stain which may represent a structure or large feature. A continuous artifact and burned rock scatter extends along the upper eastern edge of the pit to the south and southwest of Features 1 and 2. A bulldozed dirt pile containing artifacts lies just east of the road. Approximately 500 sherds of Lino Gray and lesser amounts of La Plata B/w are present within the site. Flaked lithics (100+) are limited to items of petrified wood, primarily shatter and secondary and tertiary flakes.

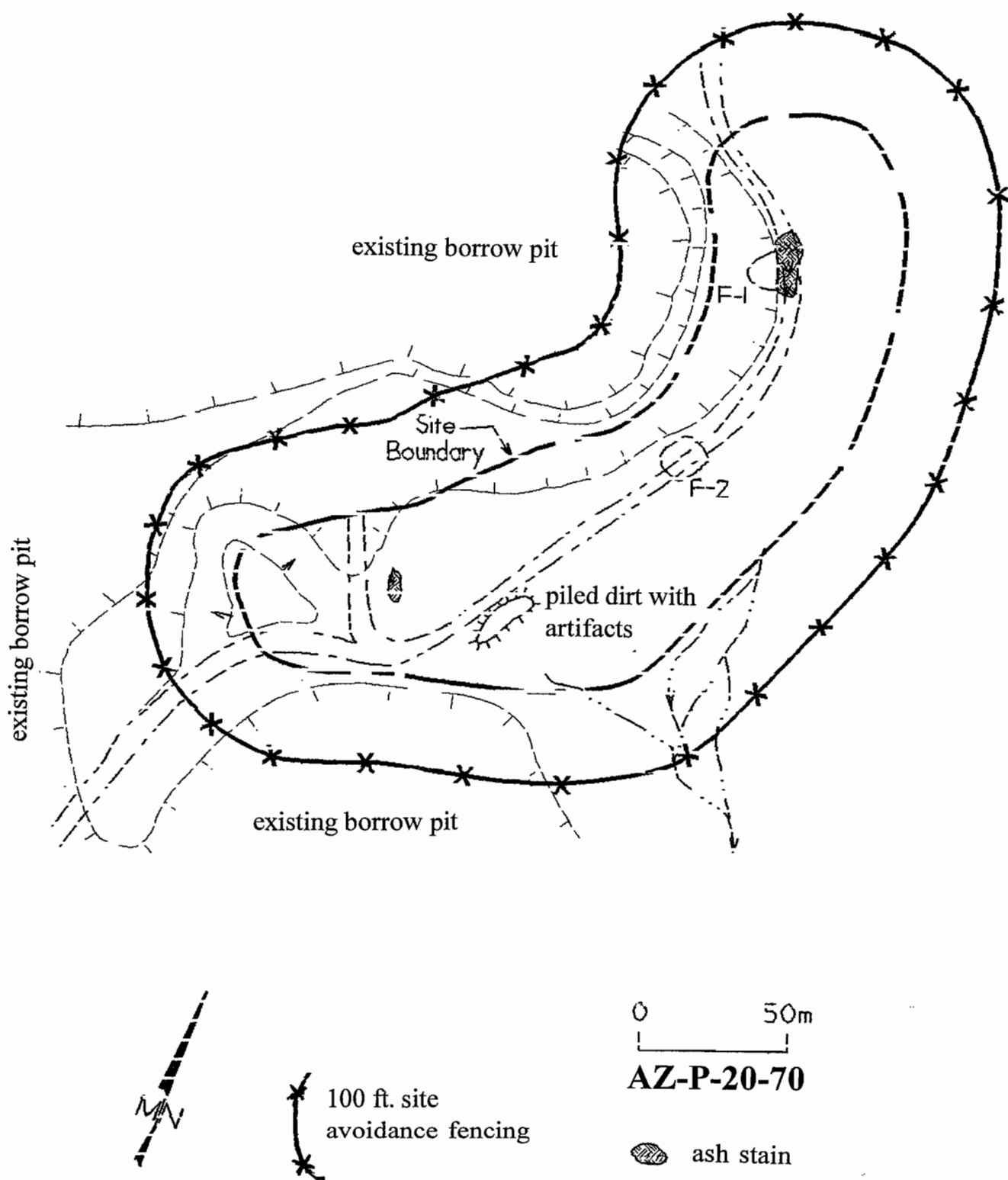


Figure 3. Plan map, AZ-P-20-70 and avoidance fencing.

Although the condition of Features 1 and 2 is poor due to on-going erosion of the upper borrow pit wall, it is likely that substantial, buried midden deposits and possibly architectural features are present within the site.

Significance: The site is over 100 years of age and is recommended as eligible for nomination the NRHP under criterion d and for protection under ARPA. The site has known qualities meriting protection under AIRFA and NAGPRA.

Project Effect: The site is located within the proposed pit expansion area.

Recommendations: A determination of “no historic properties affected is recommended with the stipulations that the site and a 100 foot-wide buffer zone be temporarily fenced as shown in Figure 3 under the direction of a qualified archaeologist for the duration of the project.

Site Number: AZ-P-20-82
USGS Map: Ganado, AZ 1973
Legal Location: NW, SE, SE of Sec. 13, T 27N, R 26E, G&SRPM, Apache County, Arizona
UTM: Zone 12, 634726mE / 3955813mN (NAD 83)
Site Type: Artifact Scatter
Affiliation: Basketmaker III - middle Pueblo I, A.D. 550 - 800
Site Size: 70 m x 50 m = 3,500 m²

Setting: The site is situated on the crest and east-facing slope of a north-south trending dunal ridge overlooking the Pueblo Colorado Wash valley to the south. Occasional juniper is present within a shrubland of rabbitbrush, snakeweed, prickly pear, wolfberry, prickly pear, and bunch grasses. A bladed gas pipeline ROW borders the site to the east.

Description: The site was originally recorded during an inventory around Ganado Lake (HPD 91-065) and was misplotted slightly to the south on the Ganado, AZ USGS map. The site (Figure 4) is an extensive artifact and burned rock scatter exposed within and along a deep, wide track road. There is no evidence of architecture, but the size of the site and quantities of artifacts suggests that a habitation is present. Ceramics (200+) are limited to Lino Gray and small quantities of La Plata B/w. Flaked lithics (200+) include various colors of petrified wood and chalcedony. Flaked items are secondary and tertiary flakes and shatter. A one-hand, sandstone, unifacial mano lies along the southern edge of the site.

Significance: The site is over 100 years of age and is recommended as eligible for nomination the NRHP under criterion d and for protection under ARPA. The site has no known qualities meriting protection under AIRFA.

Project Effect: The site is located within the proposed pit expansion area and within the proposed access road between Curves 11 and 12 (Attachment B). The portion of the access road through the site and within 50 feet of the site will be not be used due to avoidance fencing around site AZ-P-20-82.

Recommendations: A determination of “no historic properties affected is recommended with the stipulations that the site and a 50 foot-wide buffer zone be temporarily fenced as shown in Figure 4 under the direction of a qualified archaeologist for the duration of the project.

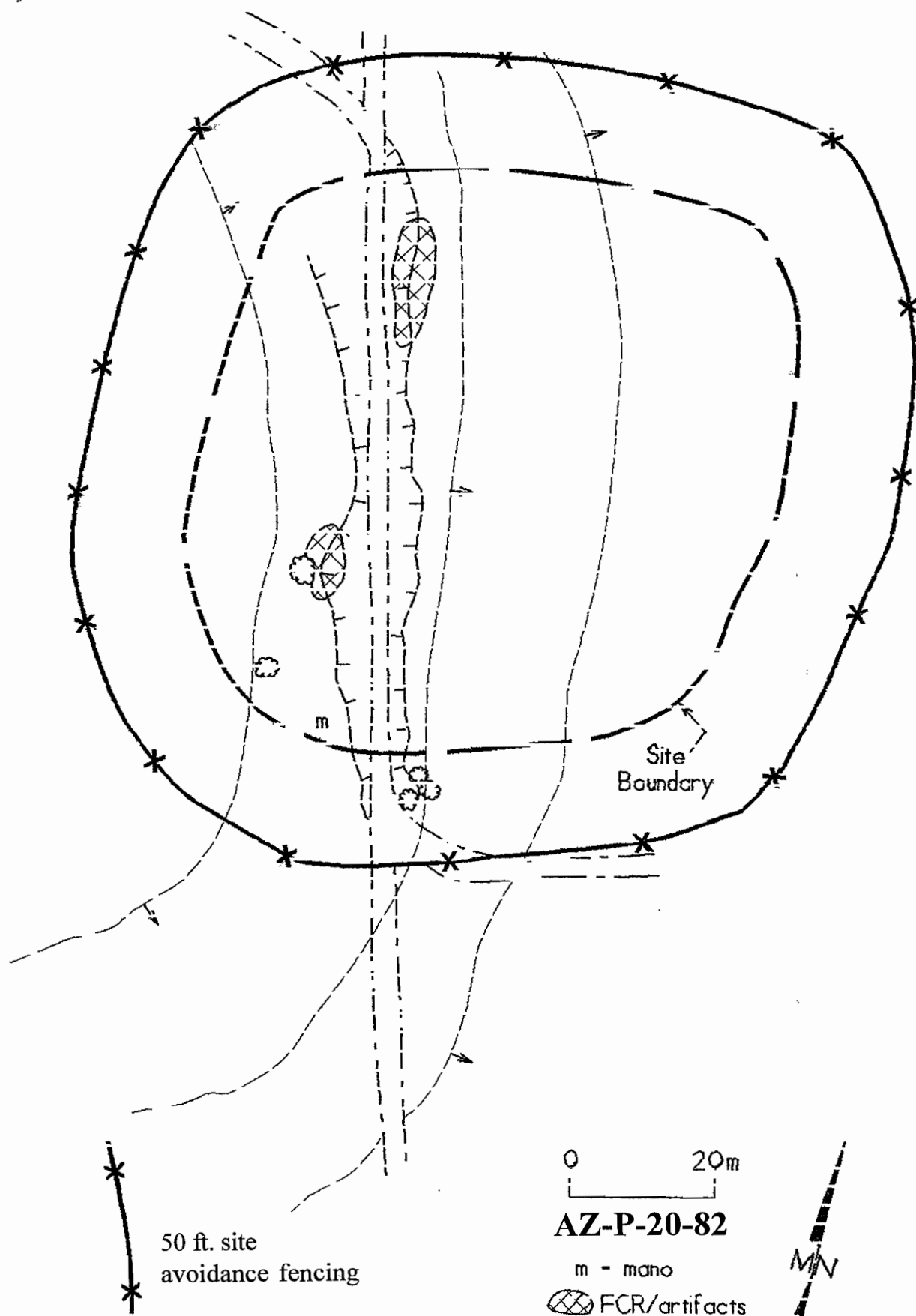


Figure 4. Plan map, AZ-P-20-82 and avoidance fencing.

Site Number: **AZ-P-20-177**
USGS Map: Ganado, AZ 1973
Legal Location: SW, SE, SE of Sec. 13, T 27N, R 26E, G&SRPM, Apache County, Arizona
UTM: Zone 12, 634726mE / 3955813mN (NAD 83)
Site Type: Activity Area
Affiliation: Basketmaker III - Pueblo I, A.D. 550 - 900
Site Size: 32 m x 33 m = 1,056 m²

Setting: The site is situated on the east-facing slope of a north-south trending dunal ridge along the north side of the Pueblo Colorado Wash valley. Vegetation includes a few scattered juniper, sagebrush, snakeweed, rabbitbrush, and prickly pear.

Description: The site (Figure 5) is a small activity area containing 1-2 burned features and an artifact scatter. Feature 1 is a scatter of twelve, medium-sized, burned sandstone rocks which may represent a hearth or roasting pit. The feature is deflated and a small erosional channel cuts through the scatter. One upright, burned slab located 18 m to the southeast of Feature 1 may indicate a hearth. Artifacts include 3 Lino Gray sherds, 1 expedient, bifacial, white chert scraper, and 13 secondary and tertiary flakes and pieces of shatter of petrified wood. The site may be an activity area associated with AZ-P-20-70 or AZ-P-20-82.

Significance: The site is over 100 years of age and is recommended as eligible for nomination the NRHP under criterion d and for protection under ARPA. The site has no known qualities meriting protection under AIRFA.

Project Effect: The site is located within the proposed pit expansion area.

Recommendations: A determination of "no historic properties affected is recommended with the stipulations that the site and a 50 foot-wide buffer zone be temporarily fenced as shown in Figure 5 under the direction of a qualified archaeologist for the duration of the project.

ISOLATED OCCURRENCE

IO No. 1:

USGS Map: Ganado, AZ 1973
UTM Location: Zone 12, 634730mE / 3955856mN (NAD 83)
Description: A recent hearth located on east-facing ridge slope

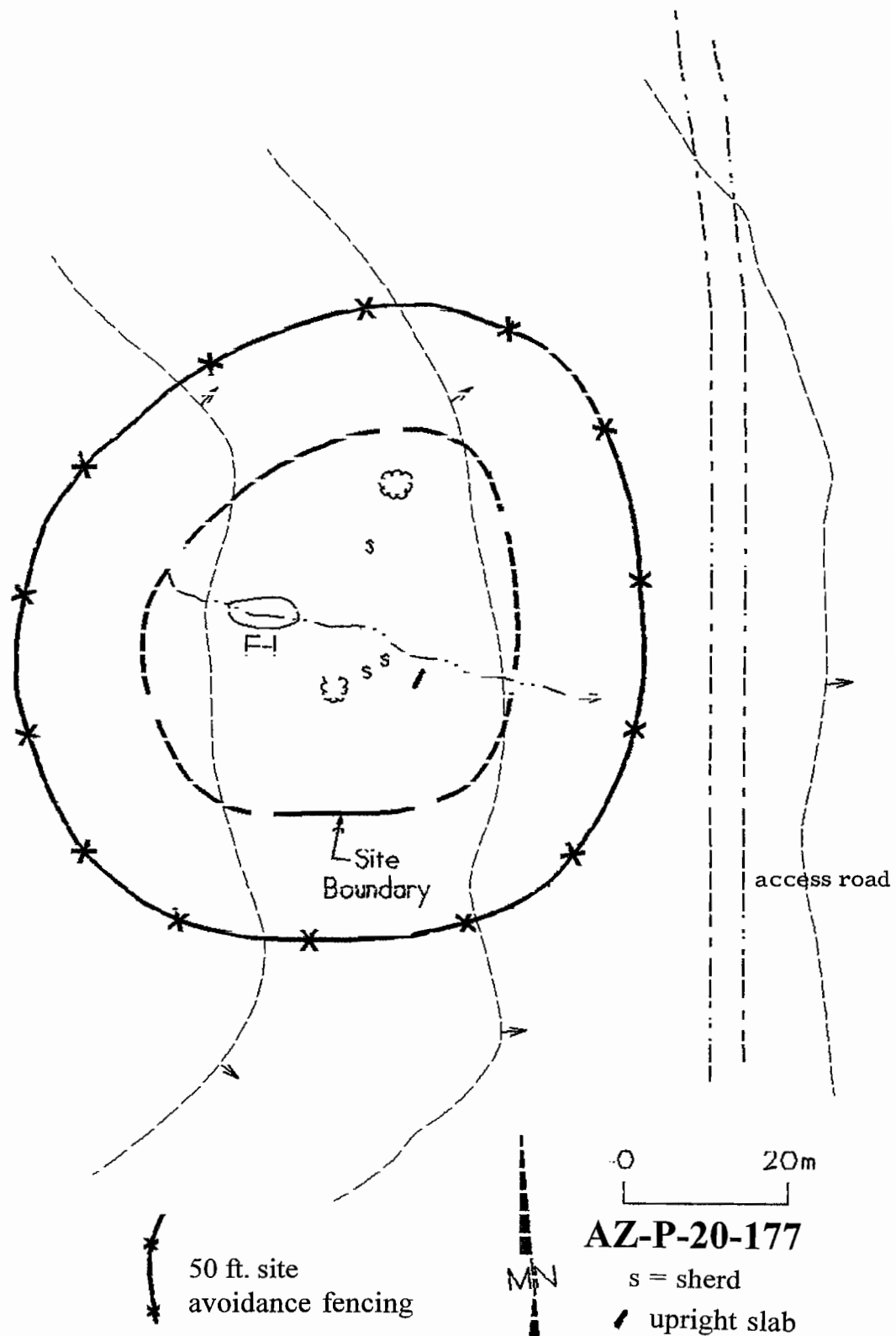


Figure 5. Plan map, AZ-P-20-177 and avoidance fencing.

EVALUATION OF SIGNIFICANCE

Significance and eligibility recommendations for the three sites are summarized in Table 2. The IO is not considered significant and is not eligible for nomination to the NRHP or for protection under ARPA. The IO does not exhibit qualities meriting consideration under AIRFA.

Table 2. Significance and eligibility of sites.

AZ-P-20-70 BMIII-PI Habitation	36 CFR 60.4:	Site is eligible for nomination to the NRHP because it is over 50 years old
	Integrity:	Site does retain integrity.
	Criteria a-d:	Site does meet Criterion d.
	Exclusions:	None.
	ARPA:	Site is over 100 years old and is of archaeological interest.
	AIRFA:	Site has known qualities meriting protection.
	NAGPRA:	Site has known qualities meriting protection.
AZ-P-20-82 BMIII-PI Artifact Scatter	36 CFR 60.4:	Site is eligible for nomination to the NRHP because it is over 50 years old
	Integrity:	Site does retain integrity.
	Criteria a-d:	Site does meet Criterion d.
	Exclusions:	None.
	ARPA:	Site is over 100 years old and is of archaeological interest.
	AIRFA:	Site has no known qualities meriting protection.
AZ-P-20-177 BMIII-PI Activity Area	36 CFR 60.4:	Site is eligible for nomination to the NRHP because it is over 50 years old
	Integrity:	Site does retain integrity.
	Criteria a-d:	Site does meet Criterion d.
	Exclusions:	None.
	ARPA:	Site is over 100 years old and is of archaeological interest.
	AIRFA:	Site has no known qualities meriting protection.

RECOMMENDATIONS

A determination of “No Historic Properties Affected” is recommended for FNF Construction Inc.’s proposed Ganado Borrow Pit and access road with the following stipulations for avoidance: 1) under the direction of a qualified archaeologist, a 100 foot-wide buffer zone should be fenced around site AZ-P-20-70 for the duration of the project and 2) under the direction of a qualified archaeologist, 50 foot-wide buffer zones should be fenced around sites AZ-P-20-82 and AZ-P-20-177 for the duration of the project.

REFERENCES

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- 1994 The Anasazi of Wide Ruin Wash and Hopi Buttes. In *Across the Colorado Plateau: Anthropological Studies for the Transwestern Pipeline Expansion Project*, Volume XI. Office of Contract Archaeology, University of New Mexico, Albuquerque.

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- 1974 Navajo Sacred Places. In *Navajo Indians III*, edited by Clyde Kluckhohn, pp. 9-99. Garland Press, New York.

Cultural Resource Inventory
Proposed FNF Construction Inc's
Ganado Borrow Pit/Hot Plant Site and Access Road
Apache County, Arizona

Prepared by

Mary Errickson
Complete Archaeological Service Associates
P.O. Box 1777
Cortez, Colorado 81321

CASA 15-16

ATTACHMENT A
TCP RECORD SEARCH

Permit

NNCRIP B15162

April 10, 2015



THE NAVAJO NATION
Historic Preservation Department

PO Box 4950, Window Rock, AZ 86515
TEL: (928) 871-7198 / 7134 FAX: (928) 871-7886

TRADITIONAL CULTURAL PROPERTY (TCP) RECORD
SEARCH VERIFICATION FORM

****TCP WILL NOT SIGN/APPROVE IF THIS PORTION IS LEFT BLANK****

Project Information:	
DATE	03/30/15
RESEARCHER & COMPANY	Mary Errickson - CASA
PROJECT NAME	FNF Construction Ganado Lake Borrow Pit
PROJECT/PERMIT NUMBER	CASA 15-16
PROJECT LOCATION	Ganado, Arizona

*****TO BE FILLED OUT & SIGNED BY AUTHORIZED NNHPD STAFF ONLY*****

A literature search of TCP Records at NNHPD on the above date indicates the following:	
<input type="checkbox"/>	There are <u>no</u> TCP(s) present within the project area and/or buffer zone. The project may proceed as proposed.
<input type="checkbox"/>	TCP(s) <u>are</u> present within the project area and/or buffer zone. Project may have the potential to adversely affect TCP(s). Please document TCP(s) as a summary (with only general location information) in the body of reports submitted for review to HPD/CRCs. Give full detail on the TCP Documentation Forms in a separate, and clearly labeled, confidential appendix.
<input checked="" type="checkbox"/>	Project may proceed with the following stipulations: Note TCP# 43 in Report & Findings.
<input type="checkbox"/>	Further consultation is required. Consult with the following:
<input type="checkbox"/>	There are no mitigative measures. Project may not proceed.

NNHPD/TCP Program Reviewer:		Date: 3/23/15
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****Return this form along with report to the NNHPD/Compliance Section****

Note: In addition to the TCP Record search, the consultant must demonstrate that a good-faith effort to consult with 1.) Surface user(s): grazing-permit holder(s) (individuals whose consents for right-of-way have been sought by developer); any other residents in or within view of the proposed project area. 2. Chapter(s) within which the proposed project is located: chapter officers and/or delegate(s) of the Navajo Nation Council; at the request of any of these individuals, the developer's consulting anthropologist will also make a presentation at a meeting of general chapter membership. 3. Other knowledgeable people recommended by the present surface user(s), chapter officials, and chapter members.

ATTACHMENT B

PLAT MAPS

**Prepared by
Atwell Land Development and Real Estate**

BORROW PIT

LEGAL DESCRIPTION

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 27 NORTH, RANGE 26 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, APACHE COUNTY, ARIZONA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND BRASS CAP MARKING THE NORTH QUARTER CORNER OF SAID SECTION 13 FOR WHICH A FOUND BRASS CAP MARKING THE NORTHWEST CORNER OF SAID SECTION 13 LIES SOUTH 89°44'53" WEST, 2638.93 FEET;

THENCE SOUTH 19°29'51" EAST, ALONG A TIE LINE, 3661.87 FEET TO THE **POINT OF BEGINNING**;

THENCE SOUTH 67°23'02" EAST, 560.17 FEET;

THENCE SOUTH 05°16'15" EAST, 1311.59 FEET;

THENCE NORTH 84°29'27" WEST, 1137.99 FEET;

THENCE NORTH 19°19'19" EAST, 1496.49 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 26.436 ACRES MORE OR LESS.

TOGETHER WITH:

A 20 FEET WIDE STRIP OF LAND TO BE USED AS AN INGRESS-EGRESS EASEMENT 10 FEET EITHER SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;

COMMENCING AT A FOUND BRASS CAP MARKING THE NORTH QUARTER CORNER OF SAID SECTION 13 FOR WHICH A FOUND BRASS CAP MARKING THE NORTHWEST CORNER OF SAID SECTION 13 LIES SOUTH 89°44'53" WEST, 2638.93 FEET;

THENCE SOUTH 28°17'37" EAST, ALONG A TIE LINE, 4835.38 FEET TO A POINT AT THE WESTERLY EDGE OF PAVEMENT OF B.I.A. ROUTE 27 AND THE **POINT OF BEGINNING**

THENCE SOUTH 87°10'31" WEST, 125.87 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 89.69 FEET, THROUGH A CENTRAL ANGLE OF 35°23'46", AN ARC DISTANCE OF 55.41 FEET;

THENCE SOUTH 51°46'53" WEST, 34.54 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 319.80 FEET, THROUGH A CENTRAL ANGLE OF 22°31'50", AN ARC DISTANCE OF 125.76 FEET;

THENCE SOUTH 29°14'52" WEST, 183.59 FEET TO THE BEGINNING OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 296.61 FEET, THROUGH A CENTRAL ANGLE OF 31°01'22", AN ARC DISTANCE OF 160.60 FEET;

THENCE SOUTH $1^{\circ}46'30''$ EAST, 96.91 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 204.75 FEET, THROUGH A CENTRAL ANGLE OF $100^{\circ}49'13''$, AN ARC DISTANCE OF 360.29 FEET TO A POINT OF REVERSE CURVATURE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 4536.98 FEET, THROUGH A CENTRAL ANGLE OF $5^{\circ}01'17''$ AN ARC DISTANCE OF 397.62 FEET;

THENCE NORTH $85^{\circ}58'34''$ WEST, 334.77 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 235.40 FEET, THROUGH A CENTRAL ANGLE OF $78^{\circ}06'00''$, AN ARC DISTANCE OF 320.88 FEET;

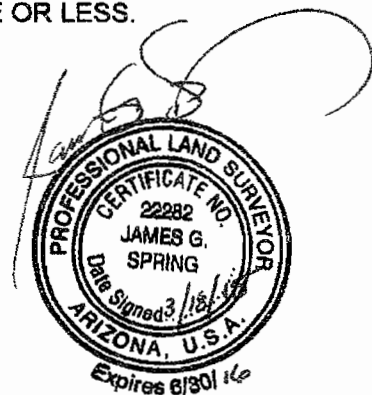
THENCE NORTH $1^{\circ}05'00''$ WEST, 412.56 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 293.64 FEET, THROUGH A CENTRAL ANGLE OF $47^{\circ}37'26''$, AN ARC DISTANCE OF 244.07 FEET;

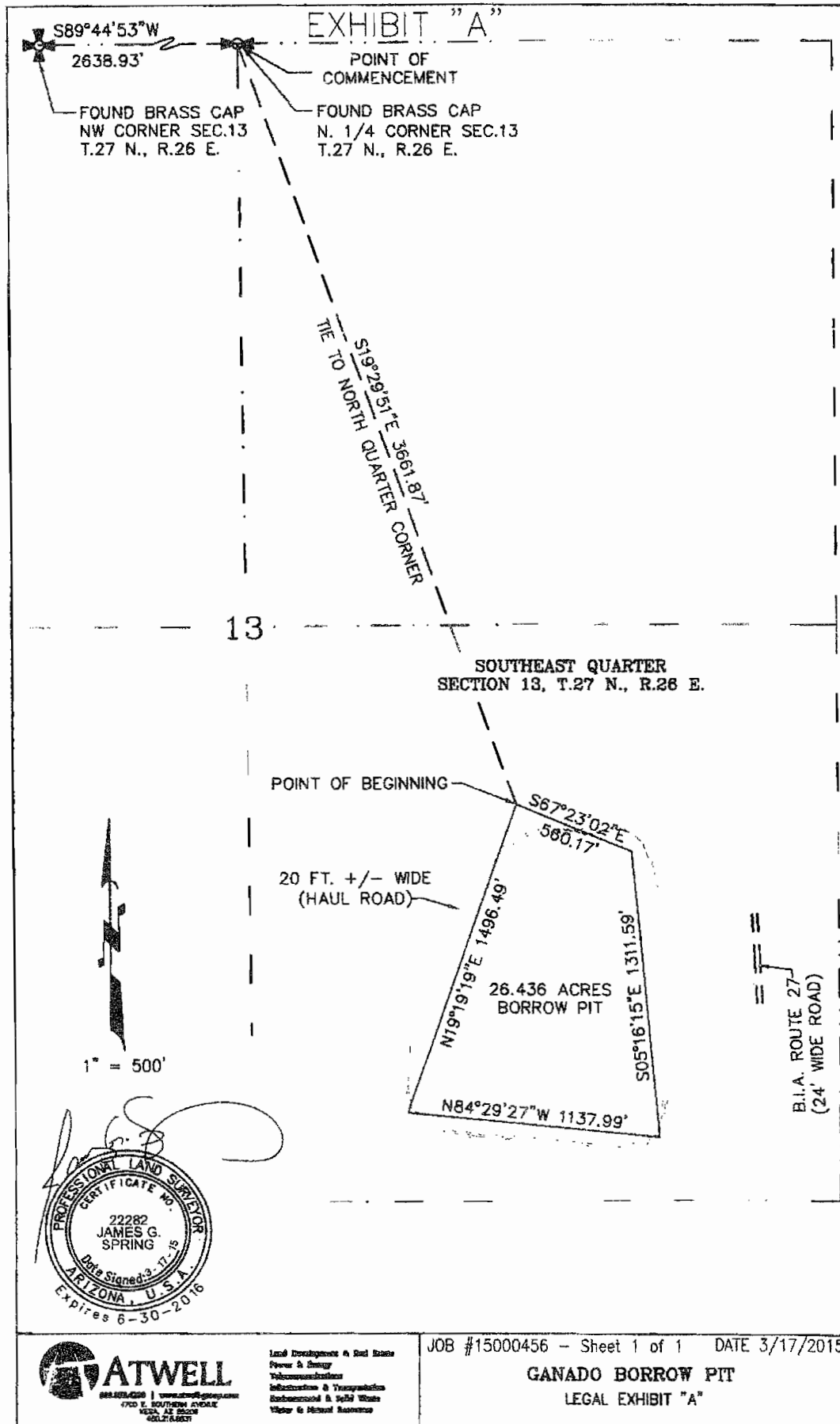
THENCE NORTH $46^{\circ}32'28''$ EAST, 99.18 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 1593.13 FEET, THROUGH A CENTRAL ANGLE OF $15^{\circ}52'48''$, AN ARC DISTANCE OF 441.55 FEET TO A POINT OF REVERSE CURVATURE, CONCAVE SOUTHEASTERLY WITH A RADIUS OF 207.90 FEET, THROUGH A CENTRAL ANGLE OF $37^{\circ}18'38''$, AN ARC DISTANCE OF 135.39 FEET TO A POINT OF COMPOUND CURVATURE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 692.06 FEET, THROUGH A CENTRAL ANGLE OF $34^{\circ}34'31''$, AN ARC DISTANCE OF 417.63 FEET TO A POINT OF COMPOUND CURVATURE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 234.16 FEET, THROUGH A CENTRAL ANGLE OF $59^{\circ}03'11''$, AN ARC DISTANCE OF 241.34 FEET;

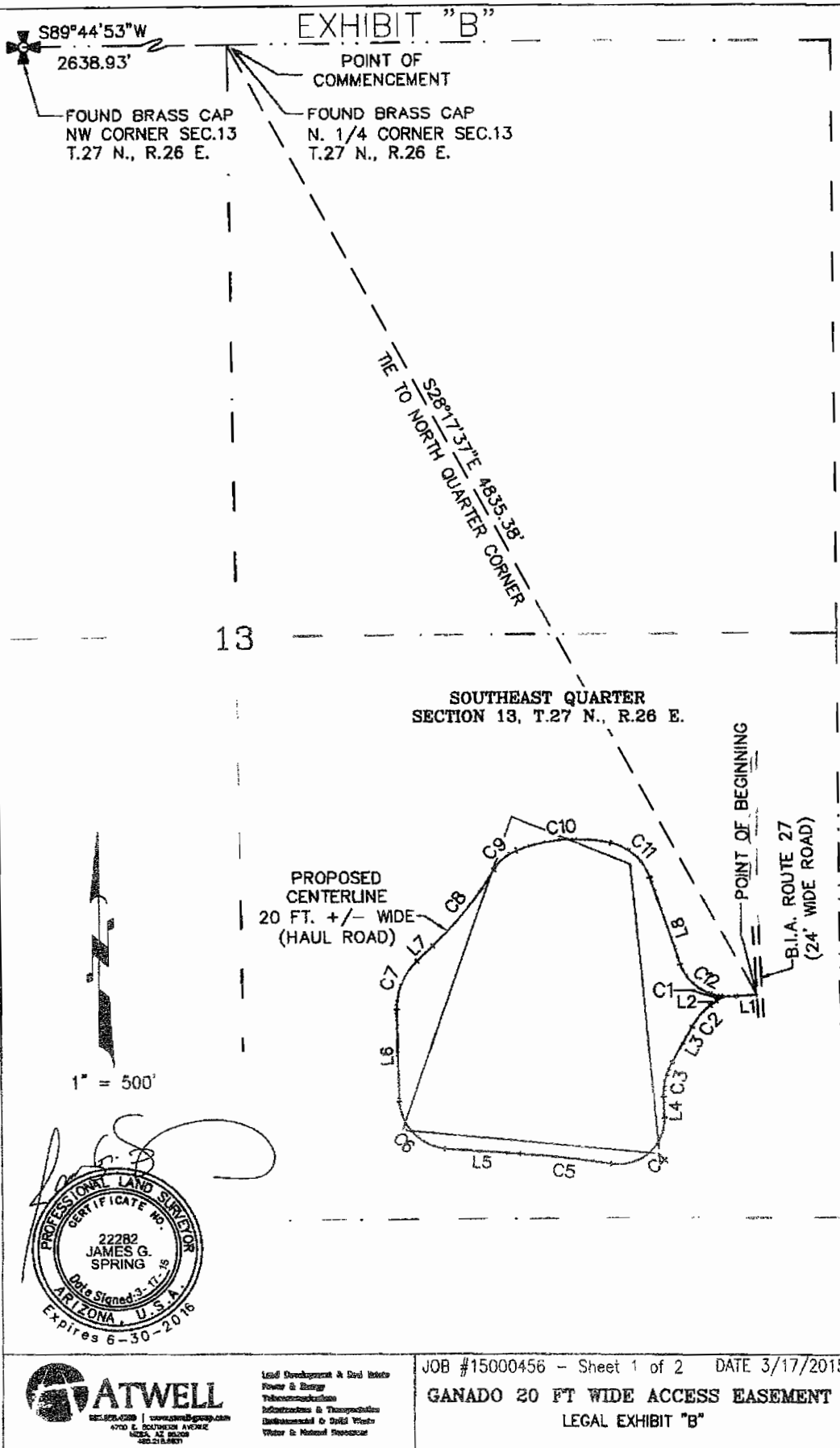
THENCE SOUTH $18^{\circ}24'22''$ EAST, 415.60 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 210.41 FEET, THROUGH A CENTRAL ANGLE OF $74^{\circ}25'08''$, AN ARC DISTANCE OF 273.30 FEET TO A POINT OF TERMINUS, ALSO BEING A POINT ON DESCRIBED CENTERLINE, LYING SOUTH $87^{\circ}10'31''$ WEST, 125.87 FEET FROM THE POINT OF BEGINNING.

THE SIDELINES ON THE ABOVE DESCRIBED STRIP OF LAND SHALL BE EXTENDED OR SHORTENED TO MEET AT ANGLE AND END POINTS TO FORM A CONTINUOUS 20.00 FEET WIDE STRIP OF LAND THROUGH THE GRANTOR'S PROPERTY.

CONTAINING 88,796.83 SQUARE FEET OR 2.038 ACRES MORE OR LESS.







Land Development & Real Estate
Power & Energy
Telecommunications
Infrastructure & Transportation
Industrial & Civil Works
Water & Natural Resources

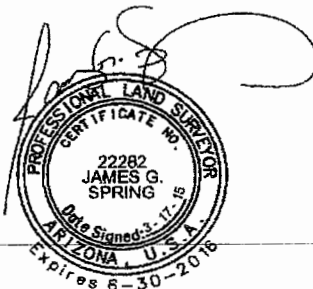
JOB #15000456 - Sheet 1 of 2 DATE 3/17/2015
GANADO 20 FT WIDE ACCESS EASEMENT
LEGAL EXHIBIT "B"

EXHIBIT "B"

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S87°10'31"W	125.87'
L2	S51°46'53"W	34.54'
L3	S29°14'52"W	183.59'
L4	S01°46'30"E	96.91'
L5	N85°58'34"W	334.77'
L6	N01°05'00"W	412.56'
L7	N46°32'28"E	99.18'
L8	S18°24'22"E	415.60'

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C1	55.41'	89.69'	35°23'46"
C2	125.76'	319.80'	22°31'50"
C3	160.60'	296.61'	31°01'22"
C4	360.29'	204.75'	100°49'13"
C5	397.62'	4536.98'	5°01'17"
C6	320.88'	235.40'	78°06'00"
C7	244.07'	293.64'	47°37'26"
C8	441.55'	1593.13'	15°52'48"
C9	135.39'	207.90'	37°18'38"
C10	417.63'	692.06'	34°34'31"
C11	241.34'	234.16'	59°03'11"
C12	273.30'	210.41'	74°25'08"

1" = 500'



Land Development & Real Estate
Power & Energy
Telecommunications
Infrastructure & Transportation
Environmental & Field Work
Water & Mineral Resources

JOB #15000456 - Sheet 2 of 2 DATE 3/17/2015
GANADO 20 FT WIDE ACCESS EASEMENT
LEGAL EXHIBIT "A"



July 7, 2015

Navajo Nation Environmental Protection Agency
Office of Environmental Review
P.O. Box 339
Window rock, AZ 86515

Attention: Rita A. Whitehorse-Larsen, Senior Environmental Specialist
Reference: Ganado Borrow Source
Subject: Environmental Assessment

FNF Construction, Inc. (FNF) has been awarded Arizona Department of Transportation (ADOT) Project: Tuba City – Window Rock Hwy (SR 264), Fish Wash – Cross Canyon (ADOT Project No. HSIP-STP-264-A(217)T, 264 AP 450, H813301C), located on SR 264 between milepost 450 and 459.02. The work on this project will include overlaying the existing pavement with asphaltic concrete, shoulder widening with asphaltic concrete over aggregate base, placing AR-ACFC and construction of a NEW Fish Wash Bridge to replace the existing bridge. The work also includes construction of guardrail, installation of new pipes, extension of the existing pipes, installation of barbed wire fence and cattle guards, pavement markings and other related work.

A significant part of the project requirements will be obtaining approximately 39,000 cubic yards of borrow material to be incorporated into the construction project. After consultation with the Navajo Land Department, the Navajo Mineral Resources Department and the Navajo EPA Department, FNF feels that the existing borrow source located east of Ganado Lake would be the most economical and environmentally suited location for this project. The site is located about 2 miles north of the SR 264 and BIA Route 27 Junction and then just west of BIA Route 27. The permit will be issued for the duration of the ADOT project, (approximately 200 working days). Based on samples obtained from the site, the material will meet ADOT material quality specifications.

As part of the Environmental Assessment (EA) document, prepared by FNF's Environmental Manager, Tressia Contreras, surface water and ground water was addressed. The location of the proposed borrow excavation area is more than 300 feet from Ganado Lake. The excavation and processing area does not contain any surface waters or jurisdictional waters of the U.S. An U.S. Army Corps of Engineers 404 permit or a NNEPA 401 certification is not required. The temporary removal of the natural vegetative cover will make surface more susceptible to water erosion, but maintaining the excavation in a topographically negative condition will minimize any deleterious effects to runoff water quality. On-going operations will not materially affect surface or underground water. The only surface water in the permit area is the runoff from bordering landscape. The on-going operations will not materially affect surface or underground water or the drainage pattern



The EA document did not assess the Recreation Area because the shore line where people would fish would not be impacted. The borrow area would be at least 300' from the shoreline. As stated in the EA and the Mine and Reclamation Plan the borrow area will be bermed between the borrow activity area and the lake, so there will be no potential for contaminant leaching or surface runoff into the lake.

Per the Biological Resource Land Use Clearance Policies and Procedures the Ganado Borrow Source area is included in Area 6, which is a Recreation Area. However, the policy also states that development is allowed within Recreation Areas if it is compatible with management goals. Borrow excavation at this site along with the proposed safe sloping described in the Mine and Reclamation Plan would leave the area with a flatter surface and remove the steep/unsafe area that currently exists at the site. This would create a more usable and safer area for campers and ATV riders. Removing borrow from an existing disturbed location is less harmful to the environment than mining virgin ground at another location. Since borrow material removal has been on-going from this site for at least 20 years one would assume the Navajo Nation was in favor of continuing these types of activities at this location.

FNF hopes this clarification of the EA document helps to further your understanding of the proposed project. Please contact me at 480-929-6733 or e-mail Tressia@fnfinc.com if you have any further questions or require any additional information.

Sincerely,
FNF CONSTRUCTION, INC.

Tressia Contreras
Environmental Manager

Pc: Ganado Borrow Source File



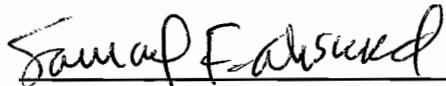
THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT

MEMORANDUM

To: 164 Reviewers

From:


Samuel Diswood, Wildlife Manager
Department of Fish and Wildlife
Natural Heritage Program

Date: August 4, 2015

Subject: GANADO BORROW SOURCE SAS #003982

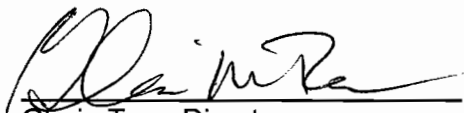
RECEIVED
AUG - 5 2015
DEPARTMENT OF JUSTICE
NATURAL RESOURCES UNIT
Dropped off by
H. Brown

In the initial review of this document, the Natural Heritage program determined there were no impacts to Threatened or endangered species, however, concerns were expressed by the Fisheries Biologist on a remediation plan should a spill of diesel fuel or hydraulic fluid occur and the potential impact to water quality. A response was request and the SAS review marked the package as insufficient and would remain so until FNF construction provided a response.

In consultation with FNF, a spill and containment plan was submitted. The plan provides protection to Ganado lake fisheries and has protocols to contain any spill. Our office also met with Navajo EPA on this issue and their office also recommends stipulations for the project which protect the lake and water quality. Therefore, after the consultation process, the Department of Fish and Wildlife recommends this Package to be sufficient.

If you have any questions, contact me at extension 7062. Thank you.

Concurrence:



Gloria Tom, Director
Department of Navajo Fish and Wildlife



115 SOUTH 48TH STREET • TEMPE, ARIZONA 85281

PHONE: 480 784 2910
FAX: 480 829 8607

July 29, 2015

Navajo Natural Heritage Program
PO Box 1480
Window Rock, AZ 86515

Attention: Mr. Samuel Diswood, Wildlife Manager

Reference: Ganado Borrow Source

Subject: Spill and Containment Plan - Addendum

Hello Mr. Diswood,

FNF Construction, Inc. (FNF) would like to make an addendum to the Ganado Borrow Source application. This addendum will address potential spills and containment of pollutants at the Ganado Borrow Source location.

Please add the following commitment to our package:

The area to be excavated and equipment operations area will be more than 300' from the lake. FNF will construct an earthen berm between our area of operations and the lake which would contain any potential spills and prevent any pollutants from entering the lake. If any leaks or spills should occur they will be scooped up immediately and will not be allowed to soak into the soil. The material that would be scooped up would be placed in sealed 55-gallon drums and taken to a landfill that is permitted to dispose of such wastes.

This spill containment and disposal plan is typical of what FNF provides at all of our borrow and aggregate mining locations and has worked well for us in the past.

We hope this plan meets with your approval.

If you should require any further information or have any other concerns that need to be addressed please contact me right away so we can keep the Ganado Borrow Source approval process moving forward. Thank you for your assistance in this matter.

Sincerely,
FNF CONSTRUCTION, INC.

Tressia Contreras
Environmental Manager

Pc: Ganado Borrow Source File



CONSTRUCTION, INC.

115 SOUTH 48TH STREET • TEMPE, ARIZONA 85281

PHONE: 480 784 2910
FAX: 480 829 8607

July 29, 2015

Navajo Natural Heritage Program
PO Box 1480
Window Rock, AZ 86515

Attention: Mr. Samuel Diswood, Wildlife Manager

Reference: Ganado Borrow Source

Subject: Spill and Containment Plan - Addendum

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We hope this plan meets with your approval.

If you should require any further information or have any other concerns that need to be addressed please contact me right away so we can keep the Ganado Borrow Source approval process moving forward. Thank you for your assistance in this matter.

Sincerely,
FNF CONSTRUCTION, INC.

Tressia Contreras
Environmental Manager

Pc: Ganado Borrow Source File

Tressia Contreras

From: sdiswood@nndfw.org
Sent: Wednesday, July 29, 2015 3:17 PM
To: Tressia Contreras
Subject: Re: Ganado Borrow Source

If you could send a letter /addendum titled the Ganado Borrow source spill & containment plan and use the language you just sent, I feel that will meet & address the concerns. Send it on your company letterhead to my email & I will forward it. Thank you.

Samuel Diswood, Wildlife Manager
Navajo Natural Heritage Program
PO Box 1480
Window Rock, AZ 86515
(928) 871-7062

Sent from my Verizon Wireless 4G LTE Smartphone

----- Reply message -----

From: "Tressia Contreras" <Tressia@fnfinc.com>
To: "Samuel Diswood" <sdiswood@nndfw.org>
Cc: "Parker Brownell" <pbrownell@fnfinc.com>
Subject: Ganado Borrow Source
Date: Wed, Jul 29, 2015 3:29 PM

Hello Mr. Diswood,

Thank you for getting back with me on this most important matter.

The area to be excavated and equipment operations area will be more than 300' from the lake. FNF will construct an earthen berm between our area of operations and the lake which would contain any potential spills and prevent any pollutants from entering the lake. If any leaks or spills should occur they will be scooped up immediately and will not be allowed to soak into the soil. The material that would be scooped up would be place in sealed 55-gallon drums and taken to a landfill that is permitted to dispose of such wastes.

This spill containment and disposal plan is typical of what FNF provides at all our borrow and aggregate locations and has worked well for us in the past.

We hope this plan meets with your approval.

If you should require any further information or have any other concerns that need to be addressed please contact me right away so we can keep the Ganado Borrow Source approval process moving forward.

Thank you for your help!



Tressia Contreras
Environmental Manager, FNF Construction, Inc.

p:480-929-6733 | m:602-619-0588 | f: 480-921-8720

tressia@fnfinc.com | 115 S. 48th St. Tempe, AZ 85281

www.fnfinc.com

From: Samuel Diswood [<mailto:sdiswood@nndfw.org>]

Sent: Wednesday, July 29, 2015 2:13 PM

To: Tressia Contreras

Subject: RE: Ganado Borrow Source

I am currently in a meeting with our Resources Development committee, addressing an IRMP for the forest management plan. The concern of potential fuel or hydraulic spill occurring and getting into the water during the moving of borrow material was brought up by the fisheries program. Since it is in close proximity to Ganado Lake, how and what would the remedial plan be if that should happen. If this could be address we will consider this project sufficient and it will be forwarded in the 164 review process.. I will not be back in the office until late Friday of this week, but will work to get a call to Parker Brownell. Thanks Sam Diswood

From: Tressia Contreras [<mailto:Tressia@fnfinc.com>]

Sent: Wednesday, July 29, 2015 1:34 PM

To: 'sdiswood@nndfw.org' <sdiswood@nndfw.org>

Subject: Ganado Borrow Source

Importance: High

Hello Mr. Diswood,

FNF's Project Coordinator Parker Brownell (505-239-2730) has an urgent matter to discuss with you regarding the approval of the Ganado Borrow Material Source.

Could you call him at your earliest convenience so we can figure out just what the problem may be?

Pam Kyselka thinks you have issues regarding the fisheries program and our use of the borrow source. (See message below)

Sam,

Please follow up on this. I did not receive FNF's response letter. Apparently, Jeff failed to route it to me. In that letter dated 6/4/15, FNF requested to meet with us regarding the PROPOSED Ganado Borrow Pit. There are no T&E issues; however, the sport fisheries program needs to address their concerns at this requested meeting and work something out with FNF Construction.

Thank you.

Pam



Tressia Contreras
Environmental Manager, FNF Construction, Inc.

p:480-929-6733 | m:602-619-0588 | f: 480-921-8720

tressia@fnfinc.com | 115 S. 48th St. Tempe, AZ 85281

www.fnfinc.com

Tressia Contreras

From: Tressia Contreras
Sent: Wednesday, July 29, 2015 10:32 AM
To: pkyselka@nndfw.org
Subject: Ganado Borrow Source Correspondence from Rocky Mountain Ecology
Attachments: GanadoLakePit---Response to Comment 1 from 4_June_2015 letter from NNHAP.pdf
Importance: High

Ms. Kyselka,

The consulting firm who did our Biological Evaluation (Rocky Mountain Ecology) would like me to forward their comments on to you regarding your concerns with our request to utilize the Ganado Borrow source.

Please contact myself or Shawn Knox directly if you have any questions or require any further information.



Tressia Contreras
Environmental Manager, FNF Construction, Inc.
p:480-929-6733 | m:602-619-0588 | f: 480-921-8720
tressia@fnfinc.com | 115 S. 48th St. Tempe, AZ 85281
www.fnfinc.com



ROCKY MOUNTAIN ECOLOGY

ENVIRONMENTAL CONSULTING | APPLIED RESTORATION SERVICES

July 29, 2015

FNF Construction, Inc.
Tressia Contreras
115 S. 48th St. Tempe, AZ 85281

RE: Ganado Pit consultation re: Recreation Area

Dear Ms. Contreras:

We are addressing comments from Ms. Kyselka regarding the proposed Ganado Pit on 4 June 2015.

Specifically, we want to address the following comment:

1. The project is located within a designated Recreational Area, Ganado Lake, according to the NNDFW's Resource Compliance Policy (RCP formerly known as the BRLOCPP). The Biological Evaluation (BE) prepared by Rocky Mountain Ecology, LLC did not address the RCP in regards to project planning within a designated Recreational Area. Furthermore, a borrow pit is not compatible with the management goals for Ganado Lake. The contractor made no attempt to consult with NNDFW fisheries staff on potential impacts from lost revenue from a decrease in fishing permit sales to contaminant leaching and surface runoff into the lake.

We realize the project is in a designated Recreational Area. The proposed project area has been previously highly disturbed from past mining activities, as noted in the Biological Assessment (BA) document. In fact, much of the landscape is devoid of surface vegetation.

We stand by our assessment that impacts to fish in Ganado Lake will not occur from the proposed project. Regarding "potential contaminant leaching" - we offer the following explanation. Our understanding is that the existing steep slopes within the project, and any created during excavation work, would be laid back to > 3:1 prior to site closure. We also understand that a Stormwater Pollution Prevention Plan (SWPPP) would be in place prior to earth-moving activities. That document should outline the necessary erosion controls which would minimize erosion during work activities. Further, the SWPPP should articulate reclamation and revegetation measures that would prevent post-mining runoff and sedimentation into Ganado Lake. These types of erosion control measures could include but not be limited to, construction of a berm, erosion control fence or wattles along the western boundary of the project area to prevent runoff from entering the lake.

It is our opinion that implementation of these management measures would minimize runoff and sedimentation into Ganado Lake both during and after the project is complete. We cannot speculate on whether or not there would be a loss of revenue from decreased fishing permit sales, as a result of the proposed project; that is far beyond the scope of the BA document (which is to evaluate the impacts to the biological community with emphasis on protected species). However, based on the project scope of work, there would still be adequate shore line for people to fish. The borrow area would be at least 300' from the shoreline. Further, selection of the proposed site in this highly disturbed area would minimize impacts to vegetation and wildlife. Specifically, use of this site would avoid impacts to native, undisturbed habitat.

I hope this clarifies things and am happy to discuss this further. Feel free to call me at (505) 992-6150.

Best Regards,

Shawn C. Knox,
Co-Owner/ Director, Rocky Mountain Ecology, LLC

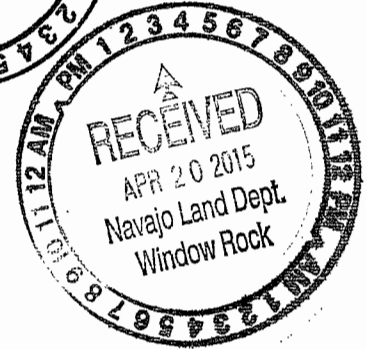
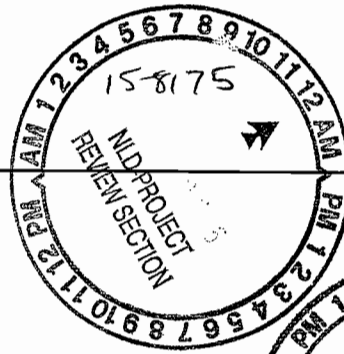
P.O. Box 1441
Bernalillo, NM 87004

(505) 992-6150
knox@rockymountaineecology.com

FNF**CONSTRUCTION, INC.**

115 SOUTH 48TH STREET • TEMPE, ARIZONA 85281

April 17, 2015

RUSHPHONE: 480 784 2910
FAX: 480 829 8607**RUSH**

Navajo Nation
Division of Natural Resources
Navajo Land Department
P.O. Box 9000 (Navajo Boulevard, W008-247, Bld #4)
Window Rock, AZ 86515

Attention: Mr. Howard Draper
Program & Projects Specialists

Reference: ADOT Project:
Tuba City – Window Rock Hwy (SR 264)
Fish Wash – Cross Canyon
HSIP-STP-264-A(217)T, 264 AP 450, H813301C
FNF Project No. 1639

Subject: Borrow Lease Application

Gentlemen:

FNF Construction, Inc. (FNF) has been awarded Arizona Department of Transportation (ADOT) Project: Tuba City – Window Rock Hwy (SR 264), Fish Wash – Cross Canyon ADOT Project No. HSIP-STP-264-A(217)T, 264 AP 450, H813301C, located on SR 264 between milepost 450 and 459.02. The work on this project will include overlaying the existing pavement with asphaltic concrete, shoulder widening with asphaltic concrete over aggregate base, placing AR-ACFC and construction of a NEW Fish Wash Bridge to replace the existing bridge. The work also includes construction of guardrail, installation of new pipes, extension of the existing pipes, installation of barbed wire fence and cattle guards, pavement markings and other related work.

As part of the construction project FNF would like to obtain 39,000 cubic yards of borrow material from the Navajo Nation to incorporate into the referenced ADOT Project. Please consider this correspondence as our official request for a Navajo Nation Borrow Lease Permit. Permit Information is as follows:

1. Company: FNF Construction, Inc. 115 S. 48th St. Tempe, AZ 85281 (480) 929-6733
2. Principal Officers: Matt Gully President, Lee Hulbert V.P. and Manager of Operations
3. Maps/Legal Description: 10.7 acres in the SE ¼ of Section 13, T27N, R26E, Apache County. Maps have been include in Appendix A Attachment 4 of the Environmental Assessment (Mine and Reclamation Plan)
4. Land Users Consent: Verbal consent was obtained from Mr. Harry Yazzie, Ganado Community Service

5. Archaeological Clearance: Appendix B of the Environmental Assessment
6. Mining and Reclamation Plan: Appendix A of the Environmental Assessment
7. Health and Safety: FNF will comply with all MSHA regulations. Crushing and screening of the borrow material will not be required; therefore Part 46 training will not be necessary.
8. Water Use Permits: FNF has been in contact with Mr. Jack Utter from the Navajo Water Authority to obtain water from the Navajo Nation.
9. Payments to the Navajo Nation: FNF is aware that royalty payments will be required and is prepared to make these payments.
10. Lease Duration: Lease of the property will only be required until the completion of the referenced ADOT project, about 200 working days.
11. Chapter Resolution: FNF will try to obtain this if necessary.
12. Approval Process: A check in the amount of \$500.00 has been attached.

Enclosed please find the following.

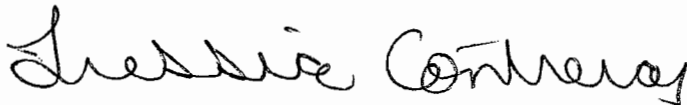
The Draft Borrow Lease Agreement, The Environmental Assessment document which includes the Mining and Reclamation Plan, the Archaeological Report, The Biological Evaluation and Assessment, and the land survey documents.

Stormwater and Spill Containment requirements for the borrow site will be added to the EPA Stormwater Pollution Prevention Plan for the ADOT project.

FNF and ADOT would greatly appreciate any actions you could take to expedite this application in order for the project to proceed to meet the deadlines that have been set.

Please contact me at Tressia@fnfinc.com or 480-929-6733 if you have any questions, concerns or require any further information.

Sincerely,
FNF CONSTRUCTION, INC.



Tressia Contreras
Environmental Manger

Enclosures

Pc: Tim Diekmann, FNF
(ltr-1593)

June 11, 2015

Navajo Department of Fish and Wildlife
P.O. Box 1480
Window Rock, AZ 86515

Navajo Land Department
P.O. Box 9000
Window Rock, AZ 86515

Attn: Ms. Gloria Tom, Director

Attn: Mr. Howard Draper, Project Review

Reference: Ganado Borrow Source

Subject: 6/4/15 Correspondence from Navajo Department of Fish and Wildlife

Dear Ms. Tom and Mr. Draper,

FNF Construction, Inc. (FNF) is in receipt of a copy of the above referenced document and would like to comment on some of the statements that need further clarification.

1. FNF's Consultant (Rocky Mountain Ecology RME) did consult with the NNDFW, a project data request was submitted and evaluated by Ms. Sonja Detsoi, Wildlife Tech. The Biological Evaluation (BE) prepared by RME did not address the loss of revenue from decrease in fishing permit sales because there would still be adequate shore line for people to fish. The borrow area would be at least 300' from the shoreline. The BE also did not address contaminant leaching or surface runoff into the lake because there will be no potential for that to occur. As stated in the Environmental Assessment (EA) and the Mine and Reclamation Plan (MRP) the borrow area will be bermed between the borrow activity area and the lake.

Borrow material removal has been on-going from this site for at least 20 years. We were informed by Mr. Draper that he had permitted the area previously but could not access his old files because they were currently inaccessible due to facility complications with his old office. This location was chosen because of its proximity to the ADOT project and because removing borrow from an existing disturbed location is less harmful to the environment than mining virgin ground at another location.

2. FNF's Consultant RME did consult with the NNDFW, a project data request was submitted and evaluated by Ms. Sonja Detsoi, Wildlife Tech. The BRCF document had not been provided prior to the 4/1/15 on-site meeting with NNEPA. FNF may have made the statement that NNDFW had not had any issues with the site previously, since Mr. Draper had told FNF that the site had been permitted before. The statement you listed may have been a misunderstanding.

FNF would be very appreciative to schedule a meeting with the NNDFW at their earliest convenience to discuss the Ganado Borrow site.

3. Per the Biological Resource Land Use Clearance Policies and Procedures the Ganado Borrow Source area is included in Area 6, which is a Recreation Area. However, the policy also states that development is allowed within Recreation Areas if it is compatible with management goals. Borrow excavation at this site along with the proposed safe sloping described in the MRP would leave the area with a flatter surface and remove the steep/unsafe area that currently

exists at the site. This would create a more usable and safer area for campers and ATV riders. Since borrow material removal has been on-going from this site for at least 20 years one would assume the Navajo Nation was in favor of continuing these types of activities at this location. As stated above, removing borrow from an existing disturbed location is less harmful to the environment than mining virgin ground at another location.

The ADOT project that is associated with this borrow source is on a strict timeline and FNF employees are doing what they can to keep the permitting process on track. We apologize if it appeared that NNDFW employees were being coerced. That certainly was not our intent.

4. We were informed by Mr. Draper that he had permitted the area previously but could not access his old files because they were currently inaccessible due to facility complications with his old office. We hope that Mr. Draper can locate the missing files which will show that all departments have previously approved borrow excavation at this location.

5. The Environmental Assessment (EA) document did not assess the Recreation Area because the shore line where people would fish would not be impacted. The borrow area would be at least 300' from the shoreline. As stated in the EA and the MRP the borrow area will be bermed between the borrow activity area and the lake, so there will be no potential for contaminant leaching or surface runoff into the lake.

6. At the time the permit application and the MRP was written FNF considered obtaining water from a site outside of the Navajo Nation. We have since (5/14/15) signed an approved agreement with the Navajo Nation Water Code Administration for a well located south of site. Please incorporate the attached map in your EOR package.

7. The borrow area will be bermed between the borrow activity area and the lake, so there will be no potential for contaminant leaching or surface runoff into the lake. The Stormwater Pollution Prevention Plan has been approved by ADOT and is located at the FNF office trailer, a copy can be provided upon your request.

As soon as you schedule a meeting with Fisheries Manager and NNEPA Water Quality please contact me at 480-929-6733 or Tressia@fnfinc.com so we can make arraignments to attend.

We hope we have alleviated your items of concern and the permit process can keep moving forward.

Sincerely,
FNF CONSTRUCTION, INC.

Tressia Contreras
Environmental Manager

Enclosure

Pc: Ganado Borrow Source File



**PRESIDENT
RUSSELL BEGAYE
VICE PRESIDENT
JONATHAN NEZ**

NAVAJO FISH AND WILDLIFE P.O. BOX 1480 WINDOW ROCK, AZ 86515

04 June 2015

EOR003982

Howard Draper, Project Review
Navajo Land Department
Post Office Box 2249
Window Rock, Arizona 86515

Dear Howard,

The Navajo Nation Department of Fish and Wildlife (NNDFW) reviewed EOR Document No. 003982 for the proposed **Ganado Borrow Pit** project located upslope 200-250 feet from the shoreline of Ganado Lake. The NNDFW cannot recommend approval for the proposed project. There are several issues with the project that need to be addressed prior to approval.

1. The project is located within a designated Recreational Area, Ganado Lake, according to the NNDFW's Resource Compliance Policy (RCP formerly known as the BRLUCPP). The Biological Evaluation (BE) prepared by Rocky Mountain Ecology, LLC did not address the RCP in regards to project planning within a designated Recreational Area. Furthermore, a borrow pit is not compatible with the management goals for Ganado Lake. The contractor made no attempt to consult with NNDFW fisheries staff on potential impacts from lost revenue from a decrease in fishing permit sales to contaminant leaching and surface runoff into the lake.
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3. On 03 JUN 2015, Mr. Parker Brownell made a visit to the NNDFW office to coerce an expedited review of EOR003982. I was upfront with Mr. Brownell and informed him that I cannot recommend approval of the project due to the fact that it would conflict with the Resource Compliance Policy, a policy that was supported and approved by the Resources & Development Committee of the Navajo Nation Council on 10 SEP 2008. Mr. Brownell's response was that he could have the R&DC "un-do" the policy that NNDFW staff worked diligently on developing in effort to streamline the planning and approval of projects while conserving, protecting, enhancing and restoring the Navajo people's wildlife resources.

The following are issues that the NNDFW has with the environmental documents enclosed within the EOR package.

4. Mr. Brownell claims that project location was an existing borrow pit; therefore, the NNDFW should not have any concerns. The NNDFW requests information from the Navajo Land Department on the former leasee of this existing borrow pit and their mine reclamation plan.
5. The Environmental Assessment (EA) prepared by an unknown author appears to be incomplete and not a final document. It does not examine impacts to the Recreational Area, nor were mitigation measures outlined to avoid impacts to the lake from the operation and maintenance of the borrow pit.
6. The Mine Reclamation Plan indicates that water for the project will be obtained from a source located outside of the Navajo Nation lands. This conflicts with the water permit issued by the Navajo Nation Water Code Administration stating that the water source is from the Pipestand

Pond. If the water source is obtained off-reservation the NNDFW is concerned about the quality of that water. In addition, the NNDFW requests to know where Pipestand Pond is located. This water source is included in the proposed action and should be illustrated on the project map in the EOR package.

7. The Stormwater Pollution Prevention Plan (SWPPP) is not included in the EOR0033982 package. Considering that the proposed Processing Area is located right next to the lake, the NNDFW requests to know how FNF Construction proposes to ensure that there will be no impacts to the lake.

Overall, it is apparent that all documents conflict with one another and are incomplete. All environmental documents attached to an EOR package are legal documents and should be finalized and consistent throughout the package. Although no suitable habitat exists for federally and tribally listed species within the project area, the environmental documents failed to address the project area as occurring within a designated Recreational Area and failed to address the impacts the proposed borrow pit presents to the management goals of Ganado Lake.

The NNDFW is fully aware of the importance of this project; however, we need to ensure that projects are in compliance with tribal and federal wildlife laws and regulations. We highly recommend that we are consulted with early-on in the planning stages of all projects in order to avoid delays in the EOR approval process. I recommend that we convene a meeting as soon as possible with our Fisheries Managers, NNEPA Water Quality and FNF Construction. Your assistance in this matter is appreciated.

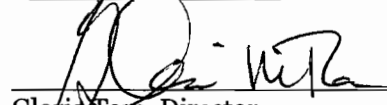
Please contact me at 928-871-7065 with any questions that you have concerning the review of this project.

Sincerely,



Pamela A. Kyselka, Wildlife Biologist
Navajo Natural Heritage Program

CONCURRENCE



Gloria Fenn, Director
Department of Fish and Wildlife

6/10/15
Date

xc: CONS-100-15
Glenn Selby, NNDFW
Lee Anna Martinez-Silvermith, NNEPA
Parker Brownell, FNF Construction, Inc.



**PRESIDENT
RUSSELL BEGAYE
VICE PRESIDENT
JONATHAN NEZ**

NAVAJO FISH AND WILDLIFE P.O. BOX 1480 WINDOW ROCK, AZ 86515

04 June 2015

EOR003982

Howard Draper, Project Review
Navajo Land Department
Post Office Box 2249
Window Rock, Arizona 86515

Dear Howard,

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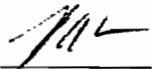
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Please contact me at 928-871-7065 with any questions that you have concerning the review of this project.

Sincerely,



Pamela A. Kyselka, Wildlife Biologist
Navajo Natural Heritage Program

CONCURRENCE



Gloria Fem, Director
Department of Fish and Wildlife

6/10/15
Date

xc: CONS-100-15
Glenn Selby, NNDFW
Lee Anna Martinez-Silvermith, NNEPA
Parker Brownell, FNF Construction, Inc.

LEGISLATIVE SUMMARY SHEET

Tracking No. 0286-15

DATE: August 13, 2015

TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A BORROW LEASE TO FNF CONSTRUCTION, INC. TO OPERATE AND MAINTAIN THE GANADO LAKE BORROW PIT AND AN ACCESS ROAD FOR A TOTAL OF 28.474 ACRES, MORE OR LESS, OF NAVAJO NATION TRUST LANDS LOCATED WITHIN THE GANADO CHAPTER VICINITY, NAVAJO NATION (APACHE COUNTY, ARIZONA) FOR ROAD IMPROVEMENT PROJECTS AND CONSTRUCTION RELATED PURPOSES

PURPOSE: Approving a Borrow Lease to FNF Construction, Inc., to operate and maintain the Ganado Lake Borrow Pit and an access road in the Ganado Chapter vicinity (Apache County, Arizona). The purpose of the borrow lease is to provide for road improvement projects and construction related purposes. The lease will be for a two year period.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

PROPOSED STANDING COMMITTEE RESOLUTION
23rd NAVAJO NATION COUNCIL -- First Year, 2015

INTRODUCED BY

ACTON JOE SHEPHERD
(Prime Sponsor) 

TRACKING NO. 0286-15

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A BORROW
LEASE TO FNF CONSTRUCTION, INC. TO OPERATE AND MAINTAIN THE
GANADO LAKE BORROW PIT AND AN ACCESS ROAD FOR A TOTAL OF
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LOCATED WITHIN THE GANADO CHAPTER VICINITY, NAVAJO NATION
(APACHE COUNTY, ARIZONA) FOR ROAD IMPROVEMENT PROJECTS AND
CONSTRUCTION RELATED PURPOSES

BE IT ENACTED:

Section One. Findings

A. Pursuant to 2 N.N.C. Section 501 (B)(2), the Resources and Development
Committee of the Navajo Nation Council has authority to give final approval of all land
withdrawals, non-mineral leases, permits, licenses, rights-of-way, surface easements
and bonding requirements on Navajo Nation lands and unrestricted (fee) land. This
authority shall include subleases, modifications, assignments, leasehold encumbrances,
transfers, renewals, and terminations; and

B. The FNF Construction, Inc., 115 South 48th Street, Tempe, Arizona 85281, has
submitted a request for a borrow lease and an access road totaling 28.474 acres, more or
less, of Navajo Nation Trust Lands. The proposed Borrow Lease is attached as Exhibit
A; and

1 C. The proposed Borrow Lease consists of 28.474 acres, more or less, of Navajo
2 Nation Trust Lands located within Section 13, Township 27 North, Range 26 East,
3 G&SRM, Apache County, Arizona. The location of the site is more particularly
4 described on the map marked Exhibit B; and

5 E. The Project Review Section with the Navajo Land Department has obtained the
6 consent from the affected land users (i.e., grazing permittees). The consent documents
7 are attached as Exhibit C; and

8 F. All environmental and archaeological studies and clearances, attached as Exhibit D,
9 have been completed and are attached hereto and incorporated herein by this reference.
10

11 **Section Two. Approval:**

12 A. The Resources and Development Committee of the Navajo Nation Council hereby
13 approves a Borrow Lease for FNF Construction, Inc., for 28.474 acres, more or less, of
14 Navajo Nation Trust Lands in the Ganado Lake vicinity, Ganado Chapter, Navajo
15 Nation (Apache County, Arizona) to operate and maintain Borrow pit and access road.
16 The location is more particularly described on the survey map attached as Exhibit B.

17 B. The Navajo Nation hereby approves the Borrow Lease subject to, but not limited to
18 the terms and conditions in the Lease attached hereto as Exhibit A and made a part
19 hereof.

20 C. The Navajo Nation hereby authorizes the President of the Navajo Nation to execute
21 any and all documents necessary to implement the intent and purpose of this resolution.
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EXHIBIT 'A'

NAVAJO NATION EARTH BORROW LEASE

THIS AGREEMENT for a Sand and Gravel Lease (Lease) is made and entered into this _____ day of _____, ____, by and between the Navajo Nation and whose address is at Window Rock Arizona, and FNF Construction, Inc. herein called the Lessee and whose address is at 115 South 48th Street, Tempe, Arizona 85281.

Definitions:

Sand & Gravel means: Earth Borrow, Sand, and Natural Gravel.

Department means: the Navajo Nation Minerals Department.

Navajo Nation (Nation) means: the Navajo Tribe of Indians.

Secretary means: the Secretary of the U.S. Department of Interior or his/her designated representative.

Performance bond means: a surety bond, collateral bond or self-bond or a combination thereof, by which a lessee assures faithful performance of all the requirements this lease and mining and reclamation plan.

Reclamation means: those actions taken to restore mined land as required to a post mining land use approved by the Department.

Resources Committee means: the Resources Committee of the Navajo Nation Council.

Slope means: average inclination of a surface, measured from the horizontal; normally expressed as a unit of horizontal distance to vertical distance.

Stabilize means: to control movement of soil or areas of disturbed earth by modifying the geometry of the mass, or by otherwise modifying physical or chemical properties, such as by providing a protective surface coating.

Ton means: 2000 pounds.

Water table means: the upper surface of a zone of saturation.

The Nation hereby grants Lessee a Lease right to extract earth borrow from SE ¼, Section 13, Township 27 North, Range 26 East, Apache County, State of Arizona. The Lease occupies an area of 26.436 acres, more or less, and the access road right-of-way consists of 2.038 acres, more or less. The location maps and legal descriptions of the Lease and the access road are shown in attached Exhibits _____ and _____, respectively. The Lease shall be subject to the following terms and conditions.

1. The Lease shall be valid for a period of two (2) years, effective the date it is approved by the Secretary. This date shall be known as the Effective Date of the Lease.

2. Payments to the Nation by the Lessee:

(i) An annual advance royalty for each lease year. The first payment in the amount of Eight-Thousand-Eight-Hundred-Sixty-One Dollars (\$8,861.00) is due within ten (10) days of the Effective Date. Subsequent annual advance royalty payments are due on or before each anniversary of the Effective Date. The annual advance royalty payment shall be credited against production royalties only during the year for which the advance royalty has been paid.

(ii) A royalty at the rate of \$1.42 per ton for each ton of material removed and sold from the Lease premises. The royalty payment shall be made on a monthly basis within fifteen (15) days following the month for which the royalty is due. Lessee must maintain an accurate and current record of borrow material produced and sold. This record must be available to the Nation and the U.S. Department of Interior (DOI) staff for inspection during business hours.

(iii) Annual consideration of \$1,590.00 for the access road right-of-way. The first payment is due (unless it is paid in lump sum for the entire term of the lease) within ten (10) days of the Effective Date and all subsequent payments shall be made on or before each anniversary of the Effective Date.

(iv) The subsequent annual advance royalty payment, the royalty rate, and the right-of-way consideration (if not paid in lump sum) shall be subject to annual adjustments on each anniversary of the Effective Date. The adjustments shall be based upon the increase in the Consumer Price Index (CPI), U.S. City Average for All Urban Consumers. The CPI for July 2015 shall be used as the base for all adjustments.

3. Mining and Reclamation Plan: The Lessee shall provide a mining and reclamation plan (Plan) to the Nation and to the DOI. The Lessee shall comply with all the requirements of the approved Plan. Lessee shall obtain the approval of the Nation and the DOI prior to making any changes in the approved Plan. The Plan will include the area to be mined with drainage control; annual tonnage estimates for the mining area; and the planned reclamation timing to coincide with the mining. As a general rule, slopes will not exceed 5:1 and majority of the revegetation species will be native to the area.

4. Bond: The Lessee shall furnish a performance and reclamation bond for Two-Hundred-Fifty-Thousand Dollars (\$250,000.00). The Lessee shall maintain this bond at all times even if the Lease has expired or is terminated. The bond shall only be released with the written consent of the Nation. The bond may also be increased by the Nation and/or the DOI. The Lessee shall request a bond release to DOI only after the Lease has been expired or terminated and Lessee has fulfilled all its obligations, including all payments due to the Nation and reclamation requirements, under the terms and conditions of this Lease.

5. Records and Reports: The Lessee shall maintain accurate records of all sand and gravel material extracted, stockpiled, sold and removed from the Lease and the royalty due and paid to the Nation. A copy of the records shall be provided to the DOI and the Nation Minerals Department (P.O. Box 1910, Window Rock, AZ: 86515) on a monthly basis within fifteen (15) days following the sale month. Monthly production reports must be filed even if there was no sale of material.

6. Method of Payments: All required payments under Section 2 of this Lease shall be made to the department, in lawful money of the United States. A copy of the payments shall be provided to the DOI.

7. Disposition of Minerals and Surface: The Nation expressly reserves the right to use, lease or otherwise dispose of the minerals not covered by this Lease and the surface of the lands embraced within this Lease under existing laws and laws hereinafter enacted. Lessor further reserves the right to grant additional leases for the extraction and removal of sand and gravel or for any other purposes from the lands described herein. Such disposition and use shall be subject to the prior rights of the Lessee herein to use of so much of the said surface as is necessary in the extraction and removal of sand and gravel described in accordance with this Lease.

8. Diligence: The Lessee shall exercise diligence in the conduct of its mining operation and the land described herein shall not be held for speculative purposes, but in good faith for the extraction of sand and gravel and shall begin operation within one (1) month of the Effective Date and shall continue production thereafter at the rate specified in the plan.

9. No work shall commence until the mandatory mine health and safety training has been provided to the workers pursuant to 30 CFR, Part 46. The Lessee shall maintain the required training plan pursuant to the provisions of 30 CFR, Part 46. The Department shall be listed in the training plan if the Lessee wants the Department to conduct the training. The Lessee may contact the Department to arrange for the training.

10. The Lessee may develop, use and occupy the area under the Lease for the purpose of removing sand and gravel material. The Lessee may not develop, use or occupy the area under the Lease for any other purpose without the prior written approval of the Nation and the Secretary. Such approval of the Nation may be granted upon conditions or withheld at the sole discretion of the Nation. The Lessee may not develop, use or occupy the area under the permit for any unlawful purpose. Any unlawful use of the land within the Lease shall render the Lease void at the option of the Nation and/or the Secretary.

11. Sand and gravel material shall not be used for projects outside the Nation unless it is expressly authorized by the Resources Committee of the Navajo Nation Council.

12. In all activities conducted by the Lessee within the Nation, the Lessee shall abide by all laws and regulations of the Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:

- a. Title 25, Code of Federal Regulations, Parts 162 and 169;
- b. Title 30, Code of Federal Regulations, Parts 46 and 56;
- c. The Navajo Nation Mine Safety Code 18 N.N.C. § 401;
- d. All applicable federal and Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery, all operations in the immediate vicinity of the discovery must cease and the Nation's Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archaeological deposits, human remains, or location reportedly associated with Native American religious/ traditional beliefs or practice.
- e. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq., and
- f. The Navajo Nation Water Code, 22 N.N.C. § et seq., Lessee shall apply for and submit all applicable permits and information to the Nation's Water Resources Department, or its successor.

13. The Lessee shall ensure that the air quality of the Nation is not unduly degraded during operations by violating federal and Nation's applicable laws and regulations.

14. The Lessee shall clear and keep clear the lands within the Lease area to the extent compatible with the purpose of the Lease, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during any surface disturbance activities.

15. The Lessee shall at all times during the term of the Lease and at the Lessee's sole cost and expense, maintain the land subject to the Lease and all improvements located thereon and make all necessary reasonable repairs.

16. The Lessee shall obtain prior written permission to cross an existing permit or lease areas, if any, from the appropriate parties.

17. The Lessee shall be responsible for and promptly pay all damages when they are sustained, from actions the Lessee causes.

18. The Lessee shall indemnify and hold harmless the Nation and the Secretary and their respective authorized agents, employees, land users and occupants against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of area under the Lease by the Lessee.

19. The Lessee shall not assign, convey, transfer or sublet in any manner whatsoever, the lease or any interest therein, or in or to any of the improvements on the land subject to the lease,

without the prior written consent of the Nation and the Secretary. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Nation may be granted, granted upon conditions or withheld at the sole discretion of the Nation.

20. The Nation may recommend termination of the Lease by DOI for violation of any of the terms and conditions stated herein.

21. At the termination of the Lease, the Lessee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear accepted. Upon the written request from the Nation, the Lessee shall provide the Navajo, at the Lessee's sole cost and expense, with an environmental audit assessment of the premises at least thirty (30) days after completion and notification to the Nation that all required reclamation has been performed.

22. Holding over by the Lessee after the termination of the Lease shall not constitute a renewal or extension thereof or give the Lessee any rights hereunder or in to the land subject to the Lease or to any improvements located thereon.

23. The Nation and the Secretary shall have the right, at any reasonable time during the term of the permit, to enter upon the premises, or any part thereof, to inspect the same and any improvements located therein. The Nation and Secretary have further right to audit all payments due to the Nation.

24. By acceptance of the grant of Lease, the Lessee consents to the full territorial legislative, executive and judicial jurisdiction of the Nation, including but not limited to the jurisdiction to levy fines and to enter judgments for compensatory and punitive damages and injunctive relief, in connection with all activities conducted by the Lessee within the Nation or which have a proximate (legal) effect on persons or property within the Nation.

25. By acceptance of the grant of the Lease, the Lessee covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Nation on the basis that such jurisdiction is inconsistent with the status of the Nation as an Indian nation, or that the Nation's government is not a government of general jurisdiction, or that the Nation's government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision shall be construed to negate or impair federal responsibilities with respect to the land subject to the Lease or to the Nation.

26. Any action or proceeding brought by the Lessee against the Nation in connection with or arising out of the terms and conditions of the Lease shall be brought only in the Courts of the Nation, and no such action or proceeding shall be brought by the Lessee against the Nation in any court of any state.

27. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Nation.

28. Except as prohibited by applicable federal law, the law of the Nation shall govern the performance and enforcement of the terms and conditions contained herein.

29. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of the Lessee, and the term "Lessee" whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.

30. There is expressly reserved to the Nation full territorial legislative, executive and judicial jurisdiction over the area under the Lease and all lands burdened by the Lease, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the area under the Lease and all lands burdened by the Lease shall be and forever remain Navajo Indian Country for purposes of the Nation's jurisdiction.

31. The Lessee is required to maintain and submit a certificate issued by an insurance company authorized to do business in the United States, and on the Nation, certifying that the applicant has a public liability insurance policy in force for the mining and reclamation operations pursuant to this Lease. Such policy shall provide for personal injury and property damage protection in an amount adequate to compensate any person injured or property damaged as a result of the mining and reclamation operations, including the use of explosives. Minimum insurance coverage for bodily injury and property damage shall be \$ 500,000 for each occurrence and \$1,000,000 aggregate.

(a) The policy shall be maintained in full force during the term of the Lease and the liability period necessary to complete all reclamation requirements under the Plan.

(b) The policy shall include a rider requiring that the insurer notify the Department and DOI whenever substantive changes are made in the policy including any termination or failure to renew.

THE NAVAJO NATION

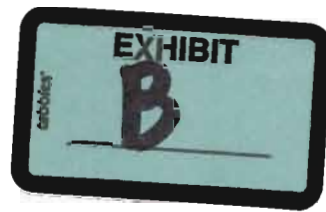
BY _____
Russell Begaye, President
The Navajo Nation

FNF CONSTRUCTION, INC.

BY _____
Tressia Contraras,
Environmental Manager
FNF Construction, Inc.

Date

Date



BORROW PIT

LEGAL DESCRIPTION

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 27 NORTH, RANGE 26 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, APACHE COUNTY, ARIZONA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND BRASS CAP MARKING THE NORTH QUARTER CORNER OF SAID SECTION 13 FOR WHICH A FOUND BRASS CAP MARKING THE NORTHWEST CORNER OF SAID SECTION 13 LIES SOUTH 89°44'53" WEST, 2638.93 FEET;

THENCE SOUTH 19°29'51" EAST, ALONG A TIE LINE, 3661.87 FEET TO THE **POINT OF BEGINNING**;

THENCE SOUTH 67°23'02" EAST, 560.17 FEET;

THENCE SOUTH 05°16'15" EAST, 1311.59 FEET;

THENCE NORTH 84°29'27" WEST, 1137.99 FEET;

THENCE NORTH 19°19'19" EAST, 1496.49 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 26.436 ACRES MORE OR LESS.

TOGETHER WITH:

A 20 FEET WIDE STRIP OF LAND TO BE USED AS AN INGRESS-EGRESS EASEMENT 10 FEET EITHER SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;

COMMENCING AT A FOUND BRASS CAP MARKING THE NORTH QUARTER CORNER OF SAID SECTION 13 FOR WHICH A FOUND BRASS CAP MARKING THE NORTHWEST CORNER OF SAID SECTION 13 LIES SOUTH 89°44'53" WEST, 2638.93 FEET;

THENCE SOUTH 28°17'37" EAST, ALONG A TIE LINE, 4835.38 FEET TO A POINT AT THE WESTERLY EDGE OF PAVEMENT OF B.I.A. ROUTE 27 AND THE **POINT OF BEGINNING**

THENCE SOUTH 87°10'31" WEST, 125.87 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 89.69 FEET, THROUGH A CENTRAL ANGLE OF 35°23'46", AN ARC DISTANCE OF 55.41 FEET;

THENCE SOUTH 51°46'53" WEST, 34.54 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 319.80 FEET, THROUGH A CENTRAL ANGLE OF 22°31'50", AN ARC DISTANCE OF 125.76 FEET;

THENCE SOUTH 29°14'52" WEST, 183.59 FEET TO THE BEGINNING OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 296.61 FEET, THROUGH A CENTRAL ANGLE OF 31°01'22", AN ARC DISTANCE OF 160.60 FEET;

THENCE SOUTH $1^{\circ}46'30''$ EAST, 96.91 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 204.75 FEET, THROUGH A CENTRAL ANGLE OF $100^{\circ}49'13''$, AN ARC DISTANCE OF 360.29 FEET TO A POINT OF REVERSE CURVATURE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 4536.98 FEET, THROUGH A CENTRAL ANGLE OF $5^{\circ}01'17''$ AN ARC DISTANCE OF 397.62 FEET;

THENCE NORTH $85^{\circ}58'34''$ WEST, 334.77 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 235.40 FEET, THROUGH A CENTRAL ANGLE OF $78^{\circ}06'00''$, AN ARC DISTANCE OF 320.88 FEET;

THENCE NORTH $1^{\circ}05'00''$ WEST, 412.56 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 293.64 FEET, THROUGH A CENTRAL ANGLE OF $47^{\circ}37'26''$, AN ARC DISTANCE OF 244.07 FEET;

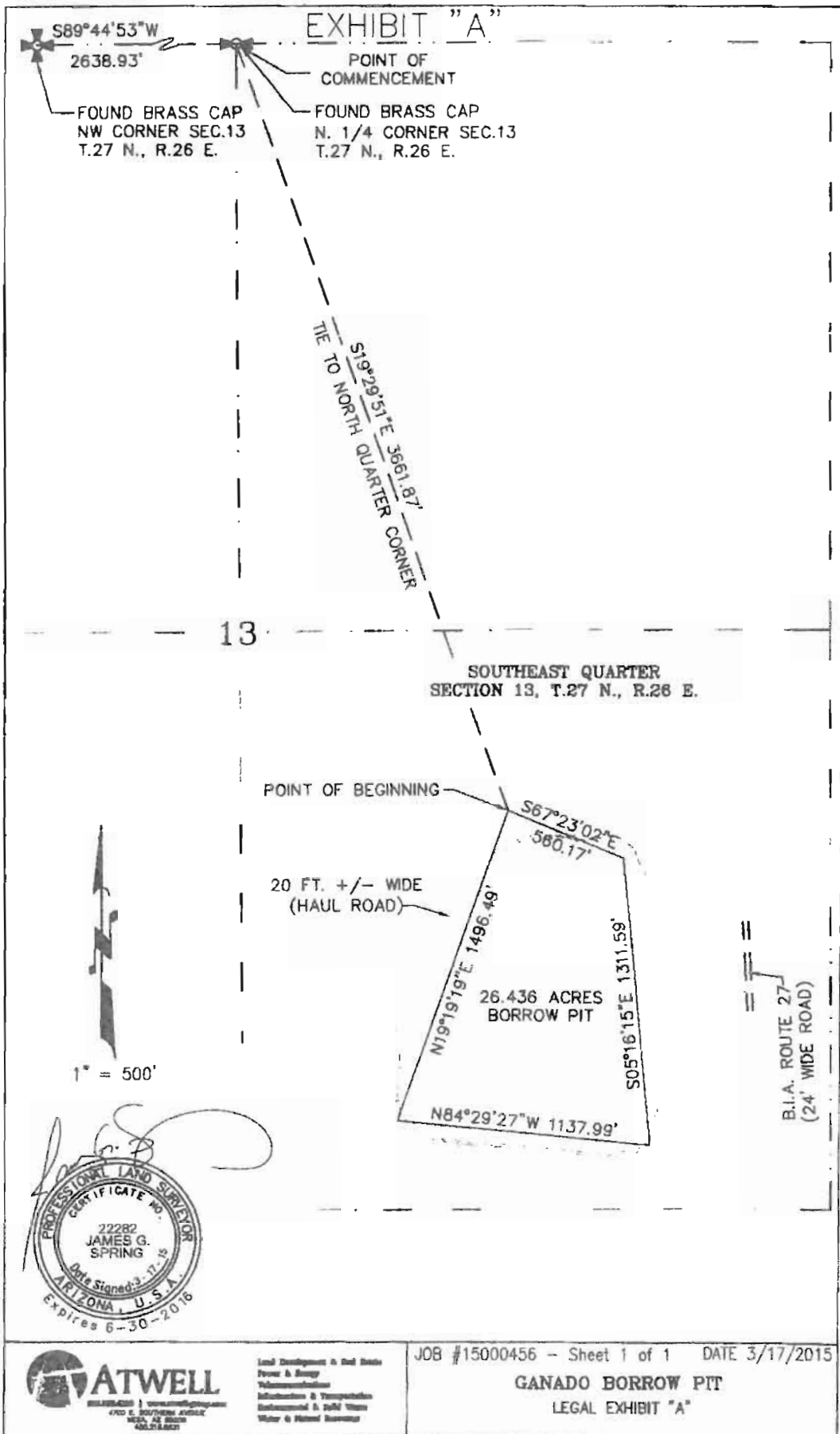
THENCE NORTH $46^{\circ}32'28''$ EAST, 99.18 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 1593.13 FEET, THROUGH A CENTRAL ANGLE OF $15^{\circ}52'48''$, AN ARC DISTANCE OF 441.55 FEET TO A POINT OF REVERSE CURVATURE, CONCAVE SOUTHEASTERLY WITH A RADIUS OF 207.90 FEET, THROUGH A CENTRAL ANGLE OF $37^{\circ}18'38''$, AN ARC DISTANCE OF 135.39 FEET TO A POINT OF COMPOUND CURVATURE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 692.06 FEET, THROUGH A CENTRAL ANGLE OF $34^{\circ}34'31''$, AN ARC DISTANCE OF 417.63 FEET TO A POINT OF COMPOUND CURVATURE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 234.16 FEET, THROUGH A CENTRAL ANGLE OF $59^{\circ}03'11''$, AN ARC DISTANCE OF 241.34 FEET;

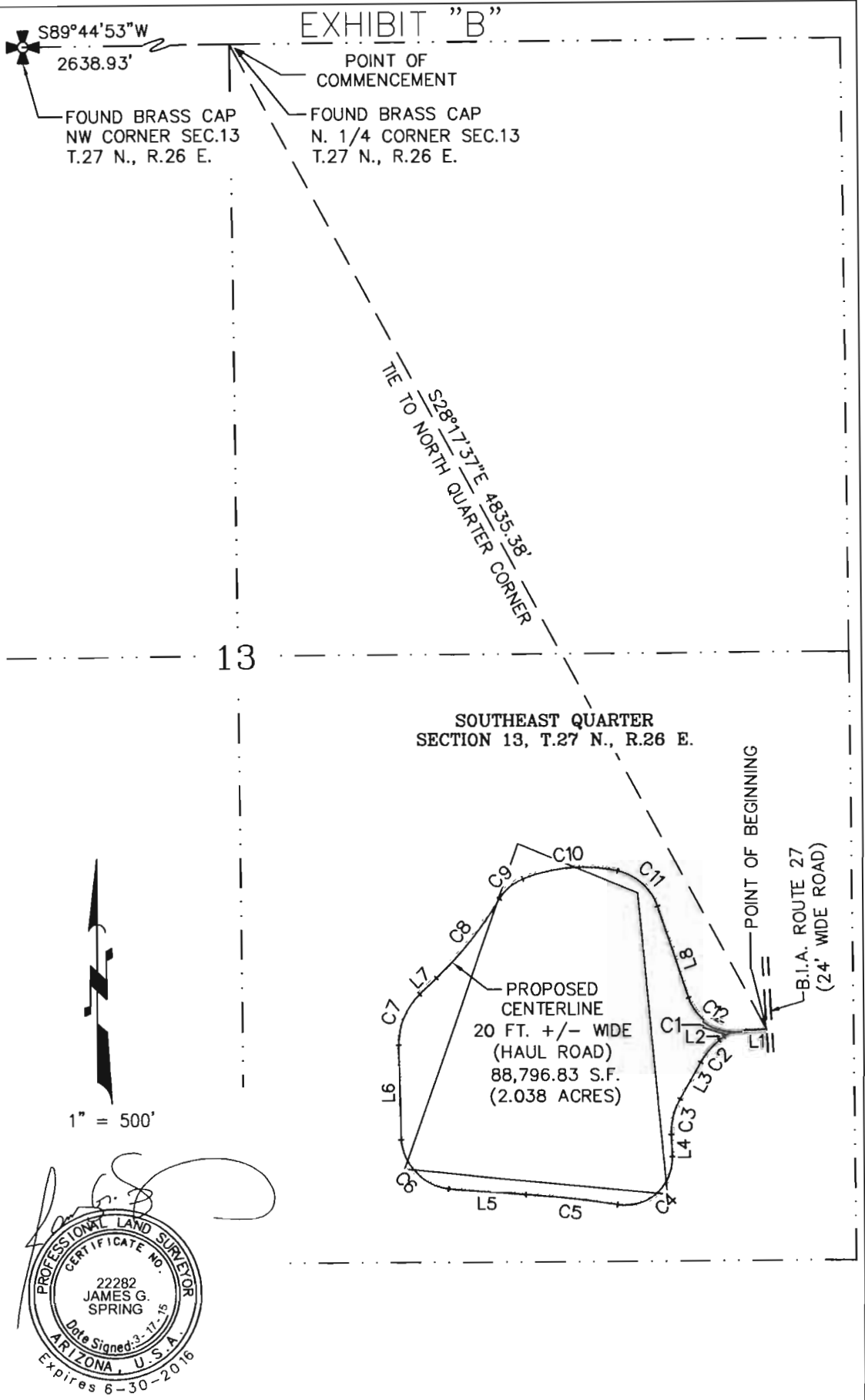
THENCE SOUTH $18^{\circ}24'22''$ EAST, 415.60 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 210.41 FEET, THROUGH A CENTRAL ANGLE OF $74^{\circ}25'08''$, AN ARC DISTANCE OF 273.30 FEET TO A POINT OF TERMINUS, ALSO BEING A POINT ON DESCRIBED CENTERLINE, LYING SOUTH $87^{\circ}10'31''$ WEST, 125.87 FEET FROM THE POINT OF BEGINNING.

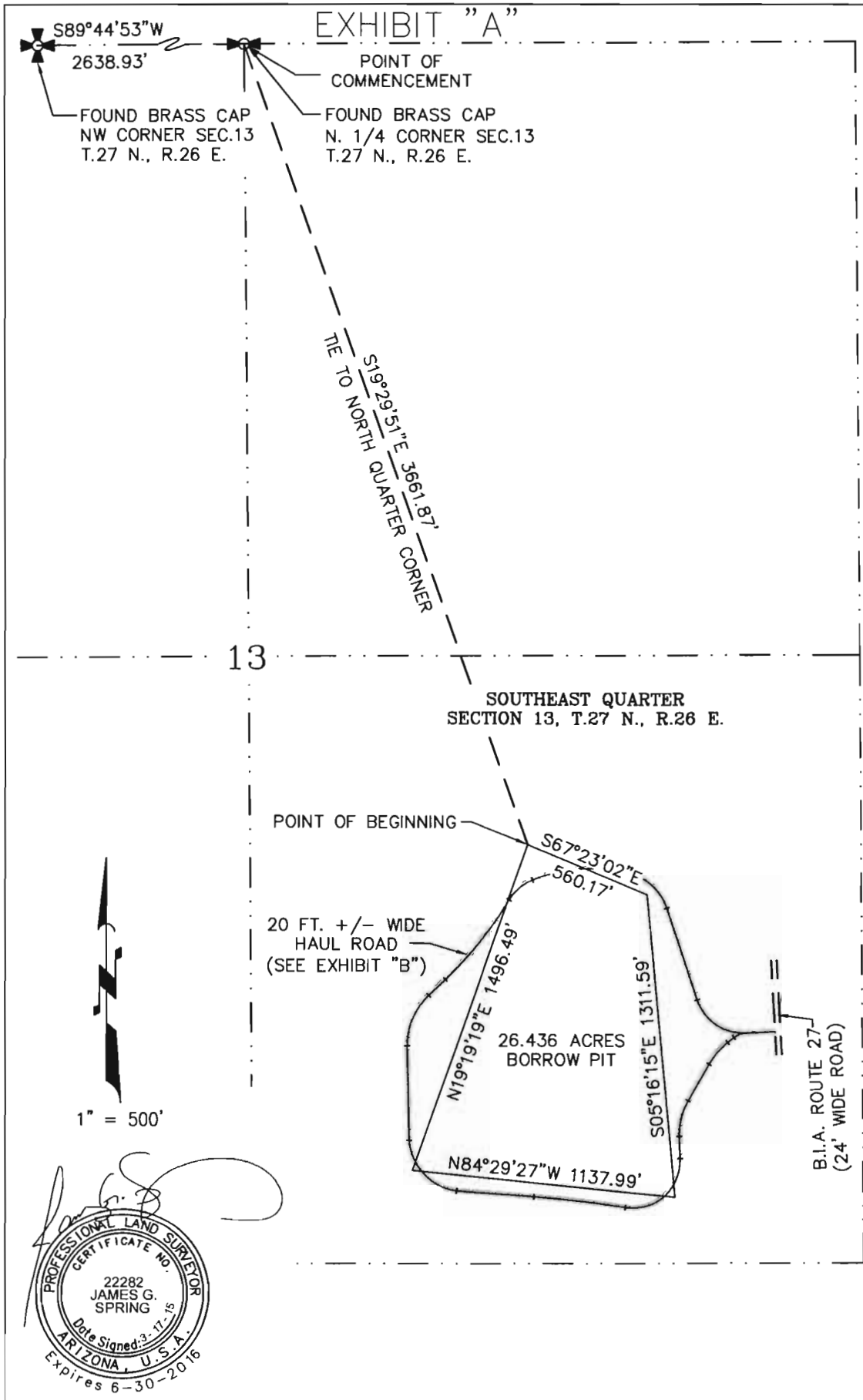
THE SIDELINES ON THE ABOVE DESCRIBED STRIP OF LAND SHALL BE EXTENDED OR SHORTENED TO MEET AT ANGLE AND END POINTS TO FORM A CONTINUOUS 20.00 FEET WIDE STRIP OF LAND THROUGH THE GRANTOR'S PROPERTY.

CONTAINING 88,796.83 SQUARE FEET OR 2.038 ACRES MORE OR LESS.









Land Development & Real Estate
Power & Energy
Telecommunications
Infrastructure & Transportation
Environmental & Solid Waste
Water & Natural Resources

JOB #15000456 - Sheet 1 of 1 DATE 3/17/2015
GANADO BORROW PIT
LEGAL EXHIBIT "A"

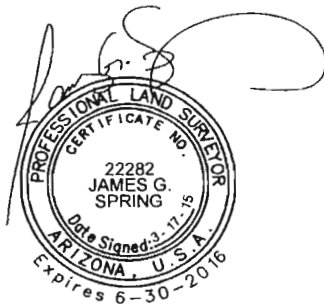
EXHIBIT "B"

LINE TABLE

LINE #	DIRECTION	LENGTH
L1	S87°10'31"W	125.87'
L2	S51°46'53"W	34.54'
L3	S29°14'52"W	183.59'
L4	S01°46'30"E	96.91'
L5	N85°58'34"W	334.77'
L6	N01°05'00"W	412.56'
L7	N46°32'28"E	99.18'
L8	S18°24'22"E	415.60'

CURVE TABLE

CURVE #	LENGTH	RADIUS	DELTA
C1	55.41'	89.69'	35°23'46"
C2	125.76'	319.80'	22°31'50"
C3	160.60'	296.61'	31°01'22"
C4	360.29'	204.75'	100°49'13"
C5	397.62'	4536.98'	5°01'17"
C6	320.88'	235.40'	78°06'00"
C7	244.07'	293.64'	47°37'26"
C8	441.55'	1593.13'	15°52'48"
C9	135.39'	207.90'	37°18'38"
C10	417.63'	692.06'	34°34'31"
C11	241.34'	234.16'	59°03'11"
C12	273.30'	210.41'	74°25'08"

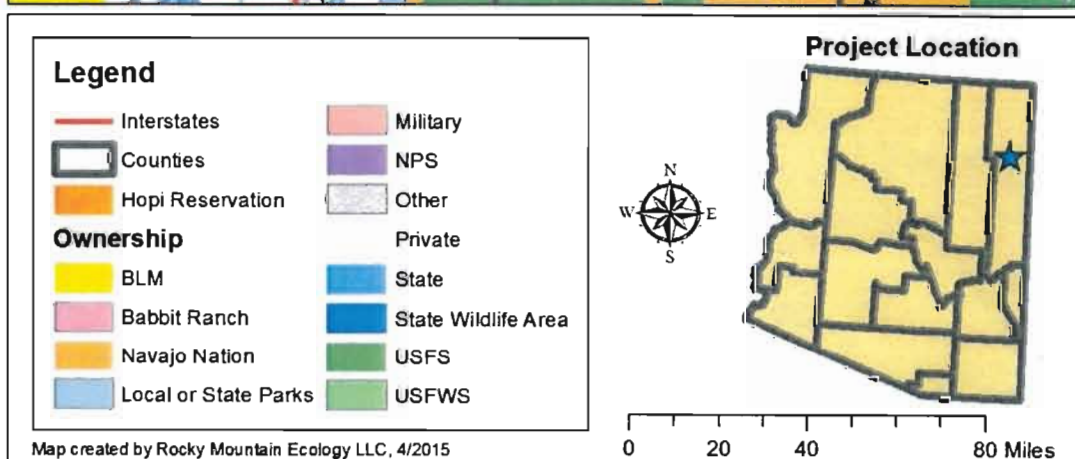
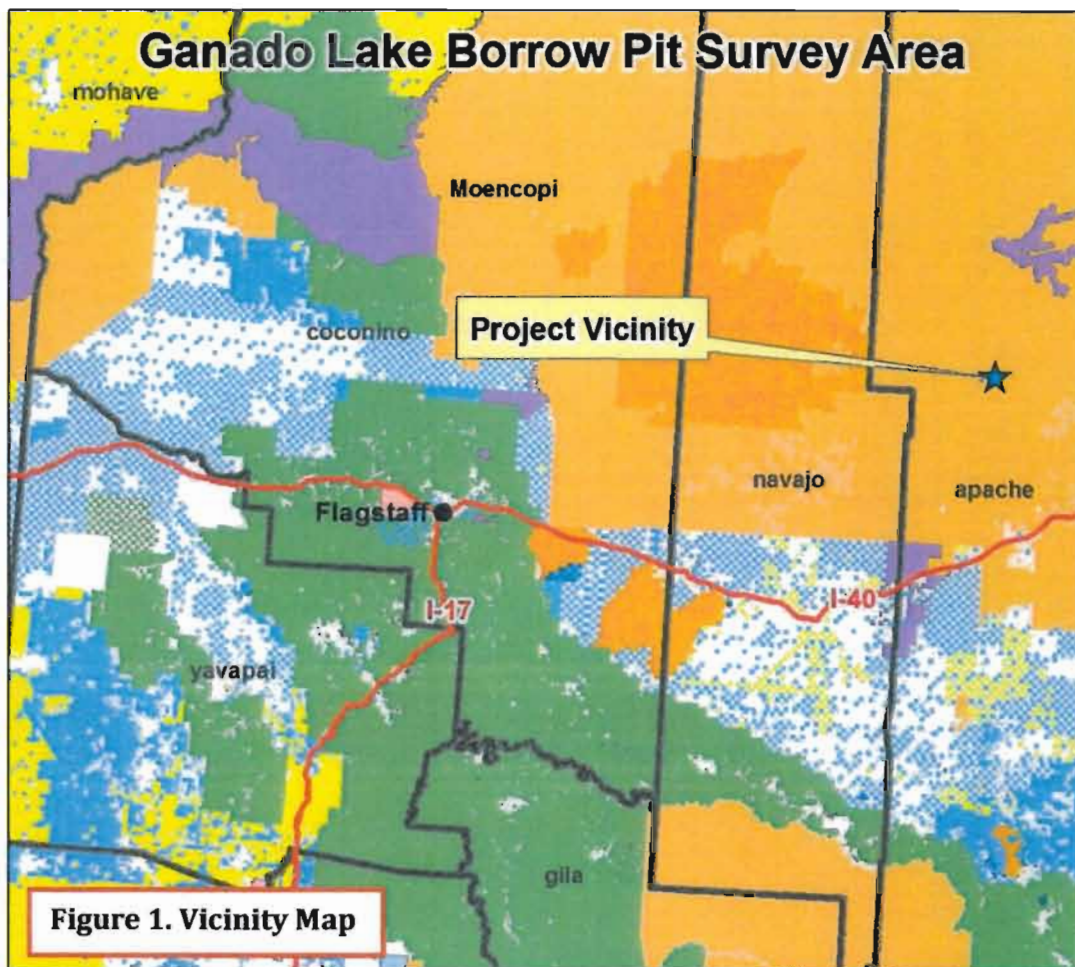


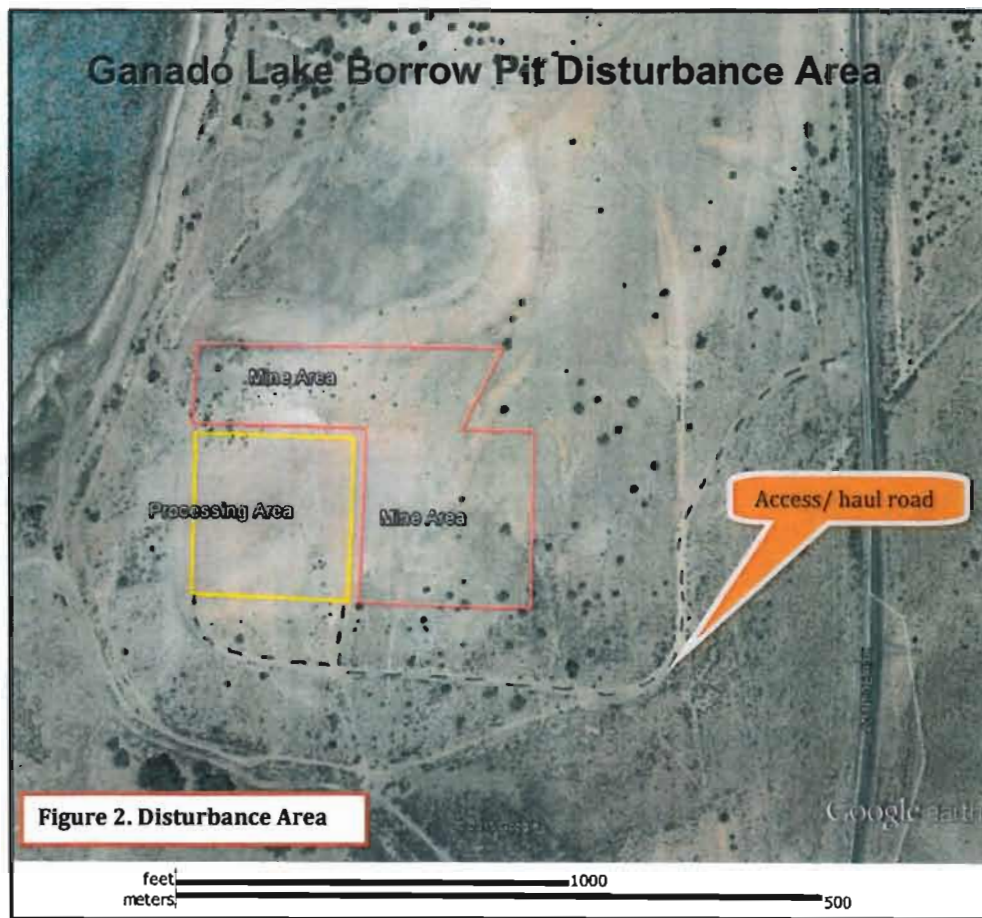
Land Development & Real Estate
Power & Energy
Telecommunications
Infrastructure & Transportation
Industrial & Solid Waste
Water & Natural Resources

JOB #15000456 - Sheet 2 of 2 DATE 3/17/2015

GANADO 20 FT WIDE ACCESS EASEMENT
LEGAL EXHIBIT "A"

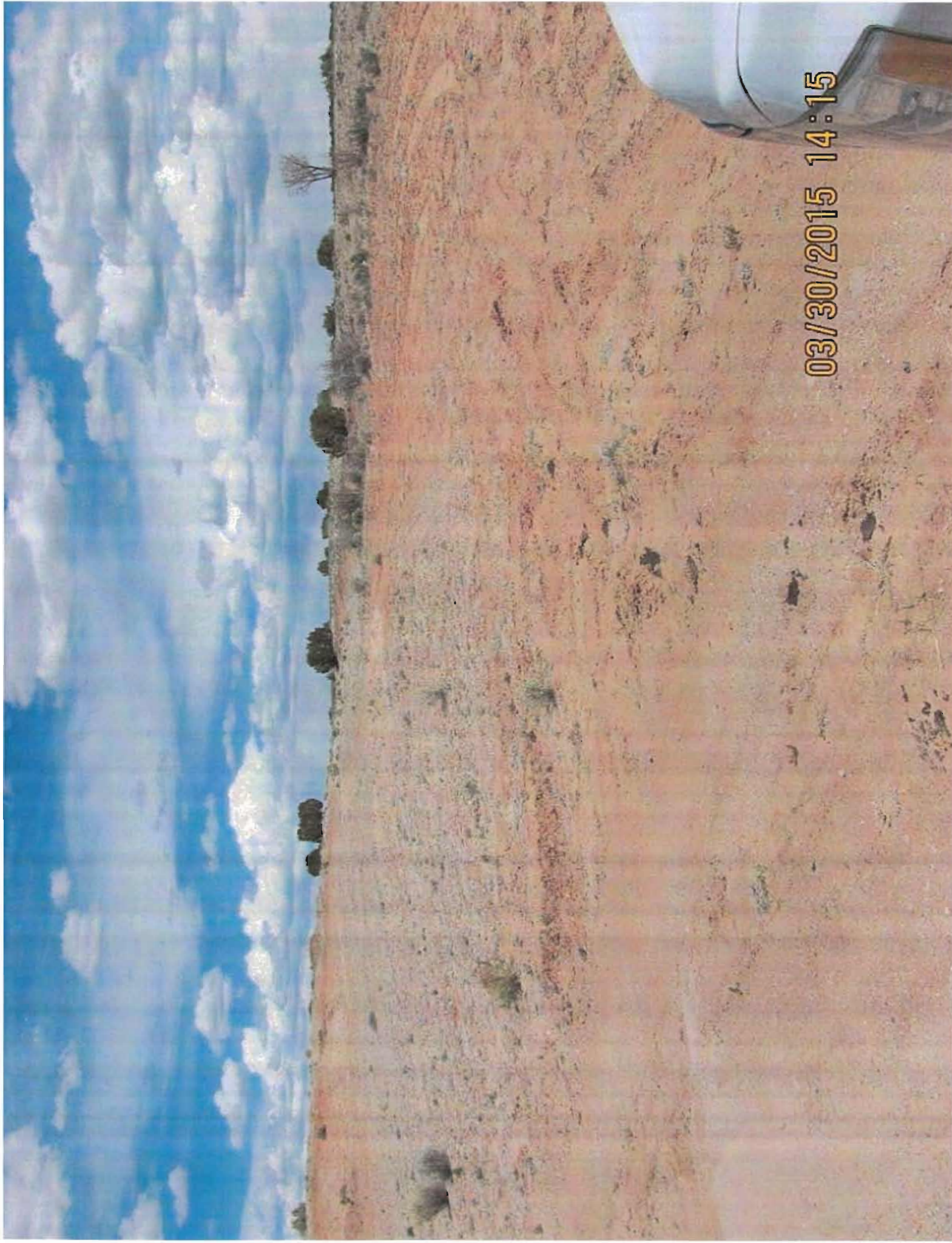




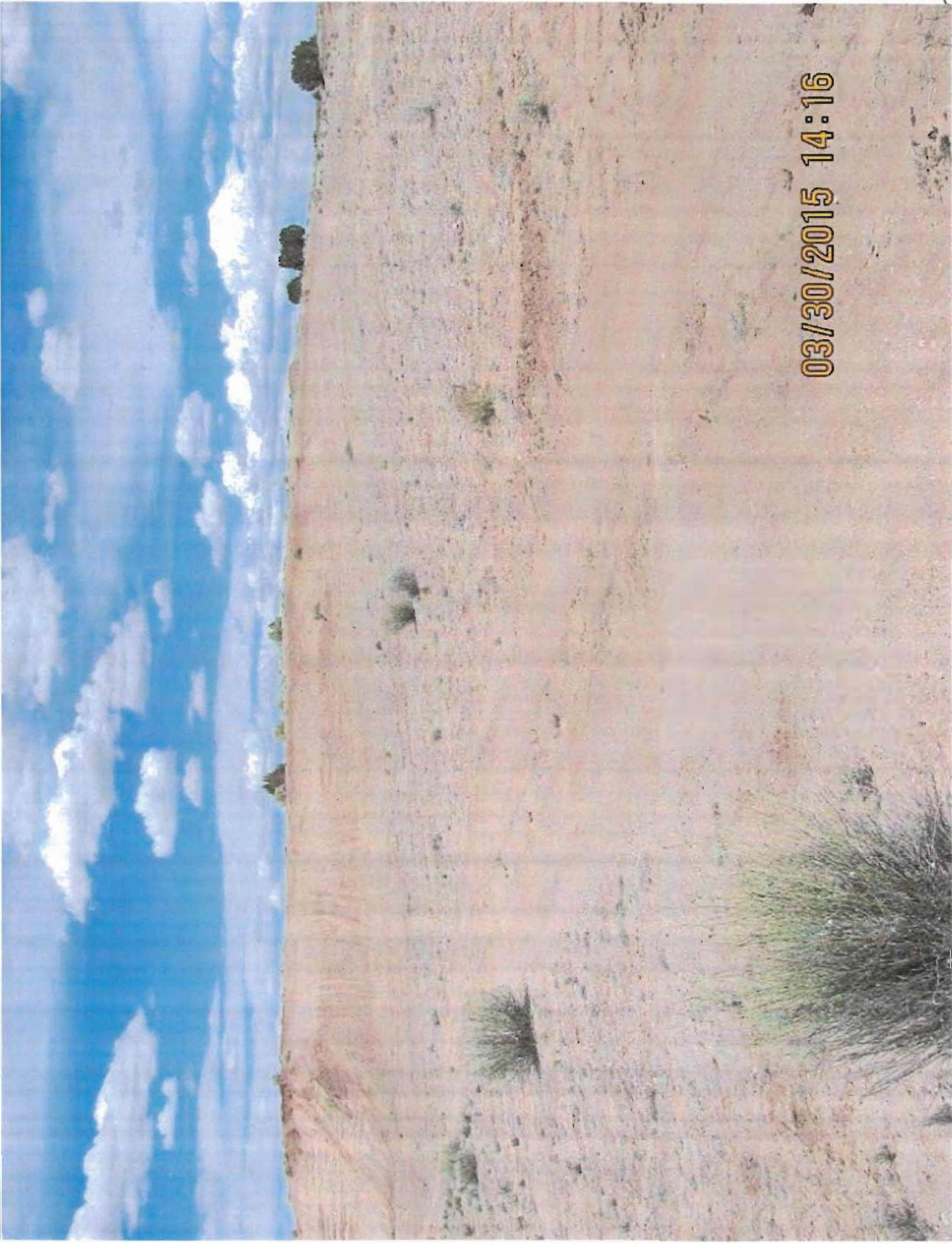


Attachment 2 Ground Level photographs of Existing Condition

03/30/2015 14:15



03/30/2015 14:16



03/30/2015 14:16

03/30/2015 15:01

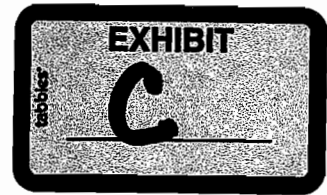




THE NAVAJO NATION

Navajo Land Department

P.O. Box # 2249 · Window Rock, Arizona 86515 · (928) 871-6401 · FAX: (928) 871-7039



MEMORANDUM

TO : Howard P. Draper, Supervisor
Project Review Section, NLD

FROM : Esther Kee
Esther Kee, R/W Agent
Project Review Section, NLD

DATE : May 15, 2015

SUBJECT: FNF Ganado Borrow Pit

FNF Construction, Inc., 115 South 48th Street, Tempe, Arizona 85281, submitted an application for Borrow Permit with Haul Road. FNF proposes to reopen and expand the existing Ganado Borrow Pit to extract borrow materials for ADOT SR264 MP 450-459.02 road project all Navajo Trust lands near Ganado Chapter.

The borrow pit consists of 26.436 acres, and 2.038 acres for haul road, all located in SE/4 of Section 13, T27N, R26E, G&SRM, Apache County, Arizona.

District 17 Grazing Committee member, Dickerson Smith, identified three grazing permittees; Marie Shepherd, Sharon Salabye, Beverly J. Begay, affected by the proposed request. I informed the affected land users on the proposed project, they had no objection and requested they be compensated. I obtained all the land users consent along with the concurrence of the District 17 Grazing Committee member. Land users will be compensated \$4, 270.80 (\$3,965.40/borrow pit, \$305.40/road) for surface damages.

Field clearance complete, land users consents, map and supporting documents are all attached for your information and reference.

cc: Project file

CONSENT 2

(Compensation for damages)

**CONSENT TO USE
NAVAJO TRIBAL LANDS**

TO WHOM IT MAY CONCERN:

I, Marie Shepherd, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit **FNF Construction, Inc., 115 S. 48th Street, Tempe, Arizona 85281** to use a portion of my land use area for the following purpose(s) **Borrow Permit of 26.436 acres, FNF will reopen & expand existing Ganado Lake Pit to extract borrow materials for the ADOT SR264 MP 450-459.02 road project, Pit located in SE/4 of Section 13, T27N, R26E, G&SRBM, Apache County, Arizona, as shown on the map showing the location of the proposed project on the back of this consent form.**

My consent is given subject to the receipt of compensation of \$1,423.60
(Borrow Pit 26.436 ac x \$150/ac = \$3,965.40 = Haul Road
~~2.038 ac x \$150. ac = \$305.40 = \$4,270.80 / 3 Landusers~~), which I acknowledge as good and adequate compensation for the diminishment in value of my land use rights as a result of the above-referenced project as proposed.

REMARKS:

5/15/15 [Signature] 12 4 17-19-06
Date Land User Signature/Thumbprint Social Security No. Census No. Permit No.
PO Box GANADO AZ 86505
Address (P.O. Box, City, State, Zip, Telephone No.)

WITNESS: _____

5/18/15 [Signature] 17.5
Date Grazing Committee or Land Board Member District No.

Acknowledgement of Field Agent

I acknowledge that the contents of this consent form was read// or fully explained to to the land user in Navajo to or English// (Check where applicable)

[Signature]
Field Agent Signature

CONSENT 2

(Compensation for damages)

**CONSENT TO USE
NAVAJO TRIBAL LANDS**

TO WHOM IT MAY CONCERN:

I, Beverly J. Hardy, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit **FNF Construction, Inc., 115 S. 48th Street, Tempe, Arizona 85281** to use a portion of my land use area for the following purpose(s) **Borrow Permit of 26.436 acres, FNF will reopen & expand existing Ganado Lake Pit to extract borrow materials for the ADOT SR264 MP 450-459.02 road project, Pit located in SE/4 of Section 13, T27N, R26E, G&SRBM, Apache County, Arizona, as shown on the map showing the location of the proposed project on the back of this consent form.**

My consent is given subject to the receipt of compensation of \$1,423.60

(Borrow Pit 26.436 ac x \$150/ac = \$3,965.40 + Haul Road
~~2.038 ac x \$150. ac = \$305.40 = \$4,270.80 / 3 Land users~~) which I acknowledge as good and adequate compensation for the diminishment in value of my land use rights as a result of the above-referenced project as proposed.

REMARKS:

05-15-15 Beverly J. Hardy 17-0215
Date Land User Signature/Thumbprint Social Security No. Census No. Permit No.
P.O. Box Ganado, Arizona 86505
Address (P.O. Box, City, State, Zip, Telephone No.)

WITNESS: _____

5-18-15 Dickie Smith 17-5
Date Grazing Committee or Land Board Member District No.

Acknowledgement of Field Agent

I acknowledge that the contents of this consent form was read// or fully explained ☒ to the land user in Navajo ☒ or English// (Check where applicable)

Ether Lee
Field Agent Signature

CONSENT 2

(Compensation for damages)

CONSENT TO USE
NAVAJO TRIBAL LANDS

TO WHOM IT MAY CONCERN:

I, Sharon Salabye, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit **FNF Construction, Inc., 115 S. 48th Street, Tempe, Arizona 85281** to use a portion of my land use area for the following purpose(s) **Borrow Permit of 26.436 acres, FNF will reopen & expand existing Ganado Lake Pit to extract borrow materials for the ADOT SR264 MP 450-459.02 road project, Pit located in SE/4 of Section 13, T27N, R26E, G&SRBM, Apache County, Arizona, as shown on the map showing the location of the proposed project on the back of this consent form.**

My consent is given subject to the receipt of compensation of \$1,423.60
(Borrow Pit 26.436acx\$150/\$3965.40 + Rd 2.038x150/\$305.40=
\$4,270.80 / 3 Land users) which I acknowledge as good and
adequate compensation for the diminishment in value of my land use rights as a
result of the above-referenced project as proposed.

REMARKS:

5/15/15 Sharon Salabye 17-03-15
Date Land User Signature/Thumbprint Social Security No. Census No. Permit No.
P.O. Box Ganado, Az 86505
Address (P.O. Box, City, State, Zip, Telephone No.)

WITNESS: _____

5.18.15 Diana Smith 175
Date Grazing Committee or Land Board Member District No.

Acknowledgement of Field Agent

I acknowledge that the contents of this consent form was read// or fully explained ☒ to the land user in Navajo ☒ or English// (Check where applicable)

Eckley Kue
Field Agent Signature

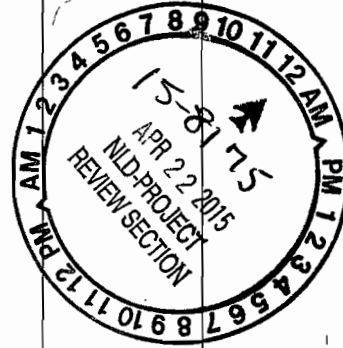
FNF CONSTRUCTION, INC.

29975

NAVAJO NATION

CHECK NO. 3057626

TRANS NUMBER	REFERENCE	DATE	DESCRIPTION	GROSS	DISCOUNT TAKEN	RETAINAGE	PREVIOUS PAID+DISCOUNT	BALANCE	NET AMOUNT
415 214	41015	4/10/15	1639 REVOCABLE USE P	500.00	0.00	0.00	0.00	0.00	500.00
29975	VENDOR NO.	TOTALS		500.00	0.00	0.00	0.00	0.00	500.00



CONSTRUCTION, INC.

115 South 48th Street • Tempe, AZ 85281

Five hundred and xx / 100 Dollars

WELLS FARGO BANK, N.A.
PHOENIX, AZ

11-24
1210(B)

DATE	CHECK NO.	AMOUNT
4/15/15	3057626	\$500.00

PAY
TO THE
ORDER
OF

NAVAJO NATION

FNF CONSTRUCTION, INC.
TWO SIGNATURES REQUIRED OVER \$1000.00
VOID IF NOT CASHED WITHIN 6 MONTHS

[Handwritten signatures]

WARNING: Do not accept this document unless you can see a true watermark. Hold to light to view.

3057626 121000248 4121038814



APPROVED

THE NAVAJO NATION DIVISION OF NATURAL RESOURCES Water Code Administration

P.O. Box 678 • Fort Defiance, Arizona 86504 • (928) 729-4132 • FAX: (928) 729-4421

BEN SHELLY
PRESIDENT

REX LEE JIM
VICE PRESIDENT

PRE-PAYMENT OR PROMPT PAYMENT OF INVOICE IS REQUIRED FOR VALIDITY

Water Source: Pipestand Pond, Ganado, Operated by Apache

County District II (Water and Land owned by the

PROVISIONAL PERMISSION TO USE OR IMPORT WATER Navajo
Must remain in compliance with District II requirements at all times. Nation.

-Issued in Response to a Verified Pressing or Emergency Need-

VALID ONLY FOR THE DATES OF 5/14/15 **THROUGH** 8/31/16

Issued to: Parker Brownell (Responsible Party; sign at lower left)

Title: Project Facilitator

As agent for: FNF Construction

Email Address: ARosar@fnfinc.com

Address: 115 S. 48th St.

Tempe, AZ 85281

Phone: 480-784-2910

Fax: -968-7580 Water Hauler: Same or agent

PURPOSE & VOLUME:

Widening of Hiway 264 for about 10 miles, from Ganado east. 5,000,000 gallons over the term, overage will be reported. Permittee and District II will finalize their water access plans, as pre-approved by this office.

Conditions-This is not a standard Navajo Nation water use permit, but is temporary permission to use water. It is issued to the responsible party for the limited time designated above in response to a stated pressing or emergency need. In this case it is for: Notice to proceed issuance is imminent.

The responsible party, by accepting this temporary permit, agrees to adhere to all applicable provisions of the Navajo Nation Water Code, and any other applicable laws and regulations.

S: Parker Brownell
Responsible Party
(Must be signed to be valid)

S: Jack Utter
Water Code Administrator or Delegated

Print name: PARKER BROWNELL

Print name: Jack Utter

Date: MAY 14, 2015

Date: 5/13/15

Fax or E-Mail back right after signing!

WATER ACCESS AGREEMENT

Preamble

This Water Access Agreement ("Agreement") is entered into this ~~14th~~ day of May, 2015, by Apache County District II ("District II"), whose address is P.O Box 1170, Fort Defiance, AZ 86504, and FNF Construction, Inc. ("FNF"), whose address is 115 S. 48th St., Tempe, AZ 85281: collectively "the Parties."

Assurances

The following assurances constitute matters accepted by both Parties, and are incorporated herein.

A. District II represents and warrants it has authority to allow construction contractors to access water from the District II-administrated well and holding-pond complex immediately south of Ganado Lake. Such contractors must also obtain appropriate water use permits from the Navajo Nation Water Code Administration ("WCA") in Fort Defiance before accessing any water. (WCA: 928-729-4132).

B. FNF is awarded Arizona Department of Transportation Project # HSIP-STP-264-A(217)T/H813301C (Project) located on State Route 264 between mileposts 450 and 459.02.

Agreement

NOW, THEREFORE, the Parties concur as follows:

1. District II agrees to allow FNF to access water from the District II-administered pipestand/holding pond site ("holding pond," just south of Ganado Lake) for road construction purposes, along with reasonable access to the holding pond site for the term of this Agreement.
2. FNF agrees to obtain a Water Use Permit ("WUP") from the Navajo Nation Water Code Administration, as required by law.
3. FNF will install a hurricane or transfer pump and meter at the holding pond for FNF's use. FNF will not be responsible for damage caused to District II's own hurricane or transfer pump by others because FNF and its subcontractors will not be using it.
4. The quantity of water pumped will be metered to determine the quantity of use. Reasonably expected water use over the term of the permit is 5,000,000 gallons, plus or minus.

5. The term of this Agreement will be for the period of time necessary for FNF to complete the Project, and will coincide with the term of the Navajo Nation WUP.
6. FNF will pay District II a \$5.00 dollars per thousand gallons operations fee for water pumped from the holding pond. Payment to District II will be made on a monthly basis (in a governmentally appropriate manner, to be identified by District II) for water used the previous month, based on the quantities of water measured by the FNF meter.
7. To eliminate confusion and potential and costly inaction in the event of a well pump failure, or other pumphouse equipment failure, FNF will be responsible for maintenance/repair of the well pump and related pump and pumphouse equipment during the term of FNF's access to, and use of, the holding pond (which has a capacity of about 100,000 gallons, plus or minus). With any such failure, a brief repair proposal shall be promptly submitted to District II and approved before repairs proceed. Submission may be in person or by facsimile or e-mailed pdf scan. The WCA (representative of the owner of the well and water, i.e., the Navajo Nation) will also be informed and may or may not have to approve the action, depending on the nature of the needed repair(s). This shall be determined by the WCA. Yet both District II and the WCA shall promptly make their determinations within 24 hours of a bona fide contact by FNF; and District II and the WCA may respond in person, by telephone, or by e-mail—with at least an e-mail confirmation. If decisions are delayed past the 24 hours by either District II or the WCA, the non-delaying agency may make the determination. In the event of a disagreement between District II and the WCA, a District II decision regarding the personal property of District II (e.g., pump, drop pipe, wire, switch box, etc.) shall prevail. In decision conflicts where the real property of the Nation is involved (as Navajo Nation law defines real property) and is affected, the WCA shall prevail. If both District II and the WCA fail to respond to FNF within the 24 hour period, then FNF may make a workman-like decision for necessary repairs, and proceed with getting necessary repairs done consistent with appropriate law and regulations and standards of the industry that are applicable to water well, pumphouse, and related equipment repairs.
8. FNF will be responsible for other equipment damage caused by FNF and its subcontractors under this Agreement, and not already covered in provision 7 above. FNF will not be responsible for contactors using the District II holding pond, etc., that are not subcontractors of FNF.
9. FNF will be responsible for monitoring the surface equipment located at the District II-administered holding pond site, and keep District II timely informed of any noteworthy damages, developments, or changes.

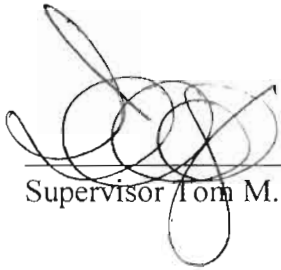
10. FNF may withdraw up to 45,000 gallons per day from the holding pond (if available), and will alert District II at least 24 hours ahead of time if more volume is intended to be withdrawn on a certain day or set of days.
11. FNF and District II will discuss ways in which FNF may assist in operating the on/off switch at the pumphouse, and monitoring the proper filling of the holding pond when District II is unable to do this, e.g., late at night, early in the morning, on weekends, etc.
12. District II will retain its senior right to access water from the holding pond under its WUP with the Navajo Nation. FNF will remain junior to only District II. The only time this may change is in the event of an emergency, such as a fire, where one or both of these entities shall defer to emergency needs. On occasion, District II may be an emergency agency working with others and accessing holding pond water for that purpose. The WCA, as part of its general regulatory responsibilities, will work with District II and FNF in determining if and when other smaller volume users may access Navajo Nation water from the holding pond.
13. District II, FNF, and the WCA (not as a party, but solely as a regulatory agency) will be exchanging appropriate contact information (such as staff names, phone numbers, e-mails, etc.) to facilitate communications for this agreement and all related WUPs.
14. Any disagreements between District II and FNF will first be addressed by those two parties.
15. In the event of a bona fide dispute between District II and FNF, that the two parties cannot resolve, either party, or both, shall refer the dispute, in writing (hand-delivered, mailed, and/or emailed) to the WCA for an informal (in the legal sense) administrative determination, in writing, from the WCA. (The WCA, at its discretion, commonly employs informal Peacemaking techniques and Alternative Dispute Resolution as part of its administrative decision making.) That should settle the matter. A dissatisfied party may then submit an informal request, in writing, for a reconsideration to the WCA. A further dissatisfied party may submit an informal administrative petition, in writing, to the Executive Director of the Division of Natural Resources in Window Rock.
16. Any notice under this Agreement may be by electronic means—such as by facsimile or pdf/e-mail—but dispute notifications between the parties shall ultimately and promptly be written and sent by certified mail to the locations in the Preamble, and to Attention of :

Supervisor Tom M. White, Jr., for District II
David James for FNF

17. All parties represent and warrant that they are authorized to execute the Agreement on behalf of the respective parties hereto and do so freely and voluntarily.

IN WITNESS WHEREOF, the Parties hereto have executed the Agreement on the day and year first written above.

Apache County, District II



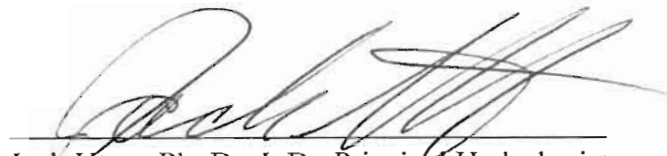
Supervisor Tom M. White, Jr.

FNF Construction, Inc.

By: 

Ang

Regulatory acknowledgment by the Navajo Nation Water Code Administration (not a party to the agreement).



Jack Utter, Ph. D., J. D., Principal Hydrologist,
Navajo Nation Water Code Administration



THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT



ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF EXECUTIVE DIRECTOR/ADMINISTRATION

OFFICE OF ENVIRONMENTAL REVIEW

PO BOX 339 WINDOW ROCK ARIZONA 86515 Office: 928/871-7188 Fax: 928/871-7996

Website: www.navajonationepa.org

M E M O R A N D U M

TO: Howard Draper, Program & Project Specialist
Project Review Office
Navajo Land Department
Division of Natural Resources

FROM:

Rita Whitehorse-Larsen, Senior Environmental Specialist
Office of Executive Director/Administration
Office of Environmental Review
NNEPA

DATE: July 8, 2015

SUBJECT: 164 EOR 003982 FNF Construction Inc for Borrow Lease

The FNF Construction Inc., 115 South 48th Street, Tempe, Arizona, 85281, submitted a borrow lease to use 28.474 acres, more or less, of Navajo Nation Trust Lands for borrow lease area for road improvements specifically for Arizona Department of Transportation (ADOT) State Highway 264. FNF Construction, Inc., was awarded ADOT Project Tuba City – Window Rock Hwy (SR 264), Fish Wash – Cross Canyon ADOT Project No. HSIP-STP-264-A(217)T, 264 AP 450, H813301C, located on SR264 between milepost 450 and 459.02. FNF proposes to obtain 39,000 cubic yards of borrow material from Navajo Nation.

Navajo Nation Environmental Protection Agency (NNEPA) reviewed¹ and recommends ***conditional approval*** for the proposed borrow lease at the former borrow source located east of Ganado Lake. FNF Construction, Inc., anticipates only 6.7 acres of borrow material will be excavated and an additional 3.0 acres will be used for equipment parking and material processing. An additional access road will be 1 acre. The total acres of disturbance is 10 acres.

The proposed action is required to meet the following and attain each required permit before commencing any construction activities.

¹ FNF Construction, Inc. Environmental Assessment for Ganado Borrow Source. April 2015.

1. **Navajo Nation Clean Water Act:**

- a. **§401 and 404** are not required for the proposed action. *There are no filling or excavating of a jurisdictional water. Best Management Practices (BMPs) is highly recommended to be in place to prevent sediment runoff. Determined by Patrick Antonio, Principal Hydrologist, NNEPA Water Quality.*
- b. **§402 Navajo Pollutant Discharge Elimination System (NPDES):** The proposed action is greater than 1 acre. FNF Construction, Inc., including sub-contractors are subject to complete the requirements under the Clean Water Act Section 402. *Borrow pits and sand and gravel operations are covered by the federal general permit for storm water discharges associated with industrial activities known as the Multi Sector General Permit (MSGP). Borrow pits is under Sector J for Mineral Mining and Dressing and J1 for Construction Sand and Gravel. Full compliance with the MSGP requirements should adequately protect jurisdictional waters including Ganado Lake. USEPA recently reissued the MSGP that became effective June 4, 2015. Under the MSGP, the discharge authorization date is 30 days after USEPA notifies you that after receiving the Notice of Intent (NOI) and the SWPPP must be prepared before submission of the NOI. The NOI should be submitted to USEPA. ADOT is not the appropriate approval authority for NOI on projects within Navajo Nation. Determined by Patrick Antonio, Principal Hydrologist, NNEPA Water Quality. Technical assistance is available with NNEPA Water Quality Staff in Section 402 application, Stormwater Pollution Prevention Plan (SWPPP), Best Management Practices (BMPs) and Notice of Intent (NOI). All should be submitted to USEPA Region 9 and a copy shall be provided to Patrick Antonio, Principal Hydrologist with NNEPA Water Quality Program. His office phone is 928/871-7185. The SWPPP template can be found online at the following weblink: <http://cfpub.epa.gov/npdes/stormwater/swppp.cfm#template>.*

2. **Navajo Nation Air Pollution Prevention and Control Act:**

- a. The proposed action is not located in an attainment area.
- b. Visibility is good to excellent.
- c. Dust suppression must be implemented in the Best Management Practice.
- d. The Air Quality Control Program: Activity Application must be completed and submitted to NNEPA Operating Permit Program.

3. **Navajo Nation Safe Drinking Water Act:**

- a. No proposed drinking water system is expected to be at the proposed borrow pit site.
- b. No proposed domestic waste water system is expected to be at the proposed borrow pit.
- c. Portable toilet rentals should be provided for construction workers at the expense of FNF Construction, Inc. The portable toilet rentals shall be maintained and protected from vandalism during off working hours and holidays by FNF Construction, Inc.

4. **Navajo Nation Solid Waste Act:**

- a. Do not allow public to take construction waste, cumulatively NNEPA receives complaints and reports on illegal trash dumpings on rural areas and in the waters of the US and Navajo Nation.
- b. The FNF Construction, Inc., is subject to control the solid waste littering and shall provide solid waste bins for construction workers. The bins shall be maintained and protected from vandalism during off working hours and holidays by FNF Construction, Inc.

5. **Navajo Nation Comprehensive, Environmental Response, Compensation and Liability Act (CERLA):**

- a. No hazardous material will be stored, transported, generated and distributed from

the proposed 10 acres borrow pit site.

- b.* According the Navajo CERCLA, petroleum is considered hazardous material and any spills \geq 25 gallons should be reported to NNEPA Office of Executive Director/Administration at 928/871-7692.
- 6. ***Navajo Nation Storage Tank Act (NNSTA) (formerly Underground Storage Tank (UST) Act; amended February 2012):***
 - a.* No storage tanks are proposed on the 10-acre borrow pit site.
 - b.* If there are plans to install underground and/or aboveground storage tanks greater than 100 gallons, the plans must meet the design specifications as outlined by NNEPA Storage Tank Program. The specifications must be approved by the Storage Tank Program. Contact the Storage Tank Program at 928/871-7993 for further technical assistance.
 - c.* NNEPA Storage Tank Program staff will need to be onsite before installing any above and underground storage tanks.
- 7. ***Federal Insecticide Fungicide and Rodenticide Act (FIFRA)/NN Pesticide Act:***
 - a.* The FNF Construction, Inc., is subject to control and prevent the spread of invasive and noxious weeds.
 - b.* Contact the NNEPA Pesticide Program at 928/871-7815/7810 before applying any pesticides and herbicides to control noxious and invasive plant species to ensure the product is in compliance and appropriately applied by a certified and licensed applicator.
 - c.* Pesticide staff will also may need to be onsite to monitor during pesticide/herbicide application.
- 8. ***Others To Contact Within Navajo Nation:***
 - a.* Existing public roads will be used for access during the construction activities.

If there are any questions, you may contact Rita Whitehorse-Larsen at 928/871-7188. Thank you.

Cc: NNEPA Water Quality; Operating Permit Program; Administration chrono file
Contact Person: Tressia Contreras, Environmental Manager, 480-929-6733 tressia@fnfinc.com

BIOLOGICAL EVALUATION & ASSESSMENT
OF
THE GANADO BORROW PIT – SECTION 13, T27N, R26E,
APACHE COUNTY, ARIZONA

PREPARED BY:

ROCKY MOUNTAIN ECOLOGY, LLC
306 ROSALIE DRIVE
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PREPARED FOR:

FNF CONSTRUCTION, INC.
TRESSIA CONTRERAS
115 S. 48TH ST. TEMPE, AZ 85281



APRIL 2015

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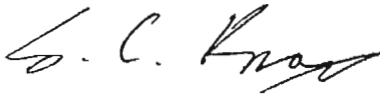
PREPARED FOR:

FNF CONSTRUCTION, INC.
TRESSIA CONTRERAS
115 S. 48TH ST. TEMPE, AZ 85281

APRIL 2015

INVESTIGATOR:

SHAWN C. KNOX
Co-OWNER, ROCKY MOUNTAIN ECOLOGY, LLC



Signature

Table of Contents

1.0 INTRODUCTION.....	1
1.1 Summary.....	1
1.2 Purpose & Need.....	1
2.0 METHODS & CONSULTATION	2
3.0 DESCRIPTION OF ANALYSIS AREA	2
4.0 DESCRIPTION OF PROPOSED PROJECT	5
4.1 Project Location.....	5
4.2 Proposed Action	10
5.0 FEDERAL THREATENED, ENDANGERED, PROPOSED & CANDIDATE SPECIES HABITAT ANALYSIS AND EFFECTS DETERMINATIONS	10
6.0 NAVAJO-LISTED SPECIES HABITAT ANALYSIS AND IMPACT DETERMINATIONS.....	14
7.0 MIGRATORY BIRDS	20
8.0 BALD AND GOLDEN EAGLE PROTECTION ACT.....	20
9.0 ENVIRONMENTAL COMMITMENTS	20
10.0 PERSONNEL.....	21
11.0 CONSULTATION/ COORDINATION	21
12.0 REFERENCES	22
APPENDICES.....	23
Appendix A. Photographs	
Appendix B. Consultation Responses/ Master Species Lists	
TABLES	
Table 1 – Federal Threatened, Endangered, Proposed and Candidate Species Master List for the Project Area in Apache County, Arizona	11
Table 2 – Navajo-Listed Species Master List.....	14
Table 3 – Summary of Contacts Made During Preparation of Document.....	21
FIGURES	
Figure 1 – Vicinity Map.....	6
Figure 2 – Disturbance Area.....	7
Figure 3 – Topographic Map - Survey Area.....	8
Figure 4 – Aerial Photograph - Survey Area	9

1.0 INTRODUCTION

1.1 Summary

FNF Construction, Inc. (FNF) proposes to expand an existing borrow pit near Ganado Lake in Apache County, Arizona (From here on "Ganado Borrow Pit"). The project is located in the SW1/4 of Section 13, Township 27 North, Range 26 East of the Gila and Salt River Base and Meridian (Figure 1; Appendix A. Photographs). The proposed Ganado Borrow Pit would require vegetation clearance and mining of borrow material on 10.7 acres (9.7 for the pit and 1.0 for the access road) (Figure 2). The material would be used for reconstruction of Arizona State Route 264 (SR 264) between mileposts (MP) 450 and 459.02. The Project is located on Tribal Trust Land. The project (#HSIP-STP-264-A(217)T) is funded by the Federal Highway Administration (FHWA), though it is administered by the Arizona Department of Transportation (ADOT). The total funding amount is \$12,308,985.00.

Rocky Mountain Ecology, LLC (RME) was contracted to prepare this Biological Evaluation and Assessment (BE/BA) in compliance with Section 7 of the Endangered Species Act (ESA) (19 U.S.C. 1536 (c), 50 CFR 402.12 (F) and 402.14 (c)) and other relevant Federal, State and Tribal laws and regulations. This BE/BA discloses and analyzes impacts associated with the disturbance activities related to mining borrow material at the project location.

1.2 Purpose & Need

The purpose of the Proposed Action is to allow FNF to mine borrow material from the Ganado Borrow Pit, in support of SR 264 reconstruction activities between MP 450 and 459.02 (Fish Wash to Cross Canyon).

The need for the action is to mine the borrow material, which would be used to support highway rehabilitation, widening and bridge replacement work. The highway within the project corridor has deteriorated in numerous locales, including Fish Wash Bridge, which poses safety concerns at present.

This BE/BA has been prepared to analyze impacts and determine effects of the Proposed Action on federally proposed, threatened, endangered, candidate, and species of concern, and on species listed on the Navajo Endangered Species List (NESL). Specifically, this BE/BA would provide knowledge regarding protected, and assist the proponent in determining if formal consultation with the U.S. Fish and Wildlife Service (USFWS) is prudent. This document would also aid in determining if the Proposed Action would lead

toward the federal listing of any candidate species on the Endangered Species Act of 1973 as amended. This BE/BA adheres to requirements specified in Section 7 of the Endangered Species Act (ESA) (19 U.S.C. 1536 (c), 50 CFR 402.12 (F) and 402.14 (c)).

2.0 METHODS & CONSULTATION

The USFWS list of proposed, threatened, endangered and candidate species was evaluated prior to fieldwork using the USFWS Information, Planning and Conservation (IPaC) System website (ecos.fws.gov/ipac) (Table 2). Moreover, NESL species were evaluated and reviewed in correspondence with the Navajo Nation Department of Fish and Wildlife (NNDFW) (Appendix B. Consultation Responses/ Master Species Lists). Effect Determinations were made for federally listed species based on analysis of habitat requirements, and field verification (Table 2). A Determination of Impacts was made for NESL species, also based on analysis of habitat requirements, and field verification (Table 3).

RME staff conducted field reconnaissance of the project area on 1 April 2015. All global positioning system (GPS) coordinates were collected using the Universal Transverse Mercator (UTM) system in the North American Datum 1983 (NAD 83) projection. The area surveyed totaled approximately 28.47 acres (Figures 3 & 4), which included the haul road. *The survey area was significantly larger than the 10.7-acre proposed disturbance area.* Habitat suitability for all species listed within Tables 2 and 3 was ascertained in the field. Dominant vegetation communities and common plant and animal species noted within the project area are described in Section 3.0. Photographs of the area are included in Appendix A.

3.0 DESCRIPTION OF ANALYSIS AREA

The project area is located on the Colorado Plateau in Apache County, Arizona. Elevations within the project area range from 6,460 to 6,503 feet above sea level (southwest and northeast corners, respectively), with annual precipitation of 11.06 inches. Mean annual temperatures are approximately 17° to 89° degrees Fahrenheit (US Climate Data 2015). The average slope across the site ranges from 3 to 8 percent.

The project area is located within the Dinétah Tablelands Subregion of the Arizona-New Mexico Plateau Ecoregion (USEPA 2013). Specifically, the site is located just east of Ganado Lake. Drainage through the project area flows southwest, and historically flowed into the Pueblo Colorado Wash, located below Ganado Lake Dam. Pueblo Colorado Wash eventually flows into the Little Colorado River, over 60 miles southwest of the Project Area.

The project area is located just east of Ganado Lake, which had standing water at the time of the survey. The project area occurs within a zone that harbors plant species indicative of the Great Basin Desert Scrub (Brown 1980). The site is dominated by a blue grama (*Bouteloua gracilis*) – sand dropseed (*Sporobolus cryptandrus*) – shadscale saltbush (*Atriplex confertifolia*) – green rabbitbrush (*Chrysothamnus Greenei*) – big sagebrush (*Artemisia tridentata*) – one-seed juniper (*Juniperus monosperma*) – Utah juniper (*Juniperus utahensis*) association. Pinyon pine (*Pinus edulis*), snakeweed (*Gutierrezia sarothrae*), prickly pear (*Opuntia polyacantha*), Mormon tea (*Ephedra cutleri*), narrowleaf yucca (*Yucca angustissima*), Indian ricegrass (*Achnatherum hymenoides*), black grama (*Bouteloua eriopoda*) and sandhill muhly (*Muhlenbergia pungens*) are also present throughout. Disturbed areas are dominated by species such as Russian thistle (*Salsola kali*) and globemallow (*Sphaeralcea parvifolia*). Salt cedar (*Tamarix* spp.) is present near the western project boundary. Russian olive (*Elaeagnus angustifolia*) is present within the historic Ganado Lake Borrow pit area. No standing water was observed within the survey area, nor was any evidence of wetland vegetation.

Soils within the project area include the Penistaja family-Bettonie complex (80%), common on 1 to 10 percent slopes; and the Aquima-Hawaikuh complex (20%), common on 1 to 5 percent slopes. Penistaja family-Bettonie complex soils are located on fan terraces with parent material from eolian deposits and fan alluvium derived from sandstone, and/or eolian deposits and fan alluvium derived from sandstone and shale. These are well-drained soils with no frequency of flooding or ponding and surface horizons dominated by fine sandy loams (NRCS 2015). Aquima-Hawaikuh complex soils are located on fan remnants and stream terraces with parent material from fan alluvium over stream alluvium derived from sandstone and shale. These are well-drained soils with no frequency of flooding or ponding (NRCS 2015), and surface horizons dominated by silty clay loams.

No hydric soils are present, nor do prime or unique farmlands occur within the project area (NRCS 2015). Range production on this site averages between 700 and 800 pounds of forage per acre, per year (NRCS 2015).

Wildlife in the vicinity of the project area includes various small mammals, diverse avifauna, reptiles, amphibians, and big game species (Brown and Lowe 1980). Wildlife typical of the general area include coyotes (*Canis latrans*), desert cottontails (*Sylvilagus audubonii*), kangaroo rats (*Dipodomys* spp.), common ravens (*Corvus corax*), turkey vultures (*Cathartes aura*), mourning doves (*Zenaidura macroura*), red-tailed hawks (*Buteo jamaicensis*), bull snakes (*Pituophis catenifer*), and whiptail lizards (*Cnemidophorus* spp.). Other small mammals with potential to occur on the project site that could serve as prey for raptor species include the dwarf shrew (*Sorex nanus*), pocket mice (*Perognathus* spp.), kangaroo rats (*Dipodomys* spp.), pocket gophers (*Thomomys* spp.), various mice

(*Peromyscus* spp.), and woodrats (*Neotoma* spp.). Small mammal burrows were distributed throughout the project area, though no prairie dog (*Cynomys gunnisoni*) burrows were observed throughout. Moreover, no burrowing owls (*Athene cunicularia*) or their burrows were observed during the field survey.

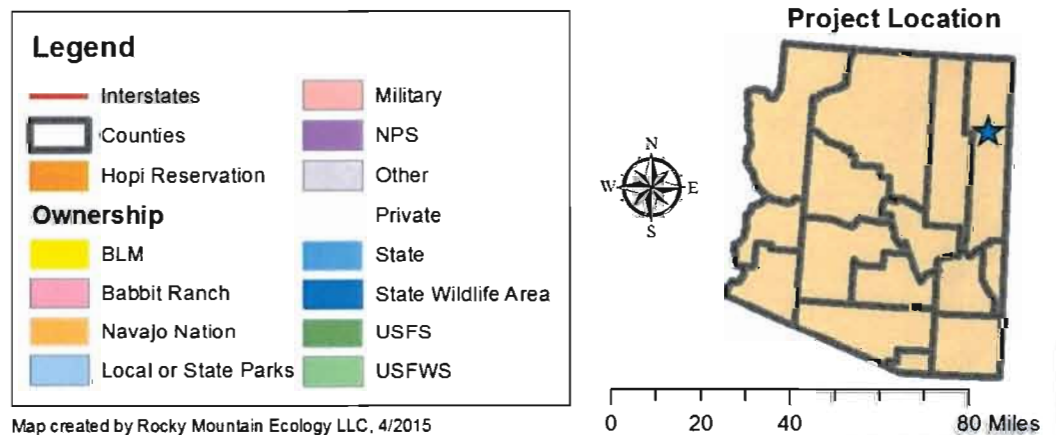
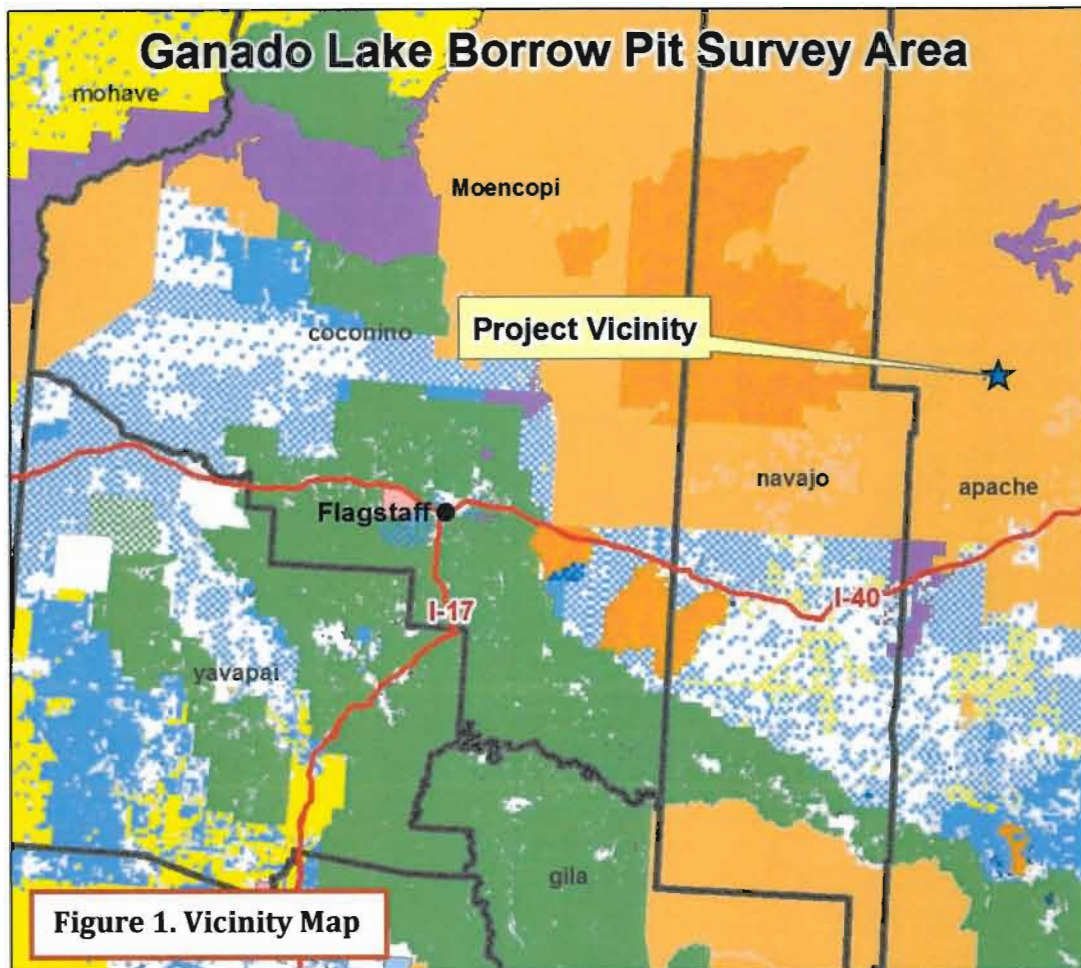
Wildlife observed within the survey area include fence lizards (*Sceloporus undulatus*), coyote, black-tailed jackrabbits (*Lepus californicus*) and common ravens. American white pelicans (*Pelecanus erythrorhynchos*), Canada geese (*Branta canadensis*), mallard ducks (*Anas platyrhynchos*) and other undetectable waterfowl were observed outside of the survey area, within Ganado Lake.

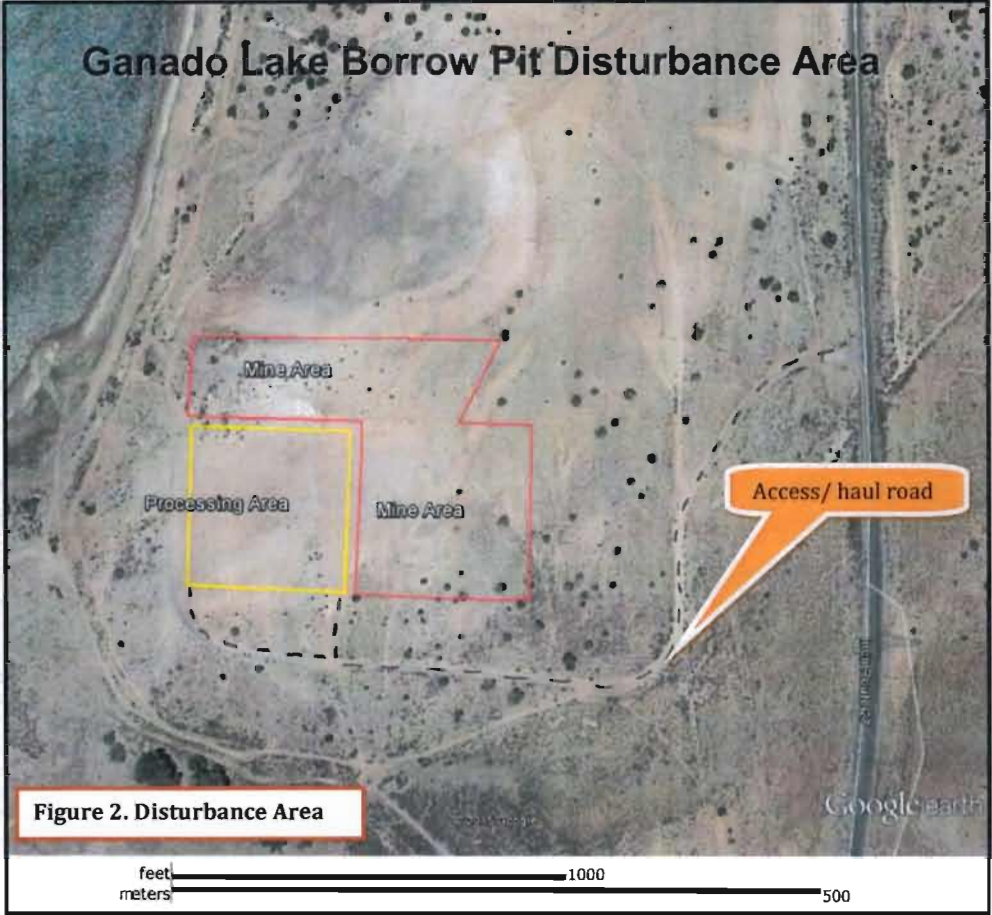
According to the Navajo Natural Heritage Program, no raptor nests are known within three miles of the project area (Appendix B – Consultation Responses/ Master Species Lists).

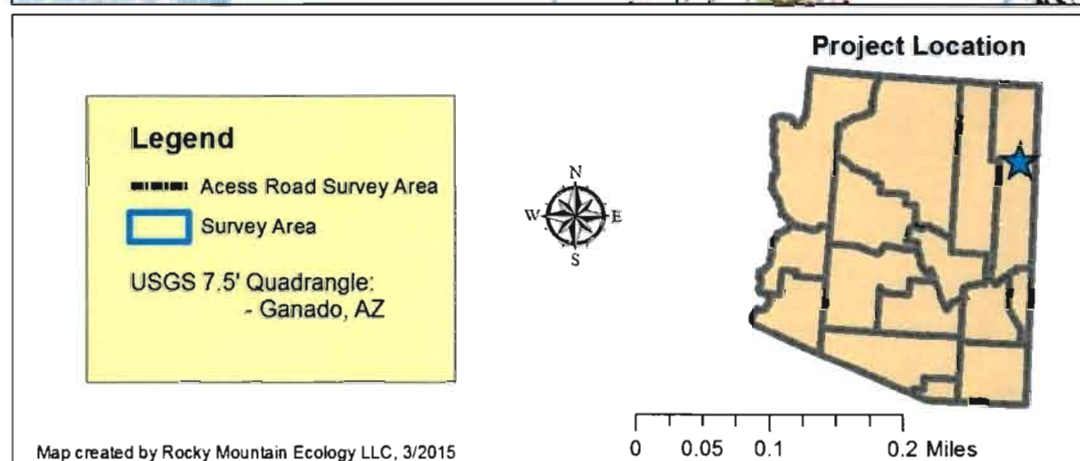
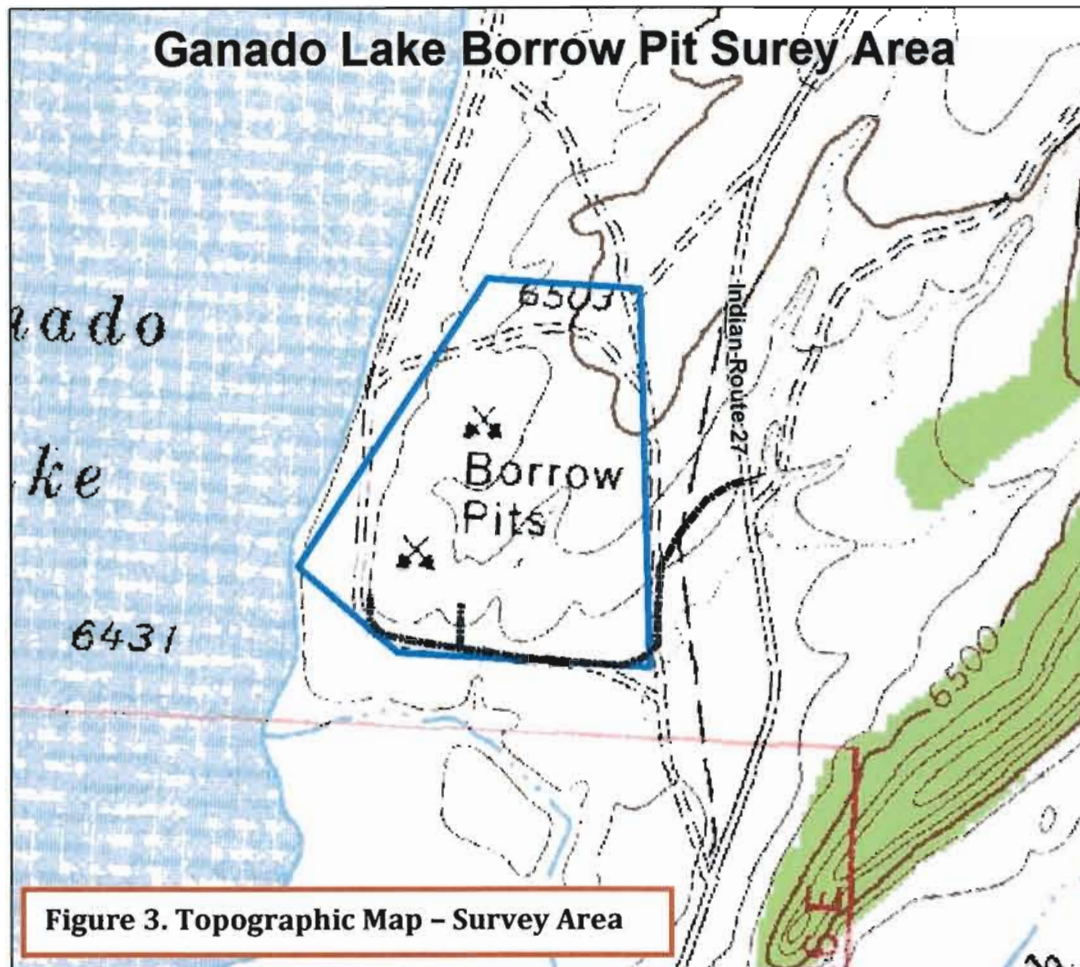
4.0 DESCRIPTION OF PROPOSED PROJECT

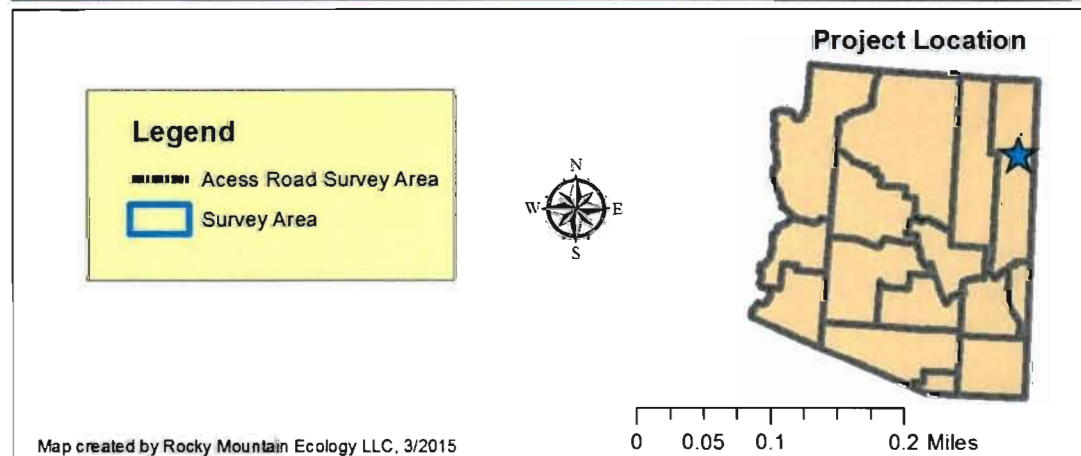
4.1 Project Location

The project is located just northeast of Ganado, AZ within Section 13 of Township 27 North, Range 26 East, on Navajo Tribal Trust lands in Apache County, AZ. Access to the site would be from Bureau of Indian Affairs (BIA) Route 27. Center coordinates are provided in the Universal Transverse Mercator system, in North American Datum 1983, Zone 13: 91883 E, 3964332 N. The project is mapped on the Ganado, AZ USGS 7.5 minute quadrangle (Figure 3).









4.2 Proposed Action

Expansion of an existing borrow pit by the proponent – FNF, is proposed near Ganado Lake in Apache County, Arizona. The project is located in the SW1/4 of Section 13, Township 27 North, Range 26 East of the Gila and Salt River Base and Meridian (Figures 1 – 3; Appendix A. Photographs). The proposed Ganado Borrow Pit would require clearance of 10.7 acres (9.7 for the pit and 1.0 for the access road). The Project is located on Tribal Trust Land. The project would occur approximately between 1 July and 31 December 2015.

The material would support reconstruction of SR 264 between MP 450 and 459.02. The material would be used for rehabilitation, widening and bridge replacement. Specifically, the work would include overlaying the existing pavement with asphaltic concrete, shoulder widening with asphaltic concrete aggregate base, placing asphalt-rubber/ asphalt-concrete friction coarse (AR-ACFC), and construction of a new Fish Wash Bridge to replace the existing bridge. Further, the work would include construction of guardrail, installation of new pipes, extension of the existing pipes, installation of barbed wire fence and cattle guards, pavement markings and other related work.

Up to 39,000 cubic yards of material would be excavated from the 10.7-acre project area. Excavation of the material would entail the use of bulldozers, front-end loaders, trackhoes, backhoes and other heavy equipment as necessary. Upon site closure, it would be reclaimed and reseeded with a native seed mix approved by the ADOT.

5.0 FEDERAL PROPOSED, THREATENED, ENDANGERED AND CANDIDATE SPECIES EVALUATED

Based on the field survey and verification with the master species list for Apache County (Table 2), no suitable habitat exists for federal proposed, endangered, threatened, or candidate species within the project area. All species listed on the USFWS IPAC consultation letter (Appendix B) for Apache County were analyzed in Table 2, below.

Table 1. Federal Threatened, Endangered, Proposed and Candidate Species List for the Project Area, Apache County, Arizona
 (Source: <http://ecos.fws.gov/ipac/wizard/trustResourceList!prepare.action>; Appendix B)

Birds	Status	Critical Habitat	Habitat Present	Habitat Requirements	Affected Habitat Description & Effects (Indirect, Direct, Cumulative)	Effect Determination
California condor (<i>Gymnogyps californianus</i>); Population: Entire, except where listed as an experimental population	E	Final designated critical habitat	No	"Nests within walls of major river canyons or tall, steep cliffs within desert scrub and grasslands. (Mikesic and Roth 2008). Only two extant populations are currently known: Southern Californian and Northern Arizona. Condors have not been documented breeding on the Navajo Nation, but are known to roost in Marble Canyon (Mikesic and Roth 2008).	The project area does not have significant cliffs that could support California condors. The nearest marginally suitable cliffs are over three miles east near Round Top. The closest Critical Habitat is hundreds of miles away. No direct, indirect or cumulative effects to populations or individuals of this species are anticipated from the Proposed Action, due to the lack of nesting habitat.	<u>No effect</u> – The Proposed Action would have no effect on the California condor, or on Critical Habitat.
Southwestern Willow flycatcher (<i>Empidonax traillii extimus</i>) Population: Entire	E	Final designated critical habitat	No	This species prefers multi-layered riparian zones (BISON-M 2015). Flycatchers are known to form territories and nest in very dense riparian vegetation ranging in height from about 12 to 29 feet. These habitats are most frequently dominated by willow but may also contain cottonwood, Russian olive and/or saltcedar. The primary habitat requirement is for very dense twig structure at the 12- to 29-foot height, plus proximity to water.	The project area does not contain any of the habitat structural or functional features. Specifically, there is no riparian habitat component within the project area. The Ganado lakeshore habitat does not harbor any of the structural features required. The closest Critical Habitat is 40 miles away north in the San Juan River valley. No indirect, direct or cumulative effects would be incurred from the Proposed	<u>No effect</u> – The Proposed Action is would have no effect on the Southwestern Willow Flycatcher, or on Critical Habitat.

					Action, due to the lack of habitat.	
Yellow-Billed Cuckoo (<i>Coccyzus americanus</i>) Population: Western U.S. DPS	T	Proposed	No	Western cuckoos breed in large blocks of riparian habitats, particularly woodlands with cottonwoods (<i>Populus fremontii</i>) and willows (<i>Salix</i> sp.). Dense understory foliage appears to be an important factor in nest site selection. This species occurs along waterways in lowland deciduous woods and thickets throughout New Mexico (BISON-M 2015).	The project area does not contain any of the habitat structural or functional features. Specifically, there is no riparian habitat component within the project area. The Ganado lakeshore habitat does not harbor any of the structural features required. The closest Critical Habitat is over 100 miles away in Northwestern New Mexico. No indirect, direct or cumulative effects would be incurred from the Proposed Action, due to the lack of habitat.	No effect – The Proposed Action is would have no effect on the yellow-billed cuckoo, or on Proposed Critical Habitat
Fishes						
Zuni bluehead sucker (<i>Castostomus discobolus yarrowi</i>)	E	Proposed	No	Zuni bluehead suckers occur within perennial streams of the Southwestern U.S. They utilize stream reaches with shade and pool and riffle habitats with coarse substrates. This species is generally found between 2,000 and 6,760 ft in elevation. They are known to occur in Kin Li Chee Creek in Arizona. (AZDGD 2015).	The project area does not contain any of the habitat structural or functional features described above (i.e., perennial water). The proposed disturbance would occur > 300 ft from the Ganado lakeshore (Figure 2), and thus would not impact it. The closest Proposed Critical Habitat is less than ten miles away to the Southeast in the Kinlichee Creek Unit. No indirect, direct or cumulative effects would be incurred from the Proposed	No effect – The Proposed Action would have no effect on the Zuni bluehead sucker, or on Proposed Critical Habitat.

					Action, due to the lack of habitat.	
Roundtail chub (<i>Gila robusta</i>); Population: Lower Colorado River Basin	C	No	No	This species occurs within the Little Colorado River, the Bill Williams river basin, the Salt River, the Verde River, Arivaipa Creek and Eagle Creek within Arizona (AZDGF 2015). It breeds in spring and early summer. "Adults inhabit the most permanent water in cool to warm water mid-elevation streams, typically using pools and eddies, adjacent to rapids and boulders" (Mikesic and Roth 2008).	The project area does not contain any of the habitat structural or functional features described above (i.e., perennial water). The proposed disturbance would occur > 300 ft from the Ganado lakeshore (Figure 2), and thus would not impact it. No indirect, direct or cumulative effects would be incurred from the Proposed Action, due to the lack of habitat.	<u>Not Likely to jeopardize</u> – The Proposed Action is not likely to jeopardize the continued existence of the roundtail chub.
Mammals						
Black-footed ferret (<i>Mustela nigripes</i>)	Exp	No	No	"Medium to large active prairie dog towns (> 197ac) or complex of towns. Prairie dogs are their main food source and burrows are used for denning and rearing young." The species historically utilized plains, desert grassland and desertscrub habitats" (Mikesic and Roth 2008). However, the species has been extirpated across its range.	No prairie dogs or prairie dog burrows were located during the field survey. No indirect, direct or cumulative effects would be incurred from the Proposed Action, due to the lack of prey base, and thus, suitable habitat.	<u>No effect</u> – The Proposed Action would have no effect on the black-footed ferret.
Reptiles						
Northern Mexican gartersnake (<i>Thamnophis eques megalops</i>)	T	Proposed	No	The species is found in both lotic and lentic habitats and occurs up to 8,500 ft in elevation. It forages along the banks of waterbodies and feeds primarily upon fish and leopard frogs (USFWS	The project area does not contain any of the habitat structural or functional features described above (i.e., lotic or lentic habitats). The closest Proposed	<u>No effect</u> – The Proposed Action would have no effect on the Northern Mexican gartersnake

				2015b).	Critical Habitat is approximately 120 miles away to the South. No indirect, direct or cumulative effects would be incurred from the Proposed Action, due to the lack of habitat.	
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E = US Endangered PE = US Proposed

T = US Threatened PT = US Proposed

C = US Candidate

Exp: Experimental Population

6.0 NAVAJO-LISTED SPECIES

NESL species data for land-use actions was furnished by NNDFW (Appendix B). The NESL contains taxa from the entire Navajo Nation. NESL species whose distribution includes the project area were analyzed for impacts in Table 3, below.

Table 2. Navajo-Listed Species from the Navajo Endangered Species List
(Source : Consultation Responses – Appendix B)

Birds	Status	Critical Habitat	Habitat Present	Habitat Requirements	Affected Habitat Description & Impacts (Indirect, Direct, Cumulative)	Determination of Impacts
Clark's grebe (<i>Aechmophorus clarkii</i>)	G4	NA	No	"Nests on fresh-water lakes and marshes with extensive areas of open water bordered by emergent vegetation; uses lakes and occasionally small ponds during migration" (Mikesic and Roth 2008)	The project area does not contain any of the habitat structural or functional features described previously (i.e., perennial water). No lakeshore habitat or perennial water would be impacted by the Proposed Action. The proposed disturbance would occur > 300 ft from the Ganado lakeshore (Figure 2), and thus would not impact it. Thus, no indirect, direct or cumulative effects would be incurred from the Proposed	Individuals of this species would not be negatively impacted, and the Proposed Action is not likely to result in a trend toward federal listing, or loss of population viability

					Action, due to the lack of habitat.	
Burrowing owl (<i>Athene cunicularia</i>)	G4	NA	Yes	This species inhabits both grassland and scrubland habitat types from elevations of 3,000 to 9,000 ft in elevation (BISON-M 2015). Specifically, burrowing owls inhabit dry, open, shortgrass, treeless plains, often associated with burrowing mammals.	<p>Marginal habitat exists within the scrub habitat at the project area; however no burrows or burrowing owls were located during the field surveys.</p> <p><u>Potential direct effects:</u> No direct impacts are expected.</p> <p><u>Potential indirect effects:</u> Indirect impacts could include loss of up to 10.7 acres of habitat for owls that could otherwise inhabit the landscape in the future.</p> <p><u>Potential cumulative effects:</u> Cumulative effects could consist of habitat degradation from other mining projects, road construction projects, or livestock grazing activities in the surrounding area. However, suitable foraging habitat exists adjacent to the project area and burrowing owls in the vicinity are expected to forage in those locales.</p> <p>Moreover, Environmental Commitments discussed in Section 9.0 would be implemented to avoid or minimize any potential effects.</p>	Individuals of this species would not be negatively impacted, and the Proposed Action is not likely to result in a trend toward federal listing or loss of population viability.
Golden eagle (<i>Aquila chrysaetos</i>)	G3	NA	Yes	"During the breeding season, golden eagles occur primarily in areas of mountain cliffs or canyons. In the West, it is often associated with	Marginal habitat exists within the scrub habitat at the project area; however no steep cliffs exist within or near then project area that would provide nesting	Individuals of this species would not be negatively impacted, and the Proposed Action is not likely to result in

				<p>rimrock terrain adjacent to open desert or grassland areas. Suitable nesting sites may exist within a variety of surrounding habitats, from desert to mountain areas, although dense forests tend to be avoided. In Utah, Golden Eagles nest in grass, shrub, pinyon-juniper, and aspen-conifer habitats. In Arizona, the species prefers desert grasslands and chaparral habitats. Most common nesting areas in New Mexico are steep-walled mountain canyons. Although cliffs are the most common nesting substrate, trees or man-made structures are also sometimes used. Many nests have a wide view of surrounding area or are on prominent escarpments. Proximity to hunting grounds is an important factor in nest-site selection.</p> <p>Golden Eagles typically forage in open grassland or shrubland habitat, and tend to avoid agricultural areas. Although capable of killing large prey, including small ungulates and young domestic livestock, this species subsists primarily on rabbits, hares, ground squirrels, and prairie dogs", (New Mexico Avian Conservation Partners (NMACP) 2014).</p>	<p>habitat. The nearest marginally suitable cliffs are over three miles west near Round Top. No eagles were observed during the field surveys.</p> <p><u>Potential direct effects:</u> No direct impacts are expected.</p> <p><u>Potential indirect effects:</u> Indirect impacts could include loss of up to 10.7 acres of foraging habitat for eagles that could otherwise inhabit the landscape in the future.</p> <p><u>Potential cumulative effects:</u> Cumulative effects could consist of foraging habitat degradation from other mining projects, road construction projects, or livestock grazing activities in the surrounding area. However, suitable foraging habitat exists adjacent to the project area and golden eagles in the vicinity are expected to forage in those locales.</p> <p>Moreover, Environmental Commitments discussed in Section 9.0 would be implemented to avoid or minimize any potential effects.</p>	<p>a trend toward federal listing or loss of population viability.</p>
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Mountain Plover (<i>Charadrius montanus</i>)	G4	NA	Yes	The breeding range of the Mountain Plover includes prairie grassland and open mesa portions of southern Canada, Montana, Wyoming, Colorado, and the northern half of New Mexico. The range may have formerly extended into southern New Mexico, and isolated breeding records exist for west Texas and the central Mexican Plateau. Most of the species population winters in central and southern California, but some birds winter in northern and central Mexico and southern Arizona. The species prefers grassland, semi-desert or badlands with short, sparse vegetation and significant bare areas for nesting. The species is known to breed on the Navajo Nation in New Mexico. Mountain plovers tend to be strongly associated with prairie dog colonies" (NMACP 2014).	<p>Marginal foraging and nesting habitat exists within the grassland habitat components of the project area; however no mountain plovers were located during the field surveys.</p> <p><u>Potential direct effects:</u> No direct impacts are expected.</p> <p><u>Potential indirect effects:</u> Indirect impacts could include loss of up to 10.7 acres of habitat for mountain plovers that could otherwise inhabit the landscape in the future.</p> <p><u>Potential cumulative effects:</u> Cumulative effects could consist of habitat degradation from other mining projects, road construction projects, or livestock grazing activities in the surrounding area. However, suitable foraging habitat exists adjacent to the project area and mountain plovers in the vicinity are expected to forage in those locales.</p> <p>Moreover, Environmental Commitments discussed in Section 9.0 would be implemented to avoid or minimize any potential effects.</p>	Individuals of this species would not be negatively impacted, and the Proposed Action is not likely to result in a trend toward federal listing or loss of population viability.
American Peregrine Falcon (<i>Falco peregrinus anatum</i>)	G4	NA	Yes	"Peregrine Falcons inhabit open spaces usually associated with high cliffs and bluffs overlooking rivers and coasts. Recently, many cities with tall buildings have become	<p>Suitable foraging habitat does occur within the project area; suitable nesting habitat does not. The nearest marginally suitable cliffs are over three miles west near Round Top. No falcons were</p>	Individuals of this species would not be negatively impacted, and the Proposed Action is not likely to result in a trend toward federal listing

				<p>home to some peregrines. Some populations are migratory and travel great distances (as their Latin name implies)" (BISON-M 2015).</p>	<p>observed during the field surveys.</p> <p><u>Potential direct effects:</u> No direct impacts are expected.</p> <p><u>Potential indirect effects:</u> Indirect impacts could include loss of up to 10.7 acres of foraging habitat for falcons that could otherwise inhabit the landscape in the future.</p> <p><u>Potential cumulative effects:</u> Cumulative effects could consist of foraging habitat degradation from other mining projects, road construction projects, or livestock grazing activities in the surrounding area. However, suitable foraging habitat exists adjacent to the project area and peregrine falcons in the vicinity are expected to forage in those locales.</p> <p>Moreover, Environmental Commitments discussed in Section 9.0 would be implemented to avoid or minimize any potential effects.</p>	<p>or loss of population viability.</p>
<p>Bald eagle (<i>Haliaeetus leucocephalus</i>)</p>	G2	NA	No	<p>"Typically nest within trees in forested areas, especially mature and old-growth stands, adjacent to large bodies of water with suitable forage of waterfowl and fish" (Mikesic and Roth 2008). "Winter roost in large trees in forests, river bottoms or near canyon rim</p>	<p>The project area does not contain any of the habitat structural or functional features described previously (i.e., perennial water). No lakeshore habitat or perennial water would be impacted by the Proposed Action. The proposed disturbance would occur > 300 ft from the Ganado lakeshore (Figure 2), and</p>	<p>Individuals of this species would not be negatively impacted, and the Proposed Action is not likely to result in a trend toward federal listing or loss of population viability.</p>

				usually within a few miles of ponds, lakes and rivers with adequate prey" (Mikesic and Roth 2008).	thus would not impact it. Thus, no indirect, direct or cumulative effects would be incurred from the Proposed Action, due to the lack of habitat.	
Southwestern Willow flycatcher (<i>Empidonax traillii extimus</i>)	G2	Final designated critical habitat	No	See Table 2, above	See Table 2, above	See Table 2, above
Mammals						
Black-footed ferret (<i>Mustela nigripes</i>)	G2	NA	No	See Table 2, above	See Table 2, above	See Table 2, above
Reptiles and Amphibians						
Northern leopard frog (<i>Lithobates pipiens</i>)	G2	NA	No	This species occurs from 3280 - 8530 ft in elevation, and in a variety of permanent aquatic habitats where adequate depth provides escape from predators. These habitats include montane springs, streams, ponds, lakes, marshes, stock ponds, and plunge pools of canyon streams (BISON-M 2015).	The project area does not contain any of the habitat structural or functional features described previously (i.e., perennial water). No lakeshore habitat or perennial water would be impacted by the Proposed Action. The proposed disturbance would occur > 300 ft from the Ganado lakeshore (Figure 2), and thus would not impact it. Thus, no indirect, direct or cumulative effects would be incurred from the Proposed Action, due to the lack of habitat.	This species would not be negatively impacted, and the Proposed Action is not likely to result in a trend toward federal listing of loss or population viability

G1 = No longer occur on Navajo Nation, G2 "Endangered" = prospects of survival and recruitment unlikely, G3 "Endangered" = prospects of survival and recruitment likely in jeopardy in future, G4 = NNDFWL lacks sufficient data to make determination of listing in G2 or G3.

7.0 Migratory Birds

Due to the Executive Order 13186, signed on January 10, 2001 by President Clinton, emphasis has been placed on conservation of migratory birds, as defined by the Migratory Bird Treaty Act of 1918. Should vegetation clearance activities be proposed between 1 April and 31 August (i.e., during the avian breeding and nesting period), a migratory bird survey may be required by the Navajo Nation or ADOT within one week of vegetation clearance activities to identify and flag bird nests for avoidance.

8.0 Bald and Golden Eagles

The 1940 Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668-668c), prohibits "take" without a permit, of bald eagles, including their parts, nests, or eggs. The Act provides criminal penalties for persons who "take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle ... [or any golden eagle], alive or dead, or any part, nest, or egg thereof." The Act defines "take" as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb." Disturbance means: "to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior." Other impacts covered under the Act include human-induced alterations around a previously used nest when eagles are not present. If these alterations agitate or bother an eagle (upon its return) such that breeding, feeding or sheltering habitats are disturbed or interrupted, and injury, death or nest abandonment occur, this shall be considered "take."

No eagles were observed within the project area during the field surveys. The closest cliffs that could provide marginally suitable nesting sites are more than three miles away.

9.0 Environmental Commitments

- 1) Impacts to terrestrial habitats would be minimized by limiting heavy equipment operation to the most open area available, and all efforts would be made to minimize damage to native vegetation.
- 2) To avoid direct impacts to migratory birds protected by the Migratory Bird Treaty Act (16 United States Code [USC] 703, et seq.), if deemed necessary by the Navajo Nation or the ADOT, a migratory/ nesting bird survey would be conducted within one week of commencing vegetation clearance (should work occur during the avian nesting period of 1 April – 31 August) to locate and flag any active birds nests for avoidance.

Construction would cease in the location if migratory bird nesting, is observed during the survey and the USFWS and/or Navajo Nation would be notified.

- 3) All stormwater discharges would be evaluated for compliance with National Pollutant Discharge Elimination System (NPDES) guidance, an NPDES permit, and/or a Stormwater Pollution Prevention Plan.
- 7) Existing roads would be used for access (where feasible) to minimize disturbance to vegetation.

10.0 Personnel

Shawn C. Knox

- Principal – Rocky Mountain Ecology, LLC
- Eighteen years of experience in natural resource surveys, environmental compliance and management

Clayton P. Bowers

- Senior Project Manager – Rocky Mountain Ecology, LLC
- Nine years of experience in natural resource surveys, environmental compliance and management

11.0 Consultation/ Coordination

This section includes individuals from the interdisciplinary team that were consulted during the development of this document.

Table 3 - Summary of agencies contacted during preparation of this document.

Organization
Navajo Natural Heritage Program
US Fish and Wildlife Service, Albuquerque Ecological Services
FNF Construction

11.0 References

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APPENDICES

Appendix A. Photographs

Photo 1. View from southeast corner facing northwest.



Photo 2. Road on the west boundary facing south.



Photo 3. View from the west boundary facing east.



Photo 4. Road on the south boundary.



Photo 5. View from the east boundary facing west.



Appendix B. Consultation Responses/ Master Species Lists

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<http://nnhp.nndfw.org>

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02-April-2015

Shawn C. Knox
Rocky Mountain Ecology, LLC
P.O. Box 1441
Bernalillo, NM 87004

SUBJECT: Proposed Ganado Materials Pit

Shawn C. Knox,

NNHP has performed an analysis of your project in comparison to known biological resources of the Navajo Nation and has included the findings in this letter. The letter is composed of seven parts. The sections as they appear in the letter are:

1. **Known Species** – a list of all species within relative proximity to the project
2. **Potential Species** – a list of potential species based on project proximity to respective suitable habitat
3. **Quadrangles** – an exhaustive list of quads containing the project
4. **Project Summary** – a categorized list of biological resources within relative proximity to the project grouped by individual project site(s) or quads
5. **Conditional Criteria Notes** – additional details concerning various species, habitat, etc.
6. **Personnel Contacts** – a list of employee contacts
7. **Resources** – identifies sources for further information

Known Species lists "species of concern" known to occur within proximity to the project area. Planning for avoidance of these species is expected. If no species are displayed then based upon the records of the Navajo Nation Department of Fish and Wildlife (NNDFW) there are no "species of concern" within proximity to the project. Refer to the Navajo Endangered Species List (NESL) Species Accounts for recommended avoidance measures, biology, and distribution of NESL species on the Navajo Nation (http://nnhp.nndfw.org/sp_account.htm).

Potential Species lists species that are potentially within proximity to the project area and need to be evaluated for presence/absence. If no species are found within the Known or Potential Species lists, the project is not expected to affect any federally listed species, nor significantly impact any tribally listed species or other species of concern. Potential for species has been determined primarily on habitat characteristics and species range information. A thorough habitat analysis, and if necessary, species specific surveys, are required to determine the potential for each species.

Species of concern include protected, candidate, and other rare or otherwise sensitive species, including certain native species and species of economic or cultural significance. For legally protected species, the following tribal and federal statuses are indicated: NESL, federal Endangered Species Act (ESA), Migratory Bird Treaty Act (MBTA), and Eagle Protection Act (EPA). No legal protection is afforded species with only ESA candidate, NESL group 4 status, and species listed on the Sensitive Species List. Please be aware of

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these species during surveys and inform the NNDFW of observations. Reported observations of these species and documenting them in project planning and management is important for conservation and may contribute to ensuring they will not be up listed in the future.

In any and all correspondence with NNDFW or NNHP concerning this project please cite the Data Request Code associated with this document. It can be found in this report on the top right corner of the every page. Additionally please cite this code in any biological evaluation documents returned to our office.

1. Known Species (NESL=Navajo Endangered Species List, FE=Federally Endangered, FT=Federally Threatened, FC=Federal Candidate)

Species

None

2. Potential Species

Species

AECL = Aechmophorus clarkii / Clark's Grebe NESL G4
 AQCH = Aquila chrysaetos / Golden Eagle NESL G3
 ATCU = Athene cunicularia / Burrowing Owl NESL G4
 CHMO = Charadrius montanus / Mountain Plover NESL G4
 EMTREX = Empidonax traillii extimus / Southwestern Willow Flycatcher NESL G2 FE
 FAPE = Falco peregrinus / Peregrine Falcon NESL G4
 HALE = Haliaeetus leucocephalus / Bald Eagle NESL G2
 LIPI = Lithobates pipiens / Northern Leopard Frog NESL G2
 MUNI = Mustela nigripes / Black-footed Ferret NESL G2 FE

3. Quadrangles (7.5 Minute)

Quadrangles

Ganado (35109-F5) / AZ

4. Project Summary (EO1 Mile/EO 3 Miles=elements occurring within 1 & 3 miles., MSO=mexican spotted owl PACs, POTS=potential species, RCP=Biological Areas)

SITE	EO1MI	EO3MI	QUAD	MSO	POTS	AREAS
Ganado Lake Borrow Pit	None	None	Ganado (35109-F5) / AZ	None	LIPI, MUNI, HALE, FAPE, EMTREX, CHMO, ATCU, AQCH, AECL	Area 6

5. Conditional Criteria Notes *(Recent revisions made please read thoroughly. For certain species, and/or circumstances, please read and comply)*

- A. **Biological Resource Land Use Clearance Policies and Procedures (RCP)** - The purpose of the RCP is to assist the Navajo Nation government and chapters ensure compliance with federal and Navajo laws which protect, wildlife resources, including plants, and their habitat resulting in an expedited land use clearance process. After years of research and study, the NNDFW has identified and mapped wildlife habitat and sensitive areas that cover the entire Navajo Nation.
The following is a brief summary of six (6) wildlife areas:
1. **Highly Sensitive Area** – recommended no development with few exceptions.
 2. **Moderately Sensitive Area** – moderate restrictions on development to avoid sensitive species/habitats.
 3. **Less Sensitive Area** – fewest restrictions on development.
 4. **Community Development Area** – areas in and around towns with few or no restrictions on development.
 5. **Biological Preserve** – no development unless compatible with the purpose of this area.
 6. **Recreation Area** – no development unless compatible with the purpose of this area.
- None** - outside the boundaries of the Navajo Nation
This is not intended to be a full description of the RCP please refer to the our website for additional information at <http://www.nndfw.org/clup.htm>.
- B. **Raptors** – If raptors are known to occur within 1 mile of project location: Contact Chad Smith at 871-7070 regarding your evaluation of potential impacts and mitigation.
- o **Golden and Bald Eagles**- If Golden or Bald Eagle are known to occur within 1 mile of the project, decision makers need to ensure that they are not in violation of the Golden and Bald Eagle Nest Protection Regulations found at http://nnhp.nndfw.org/docs_reps/gben.pdf.
 - o **Ferruginous Hawks** – Refer to “Navajo Nation Department of Fish and Wildlife’s Ferruginous Hawk Management Guidelines for Nest Protection” http://nnhp.nndfw.org/docs_reps.htm for relevant information on avoiding impacts to Ferruginous Hawks within 1 mile of project location.
 - o **Mexican Spotted Owl** - Please refer to the Navajo Nation Mexican Spotted Owl Management Plan http://nnhp.nndfw.org/docs_reps.htm for relevant information on proper project planning near/within spotted owl protected activity centers and habitat.
- C. **Surveys** – Biological surveys need to be conducted during the appropriate season to ensure they are complete and accurate please refer to NN Species Accounts http://nnhp.nndfw.org/sp_account.htm. Surveyors on the Navajo Nation must be permitted by the Director, NNDFW. Contact Jeff Cole at (928) 871-7068 for permitting procedures. Questions pertaining to surveys should be directed to the NNDFW Zoologist (Chad Smith) for animals at 871-7070, and Botanist (Andrea Hazelton) for plants at (928)523-3221. Questions regarding biological evaluation should be directed to Jeff Cole at 871-7068.
- D. **Oil/Gas Lease Sales** – Any settling or evaporation pits that could hold contaminants should be lined and covered. Covering pits, with a net or other material, will deter waterfowl and other migratory bird use. Lining pits will protect ground water quality.
- E. **Power line Projects** – These projects need to ensure that they do not violate the regulations set forth in the Navajo Nation Raptor Electrocution Prevention Regulations found at http://nnhp.nndfw.org/docs_reps/repr.pdf.

- F. **Guy Wires** – Does the project design include guy wires for structural support? If so, and if bird species may occur in relatively high concentrations in the project area, then guy wires should be equipped with highly visual markers to reduce the potential mortality due to bird-guy wire collisions. Examples of visual markers include aviation balls and bird flight diverters. Birds can be expected to occur in relatively high concentrations along migration routes (e.g., rivers, ridges or other distinctive linear topographic features) or where important habitat for breeding, feeding, roosting, etc. occurs. The U.S. Fish and Wildlife Service recommends marking guy wires with at least one marker per 100 meters of wire.
- G. **San Juan River** – On 21 March 1994 (Federal Register, Vol. 59, No. 54), the U.S. Fish and Wildlife Service designated portions of the San Juan River (SJR) as critical habitat for *Ptychocheilus lucius* (Colorado pikeminnow) and *Xyrauchen texanus* (Razorback sucker). Colorado pikeminnow critical habitat includes the SJR and its 100-year floodplain from the State Route 371 Bridge in T29N, R13W, sec. 17 (New Mexico Meridian) to Neskahai Canyon in the San Juan arm of Lake Powell in T41S, R11E, sec. 26 (Salt Lake Meridian) up to the full pool elevation. Razorback sucker critical habitat includes the SJR and its 100-year floodplain from the Hogback Diversion in T29N, R16W, sec. 9 (New Mexico Meridian) to the full pool elevation at the mouth of Neskahai Canyon on the San Juan arm of Lake Powell in T41S, R11E, sec. 26 (Salt Lake Meridian). All actions carried out, funded or authorized by a federal agency which may alter the constituent elements of critical habitat must undergo section 7 consultation under the Endangered Species Act of 1973, as amended. Constituent elements are those physical and biological attributes essential to a species conservation and include, but are not limited to, water, physical habitat, and biological environment as required for each particular life stage of a species.
- H. **Little Colorado River** - On 21 March 1994 (Federal Register, Vol. 59, No. 54) the U.S. Fish and Wildlife Service designated Critical Habitat along portions of the Colorado and Little Colorado Rivers (LCR) for *Gila cypha* (humpback chub). Within or adjacent to the Navajo Nation this critical habitat includes the LCR and its 100-year floodplain from river mile 8 in T32N R6E, sec. 12 (Salt and Gila River Meridian) to its confluence with the Colorado River in T32N R5E sec. 1 (S&GRM) and the Colorado River and 100-year floodplain from Nautuloid Canyon (River Mile 34) T36N R5E sec. 35 (S&GRM) to its confluence with the LCR. All actions carried out, funded or authorized by a federal agency which may alter the constituent elements of Critical Habitat must undergo section 7 consultation under the Endangered Species Act of 1973, as amended. Constituent elements are those physical and biological attributes essential to a species conservation and include, but are not limited to, water, physical habitat, and biological environment as required for each particular life stage of a species.
- I. **Wetlands** – In Arizona and New Mexico, potential impacts to wetlands should also be evaluated. The U.S. Fish & Wildlife Service's National Wetlands Inventory (NWI) maps should be examined to determine whether areas classified as wetlands are located close enough to the project site(s) to be impacted. In cases where the maps are inconclusive (e.g., due to their small scale), field surveys must be completed. For field surveys, wetlands identification and delineation methodology contained in the "Corps of Engineers Wetlands Delineation Manual" (Technical Report Y-87-1) should be used. When wetlands are present, potential impacts must be addressed in an environmental assessment and the Army Corps of Engineers, Phoenix office, must be contacted. NWI maps are available for examination at the Navajo Natural Heritage Program (NNHP) office, or may be purchased through the U.S. Geological Survey (order forms are available through the NNHP). The NNHP has complete coverage of the Navajo Nation, excluding Utah, at 1:100,000 scale; and coverage at 1:24,000 scale in the southwestern portion of the Navajo Nation. In Utah, the U.S. Fish & Wildlife Service's National Wetlands Inventory maps are not yet available for the Utah portion of the Navajo Nation, therefore, field surveys should be completed to determine whether wetlands are located close enough to the project site(s) to be impacted. For field surveys, wetlands identification and delineation methodology contained in the "Corps of Engineers Wetlands Delineation Manual" (Technical Report Y-87-1) should be used. When wetlands are present, potential impacts must be addressed in an environmental assessment and the Army Corps of Engineers, Phoenix office, must be contacted. For more information contact the Navajo Environmental Protection Agency's Water Quality Program.

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- J. **Life Length of Data Request** – The information in this report was identified by the NNHP and NNDFW's biologists and computerized database, and is based on data available at the time of this response. If project planning takes more than two (02) years from the date of this response, verification of the information provided herein is necessary. It should not be regarded as the final statement on the occurrence of any species, nor should it substitute for on-site surveys. Also, because the NNDFW information is continually updated, any given information response is only wholly appropriate for its respective request.
- K. **Ground Water Pumping** - Projects involving the ground water pumping for mining operations, agricultural projects or commercial wells (including municipal wells) will have to provide an analysis on the effects to surface water and address potential impacts on all aquatic and/or wetlands species listed below. NESL Species potentially impacted by ground water pumping: *Carex specuicola* (Navajo Sedge), *Cirsium rydbergii* (Rydberg's Thistle), *Primula specuicola* (Cave Primrose), *Platanthera zothecina* (Alcove Bog Orchid), *Puccinellia parishii* (Parish Alkali Grass), *Zigadenus vaginatus* (Alcove Death Camas), *Perityle specuicola* (Alcove Rock Daisy), *Symphyotrichum welshii* (Welsh's American-aster), *Coccyzus americanus* (Yellow-billed Cuckoo), *Empidonax traillii extimus* (Southwestern Willow Flycatcher), *Rana pipiens* (Northern Leopard Frog), *Gila cypha* (Humpback Chub), *Gila robusta* (Roundtail Chub), *Ptychocheilus lucius* (Colorado Pikeminnow), *Xyrauchen texanus* (Razorback Sucker), *Cinclus mexicanus* (American Dipper), *Speyeria nokomis* (Western Seep Fritillary), *Aechmophorus clarkia* (Clark's Grebe), *Ceryle alcyon* (Belted Kingfisher), *Dendroica petechia* (Yellow Warbler), *Porzana carolina* (Sora), *Catostomus discobolus* (Bluehead Sucker), *Cottus bairdi* (Mottled Sculpin), *Oxyloma kanabense* (Kanab Ambersnail)

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6. Personnel Contacts

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7. Resources

National Environmental Policy Act

Navajo Endangered Species List:

<http://nnhp.nndfw.org/endangered.htm>

Species Accounts:

http://nnhp.nndfw.org/sp_account.htm

Biological Investigation Permit Application

http://nnhp.nndfw.org/study_permit.htm

Navajo Nation Sensitive Species List

http://nnhp.nndfw.org/study_permit.htm

Various Species Management and/or Document and Reports

http://nnhp.nndfw.org/docs_reps.htm

Consultant List

(Coming Soon)

If you have any questions I may be reached at (928) 871-6472.

Sonja Detsoi, Wildlife Tech.

Natural Heritage Program

Department of Fish and Wildlife

xc: file/chrono



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Arizona Ecological Services Field Office
2321 WEST ROYAL PALM ROAD, SUITE 103
PHOENIX, AZ 85021
PHONE: (602)242-0210 FAX: (602)242-2513
URL: www.fws.gov/southwest/es/arizona/;
www.fws.gov/southwest/es/EndangeredSpecies/lists/

Consultation Code: 02EAAZ00-2015-SLI-0426

April 16, 2015

Event Code: 02EAAZ00-2015-E-00452

Project Name: Ganado Lake Borrow Pit

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The Fish and Wildlife Service (Service) is providing this list under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). The list you have generated identifies threatened, endangered, proposed, and candidate species, and designated and proposed critical habitat, that *may* occur within one or more delineated United States Geological Survey 7.5 minute quadrangles with which your project polygon intersects. Each quadrangle covers, at minimum, 49 square miles. Please refer to the species information links found at http://www.fws.gov/southwest/es/arizona/Docs_Species.htm or <http://www.fws.gov/southwest/es/arizona/Documents/MiscDocs/AZSpeciesReference.pdf> for a quick reference, to determine if suitable habitat for the species on your list occurs in your project area.

The purpose of the Act is to provide a means whereby threatened and endangered species and the habitats upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of Federal trust resources and to determine whether projects may affect federally listed species and/or designated critical habitat. A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If the Federal action agency determines that listed species or critical habitat *may be affected* by a federally funded, permitted or authorized activity, the agency must consult with us pursuant to 50 CFR 402. Note that a "may affect" determination includes effects that may not be adverse and that may be beneficial, insignificant, or discountable. An effect exists even if only one individual or habitat segment may be affected. The effects analysis should include the entire action area, which often extends well outside the project boundary or "footprint" (e.g., downstream). If the Federal action agency determines that the action may jeopardize a *proposed* species or adversely modify *proposed* critical habitat, the agency must enter into a section 7 conference. The agency may choose to confer with us on an action that may affect proposed species or critical habitat.

Candidate species are those for which there is sufficient information to support a proposal for listing. Although candidate species have no legal protection under the Act, we recommend that they be considered in the planning process in the event they become proposed or listed prior to project completion. More information on the regulations (50 CFR 402) and procedures for section 7 consultation, including the role of permit or license applicants, can be found in our Endangered Species Consultation Handbook at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>.

In addition to species listed under the Act, we advise you to consider species protected under the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703-712) and the Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668 *et seq.*). Both laws prohibit the take of covered species. The list of MBTA-protected birds is in 50 CFR 10.13 (for an alphabetical list see <http://www.fws.gov/migratorybirds/RegulationsPolicies/mbta/MBTANDX.HTML>). The Service's Division of Migratory Birds is the lead for consultations under these laws (Southwest Regional Office phone number: 505/248-7882). For more information regarding the MBTA, BGEPA, and permitting processes, please visit the following web site:

<http://www.fws.gov/migratorybirds/mbpermits.html>. Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g. cellular, digital television, radio, and emergency broadcast) can be found at:

<http://www.fws.gov/southwest/es/arizona/CellTower.htm>

Although bald eagles (*Haliaeetus leucocephalus*) are no longer listed under the Act, they are protected under both the BGEPA and the MBTA. If a bald eagle nest occurs in or near the proposed project area, our office should be contacted. An evaluation must be performed to determine whether the project is likely to disturb nesting bald eagles (see <http://www.fws.gov/southeast/es/baldeagle/>) and the Division of Migratory Birds consulted if necessary. The National Bald Eagle Management Guidelines provide recommendations to minimize potential project impacts to bald eagles (see <http://www.fws.gov/midwest/eagle/pdf/NationalBaldEagleManagementGuidelines.pdf>).

Activities that involve streams and/or wetlands are regulated by the U.S. Army Corps of Engineers (Corps). We recommend that you contact the Corps to determine their interest in proposed projects in these areas. For activities within a National Wildlife Refuge, we recommend that you contact refuge staff for specific information about refuge resources.

If your action is on Indian land or has implications for off-reservation tribal interests, we encourage you to contact the tribe(s) and the Bureau of Indian Affairs (BIA) to discuss potential

tribal concerns, and to invite any affected tribe and the BIA to participate in the section 7 consultation. In keeping with our tribal trust responsibility, we will notify tribes that may be affected by proposed actions when section 7 consultation is initiated. For more information, please contact our tribal coordinator, John Nystedt, at (928) 556-2160 or John_Nystedt@fws.gov.

The State of Arizona protects some species not protected by Federal law. We recommend you contact the Arizona Game and Fish Department (AGFD) for animals and Arizona Department of Agriculture for plants to determine if species protected by or of concern to the State may occur in your action area. The AGFD has an Environmental Review On-Line Tool that can be accessed at <http://www.azgfd.gov/hgis/>. We also recommend that you coordinate with the AGFD regarding your project.

For additional communications regarding this project, please refer to the consultation Tracking Number in the header of this letter. We appreciate your concern for threatened and endangered species. If we may be of further assistance, please contact Brenda Smith at 928/556-2157 for projects in Northern Arizona, our general Phoenix number (602/242-0210) for central Arizona, or Jean Calhoun at 520/670-6150 (x223) for projects in southern Arizona.

Sincerely,

/s/

Steven L. Spangle

Field Supervisor

Attachment



United States Department of Interior
Fish and Wildlife Service

Project name: Ganado Lake Borrow Pit

Official Species List

Provided by:

Arizona Ecological Services Field Office
2321 WEST ROYAL PALM ROAD, SUITE 103
PHOENIX, AZ 85021
(602) 242-0210

<http://www.fws.gov/southwest/es/arizona/>

<http://www.fws.gov/southwest/es/EndangeredSpecies/lists/>

Consultation Code: 02EAAZ00-2015-SLI-0426

Event Code: 02EAAZ00-2015-E-00452

Project Type: Mining

Project Name: Ganado Lake Borrow Pit

Project Description: The proponent proposed to mine 10.7 acres of borrow material to support SR 264 Reconstruction.

Please Note: The FWS office may have modified the Project Name and/or Project Description, so it may be different from what was submitted in your previous request. If the Consultation Code matches, the FWS considers this to be the same project. Contact the office in the 'Provided by' section of your previous Official Species list if you have any questions or concerns.



United States Department of Interior
Fish and Wildlife Service

Project name: Ganado Lake Borrow Pit

Project Location Map:



Project Coordinates: MULTIPOLYGON (((-109.5145038 35.7364822, -109.5121863 35.7406623, -109.5100406 35.740314, -109.5097831 35.7359249, -109.5102981 35.7356114, -109.5134309 35.7355069, -109.5145038 35.7364822)))

Project Counties: Apache, AZ



United States Department of Interior
Fish and Wildlife Service

Project name: Ganado Lake Borrow Pit

Endangered Species Act Species List

There are a total of 7 threatened, endangered, or candidate species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section further below for critical habitat that lies within your project. Please contact the designated FWS office if you have questions.

Birds	Status	Has Critical Habitat	Condition(s)
California condor (<i>Gymnogyps californianus</i>) Population: Entire, except where listed as an experimental population	Endangered	Final designated	
Southwestern Willow flycatcher (<i>Empidonax traillii extimus</i>) Population: Entire	Endangered	Final designated	
Yellow-Billed Cuckoo (<i>Coccyzus americanus</i>) Population: Western U.S. DPS	Threatened	Proposed	
Fishes			
Roundtail chub (<i>Gila robusta</i>) Population: Lower Colorado River Basin DPS	Candidate		
Zuni Bluehead Sucker (<i>Catostomus discobolus yarrowi</i>)	Endangered	Proposed	
Mammals			
Black-Footed ferret (<i>Mustela nigripes</i>)	Experimental		



United States Department of Interior
Fish and Wildlife Service

Project name: Ganado Lake Borrow Pit

Population: U.S.A. (specific portions of AZ, CO, MT, SD, UT, and WY)	Population, Non-Essential		
Reptiles			
Northern Mexican gartersnake (<i>Thamnophis eques megalops</i>)	Threatened	Proposed	



United States Department of Interior
Fish and Wildlife Service

Project name: Ganado Lake Borrow Pit

Critical habitats that lie within your project area

There are no critical habitats within your project area.

ENVIRONMENTAL ASSESSMENT FOR GANADO BORROW SOURCE

Proposed By:
FNF Construction, Inc.
115 S. 48th St.
Tempe, Arizona 85281

Prepared For:
Navajo Nation
Land Department – Project Review
Window Rock, Arizona 86515

April 17, 2015

TABLE OF CONTENTS

I.	Purpose of and need for action	Page 1
II.	Alternatives.....	Page 2
III.	Existing Environment.....	Page 2
IV.	Impacts.....	Page 5
V.	Mitigation Measures	Page 7
VI.	Conclusions Regarding Significance	Page 9
VII.	Consultation and Coordination	Page 10

APPENDIX

Mine and Reclamation Plan	A
Archeological Clearance/Report	B
Biological Evaluation	C

I. PURPOSE OF AND NEED FOR ACTION

A. Project Description

FNF Construction, Inc. (FNF) has been awarded Arizona Department of Transportation (ADOT) Project: Tuba City – Window Rock Hwy (SR 264), Fish Wash – Cross Canyon (ADOT Project No. HSIP-STP-264-A(217)T, 264 AP 450, H813301C), located on SR 264 between milepost 450 and 459.02. The work on this project will include overlaying the existing pavement with asphaltic concrete, shoulder widening with asphaltic concrete over aggregate base, placing AR-ACFC and construction of a NEW Fish Wash Bridge to replace the existing bridge. The work also includes construction of guardrail, installation of new pipes, extension of the existing pipes, installation of barbed wire fence and cattle guards, pavement markings and other related work.

A significant part of the project requirements will be obtaining approximately 39,000 cubic yards of borrow material to be incorporated into the construction project. After consultation with the Navajo Land Department, the Navajo Mineral Resources Department and the Navajo EPA Department, FNF feels that the existing borrow source located east of Ganado Lake would be the most economical and environmentally suited location for this project. The site is located about 2 miles north of the SR 264 and BIA Route 27 Junction and then just west of BIA Route 27. (See Attachment 1 in the Mine Plan Figures 1-4 for a site map) The permit will be issued for the duration of the ADOT project, (approximately 200 working days). Based on samples obtained from the site, the material will meet ADOT material quality specifications.

The excavation of borrow material will be managed by the approved Mine and Reclamation Plan (Appendix A).

The site is located in Apache County, Arizona, within the southeast quarter of Section 13, Township 27 North, Range 26 East of the Gila and Salt River Base and Meridian. Being more particularly described in the Survey documents in Appendix A. The area surveyed was approximately 26.436 acres for the borrow area and 2.038 for the haul road. Due to archaeological avoidance areas at the site the entire 26.436 acres will not be mined. We anticipate that only about 6.7 acres will be excavated and an additional 3 acres will be used for equipment parking and material processing, access roads to the site will include an additional 1 acre for a total of 10.7 acres of disturbance. Roads to the ADOT project will be via BIA Route 27 and then to the ADOT project on SR 264 (MP 450 to 459.02)

B. Decision Needed

The purpose of this document is to identify environmental effects in adequate detail and compare them to economic and technical analyses to determine if there are significant impacts which would prohibit the project moving forward.

C. Permits

FNF has applied for a sand and gravel lease permit from the Navajo Lands Department and the Navajo Minerals Department. An EPA Stormwater permit will be obtained for the site. No other permits will be required.

II. ALTERNATIVES

A. Proposed Alternative

The proposed alternative is to locate the borrow pit within the area described in Section I. A. located east of Ganado Lake. Upon completion of the borrow removal the area will be reclaimed per the attached "Mine and Reclamation Plan".

B. No Action Alternative

The permit would not be approved. The action would preclude the Navajo Nation from developing their resources for economic gain and employment opportunities.

C. Alternative Three.

This alternative is to locate the borrow pit on another site. However, this alternative does not address the issues, but merely transfers them. Other possible locations would not be on Navajo Nation lands and farther from the ADOT project area of need. These other locations have severe economic disadvantages from excess trucking costs and significant project delays due to the simple logistics of moving the material such a great distance. Timely completion of the highway project benefits all users, of which the Navajo Nation is certainly one. Therefore, it does not appear reasonable to give this alternative further consideration unless the analysis indicates environmental damages are severe and lasting and cannot be mitigated.

III. EXISTING ENVIRONMENT

The project area is located on the Colorado Plateau in Apache, Arizona. Elevations within the project area range from 6,460 to 6,503 feet above sea level (southwest and northeast corners, respectively), with annual precipitation of 11.06 inches. Mean annual temperatures are approximately 17 degrees to 89 degrees Fahrenheit (US Climate Data 2015). The average slope across the site ranges from 3 to 8 percent.

The project area is located within the Dinetah Tablelands Subregion of the Arizona-New Mexico Plateau Ecoregion (USEPA 2013). Specifically, the site is located just east of Ganado Lake. Drainage through the project area flows southwest, and historically flowed into the Pueblo Colorado Wash, located below Ganado Lake Dam. Pueblo Colorado Wash eventually flows into the Little Colorado River, over 60 miles southwest of the Project Area.

Extensive previous disturbance occurs at the site from previous borrow removal operations. Cattle currently graze the area, and trash has been randomly dumped at the site. Perennial water does occur at Ganado Lake which is located more than 300' to the west of the site.

A. Vegetation

The project area occurs within a zone that harbors plant species indicative of the Great Basin Desert Scrub (Brown 1980). The site is dominated by a blue grama (*Bouteloua gracilis*), sand dropseed

(*Sporobolus cryptandrus*), shadscale saltbush (*Atriplex confertifolia*), green rabbit brush (*Chrysothamnus greenii*), big sagebrush (*Artemisia tridentata*), one-seed juniper (*Juniperus monosperma*), Utah juniper (*Juniperus utahensis*) association. Pinyon pine (*Pinus edulis*), snakeweed (*Gutierrezia sarothrae*), prickly pear (*Opuntia polyacantha*), Mormon tea (*Ephedra cutleir*), narrowleaf yucca (*Yucca agustissima*), Indian ricegrass (*Achnatherum hymenoides*), black grama (*Bouteloua eriopoda*) and sandhill muhly (*Muhlenbergia pungens*) are also present throughout. Disturbed areas are dominated by species such as Russian thistle (*Salsola kali*) and globemallow (*Sphaeralcea parvifolia*). Salt cedar (*Tamarix soo.*) is present near the western project boundary. Russaan olive (*Elaeagnus angustifolia*) is present within the historic Ganado Lake Borrow pit area. There is no standing water within the project area and no evidence of wetland vegetation. A Biological Evaluation of the site is located in Appendix C.

B. Wildlife

Wildlife in the vicinity of the project area includes various small mammals, diverse avifauna, reptiles, amphibians, and big game species (Brown and Lowe 1980). Wildlife typical of the general area include coyotes (*Canis latrans*), desert cottontails (*Sylvilagus audubonii*), kangaroo rats (*Dipodomys* spp.), common ravens (*Corvus corax*), turkey vultures (*Cathartes aura*), mourning doves (*Zenaida macroura*), red tailed hawks (*Buteo jamaicensis*), bull snakes (*Pituophis catenifer*), and whiptail lizards (*Cnemidophorus* spp.). Other small mammals with potential to occur on the project site include the dwarf shrew (*Sorex nanus*), pocket mice (*Perognathus* spp.), kangaroo rats (*Dipodomys* spp.) pocket gophers (*Thomomys* spp.) various mice (*Peromyscus* spp.) and woodrats (*Neotoma* spp.).

Wildlife actually observed within the survey area included fence lizards (*Sceloporus undulates*), coyote, black tailed jackrabbits (*Lepus californicus*) and common ravens. No prairie dog or burrowing owls or their burrows were observed at the site. A Biological Evaluation of the site is located in Appendix C.

C. Geology

The elevation of the pit floor will not change. There are small hills located on site (about 20' high) that will be removed to obtain the needed material. Based on observations and calculations made by FNF the needed 39,000 cubic yards of material needed for the project is available in the permit area. Soils within the project area include the Penistaja family-Betonnies complex (80%), common on 1 to 10 percent slopes; and the Aquima-Hawaikuh complex (20%), common on 1 to 5 percent slopes. Penistaja family-Betonnies complex soils are located on fan terraces with parent material from eolian deposits and fan alluvium derived from sandstone, and/or eolian deposits and fan alluvium derived from sandstone and shale. These are well drained soils with no frequency of flooding or ponding and surface horizons dominated by fine sandy loams (NRCS 2015). Aquima-Hawaikuh complex soils are located on fan remnants and stream terraces with parent material from fan alluvium over stream alluvium derived from sandstone and shale. These are well drained soils with no frequency of flooding or ponding (NRCS 2015), and surface horizons dominated by silty clay loams.

No hydric soils are present, nor do prime or unique farmlands occur within the project area (NRCS 2015).

D. Water

There is no surface water in the permit area. Ground water has not been encountered in the pit area. The elevation of the pit floor will not change so encountering ground water is not anticipated. The Ganado Lake lies more than 300' to the west of the site. A large berm has been constructed between the lake and the pit area which will keep stormwater or pollutants from entering the lake.

E. Archeological

Complete Archaeological Service Associates (CASA) has completed a Cultural Resource Survey on the project site and their report has been included in Appendix B. Two previously recorded sites, one new site and one isolated occurrence were identified during the survey. All sites are considered significant and are recommended as eligible for nomination to the NRHP under criterion d and for protection under ARPA. One site is eligible for protection under AIRFA and NAGPRA. FNF has committed to avoiding the sites and placing flagging/fencing around the areas, including a buffer zone, to ensure project activities will not disturbed/encroach upon the avoidance areas. CASA has made the determination of "No Historic Properties Affected".

F. Air Quality

Except for the occasional strong wind or dust storm the air quality in the area is pristine.

G. Topography

The elevation of the pit floor will not change. There are small hills located on site (about 20' high) that will be removed to obtain the needed material. The proposed pit area encompasses the southern slopes of a prominent, north-south trending dunal ridge overlooking the alluvial flats of the Pueblo Colorado Wash valley. The western half of the pit, which has been extensively mined numerous times, lies just east of Ganado Lake. Several track roads cross the proposed pit area. The access road was constructed and used during previous borrow removal projects.

H. Threatened and Endangered Species

A Biological Evaluation and Assessment of the project area was completed by Rocky Mountain Ecology (RME) and their report has been included in Appendix C. During the course of their studies they consulted with the Navajo Natural Heritage Program, and the U. S. Fish and Wildlife Service (Albuquerque Ecological Services). Based on their field survey and verification with NNHP and USFW no suitable habitat exists for federal proposed endangered, threatened or candidate species within the project area. Navajo Listed Species from the Navajo Endangered Species List was also evaluated and it was determined that the listed species would not be negatively impacted, and the proposed action is not likely to result in a trend toward federal listing or loss of population viability.

I. Resource Use Patterns

The land's present uses are cattle grazing and sand and borrow excavation/removal. There are established roads and trails which appear to be used to support these activities. There is a dedicated access road to the site from BIA Route 27. The site is located about 2 miles north of the SR 264 and BIA Route 27 Junction and then just west of BIA Route 27.

J. Socioeconomic

The land's present uses are cattle grazing and sand borrow excavation/removal. The implementation of a plan to monitor and control the use of the pit and assure proper reclamation will assure that the sand and gravel pit would economically benefit the Navajo Nation and its members through materials royalties and employment opportunities.

K. Other Values

The only other consideration is visual impact. The present state of the area has been left with extensive mining, cattle grazing and occasionally the area is used for dumping trash. The implementation of a proper management plan of the permit site and the final reclamation should assure that its visual impact will be improved and become an appealing location. The reclamation plan will slope and reshape the permit area to return it to a more aesthetic appearance.

IV. IMPACTS

A. Vegetation Impacts

The proposed area would cover approximately 10.7 acres. There is minimal vegetative cover that will need to be removed from the actual excavation area. Topsoil removed from the excavation area will be stockpiled for later use during reclamation. This, along with sloping and grading, will assure the long term return of the area to a natural condition. Erosion from air and water action on soil disturbed by vegetation removal and vehicle activity will probably occur to a slight degree. Soil erosion will be minimized by the construction of dikes and berms wherever they are required. Ground water within the proposed excavation area is not anticipated

Due to the sparse vegetation of the area to be disturbed, only minimal amounts of trees, brush and forbs will be damaged or destroyed in the use area. All disturbed areas will be reclaimed by sloping and seeding at the completion of mining. Weed growth will be controlled under routine operations and maintenance programs.

B. Wildlife Impacts

The proposed action will only have minor impact on the animals in the area.

Wildlife diversity and productivity on the permit area in general are low because of the lack of habitat structure. Over the period of time the borrow pit is in operation, the area will receive additional noise and traffic. This could affect animals in the area. Taking into account the comparatively small size of the areas which will be disturbed the impact on wildlife in the area will

be minimal. If cattle's grazing in the area becomes a problem adequate fencing will be provided to keep animals and employees safe.

C. Geology Impacts

Area will be mined and resources removed.

D. Water Impacts

The temporary removal of the natural vegetative cover will make surface more susceptible to water erosion, but maintaining the excavation in a topographically negative condition will minimize any deleterious effects to runoff water quality. On-going operations will not materially affect surface or underground water. The only surface water in the permit area is the runoff from bordering landscape. The on-going operations will not materially affect surface or underground water or the drainage pattern.

E. Archeological Impacts

The proposed permit area has been surveyed for cultural resources. Significant archeological, historical or cultural sites are present and will be flagged and avoided. The area has therefore been recommended for cultural resource clearance.

It is not anticipated that any archeological, historical, or cultural sites will be affected by the projected mining operations described in the Mine and Reclamation Plan.

F. Air Quality Impacts

A moderate amount of particulate matter (dust) will rise into the air when the vegetation and topsoil is removed. Dust will also be generated during the mining operations. Total dust generation, when considered for the general area, should not be significant. In any case the control of dust from mining and processing, as well as hydrocarbons from operation of internal combustion engines are controlled by federal regulations which the operator must obey. The area has good air drainage; therefore, the total impacts will be of low significance. Temporary or short term equipment noise will also be present during the operations at the site.

G. Topography Impacts

At the completion of mining and reclamation the permit area, although sloped for aesthetic purposes, will be topography negative with respect to the surrounding area.

H. Threatened and Endangered Species Impacts

Based on the field survey and verification with NNHP and USFW no suitable habitat exists for federal proposed endangered, threatened or candidate species within the project area. Navajo Listed Species from the Navajo Endangered Species List was also evaluated and it was determined that the listed species would not be negatively impacted, and the proposed action is not likely to result in a trend toward federal listing or loss of population viability.

I. Resource Use Patterns Impacts

By and large, the grazing of cattle will have to take place in other nearby areas until reclamation is completely affected. FNF's presents in the pit area may deter people from dumping trash at the site. Obviously, an active borrow pit will be added to the use patterns in the area for the duration of the permit.

J. Socioeconomic Impacts

The granting of this permit will allow the Navajo Nation to use its own resources to fulfill the construction needs of SR 264 with the significant positive impacts of financial gain from materials royalties and employment opportunities.

K. Other Values Impacts

The implementation of a proper management plan of the permit site and the final reclamation should assure that its visual impact will be improved. The reclamation plan will slope and reshape the permit area to return it to a more aesthetic appearance.

V. MITIGATION MEASURES

A. Vegetation

Due to the sparse vegetation of the site only minimal amounts of trees, brush and forbs will be damaged or destroyed in the use area. All disturbed areas will be reclaimed by sloping and reseeding of the site at the completion of mining. Weed growth will be controlled under routine operations and maintenance programs.

The disturbed areas will be prepared to provide a seedbed for reestablishment of desired vegetation. Reseeding will be accomplished by acceptable methods using the seed mixture required by the Navajo Nation. The disturbed area will then be seeded as directed by the Navajo Nation.

B. Wildlife

Wildlife diversity and productivity on the permit area in general are low because of the lack of habitat structure. Over the period of time the borrow pit is in operation, the area will receive additional noise and traffic. This could affect animals in the area. Taking into account the comparatively small size of the areas which will be disturbed during mining, the impact on wildlife in the area will be minimal.

C. Geology

The soils that will be exposed by mining are considered well-drained soils with no frequency of flooding or ponding. The mineral resource that has been removed cannot be replaced. Therefore this impact cannot be mitigated, except by its replacement with cash royalties to the Navajo Nation.

D. Water

There is no surface water in the permit area. Runoff and erosion from the area should be minimal and should be contained within the pit area. Areas down slope of the area also have moderate permeability and infiltration rates. Surface runoff should be almost non-existent. On-going operations will not materially affect surface or underground water. Maintenance of the drainage from the pit site will be dealt with in the Mine and Reclamation Plan.

All operations will be conducted so as to minimize pollution to ground or surface waters. An EPA approved storm water pollution prevention plan will be in effect at all times. Oil and other liquid pollutants will be collected on site and disposed of properly. The operation will conform with existing federal regulations and laws. Waste materials from the operations will be disposed of by acceptable land fill methods.

Where erosion is likely to be a problem, dikes, berms and contour ditches will be constructed as the need arises. All roads will be properly maintained. All trucks will maintain safe speeds at all times.

E. Archeological Resources

Since areas of concern will be flagged and avoided, there will be no adverse impact on archeological resources. Therefore no further mitigation is necessary.

F. Air Quality

A moderate amount of particulate matter (dust) will rise into the air when the vegetation and topsoil is removed. Dust will also be generated during the mining operations. Total dust generation, when considered for the general area, should not be significant. In any case the control of dust from mining and processing, as well as hydrocarbons from operation of internal combustion engines are controlled by federal regulations which the operator must obey. The area has good air drainage; therefore, the total impacts will be of low significance. Temporary or short term equipment noise will also be present during the operations at the site.

G. Topography

The topographic changes that will occur during borrow excavation operations will be mitigated by post operation reclamation activities that will re-slope and seed the site so that it ultimately will blend into the native environment. The mining operation will be conducted as to leave a general 4:1 slope across the permit area. As the mining proceeds across the site, reclamation will begin as it is feasible. Reclamation work would include the reduction of final slopes to a maximum steepness of one vertical component to four horizontal (4:1). All waste material would be graded to conform with the pit slopes and terraces and to provide good drainage of the area. The final slopes will be contour ripped to a depth of eight (8) inches to reduce the potential for water erosion.

H. Threatened and Endangered Species

Based on the field survey and verification with NNHP and USFW no suitable habitat exists for federal proposed endangered, threatened or candidate species within the project area. Navajo Listed Species from the Navajo Endangered Species List was also evaluated and it was determined that the listed species would not be negatively impacted, and the proposed action is not likely to result in a trend toward federal listing or loss of population viability. No mitigation measures are proposed.

I. Resource Use Patterns

The proposed action will have a positive effect and will not require any mitigation measures.

J. Socioeconomic Resources

The Navajo Nation and its residents will benefit financially from the revenues generated from material royalties and employment opportunities.

K. Other Values

The implementation of a proper management plan of the permit site and the final reclamation should assure that its visual impact will become appealing. The reclamation plan will slope and reshape the permit area to return it to a more aesthetic appearance.

Tribal Culture

There will be no adverse impact on Tribal Culture, therefore no mitigation is necessary.

VI. CONCLUSIONS REGARDING SIGNIFICANCE

The permitting of this pit by the Navajo Nation will allow the Navajo Nation to market their resources for royalties and profits, local employment opportunities and the completion of the ADOT road project which will benefit the traveling public. All these factors will be for the betterment of the Navajo Nation. The significant impacts are: 1. surface damage, 2. pollution concerns, 3. wildlife 4. archaeological and 5. reclamation.

The resource cannot be removed without the displacement of the surface cover. Trees, brush and forbs will be damaged or destroyed; however, all disturbed areas will be reclaimed. The topography will be changed by the removal of the borrow material. Reclamation would include the reduction of final slopes to a maximum steepness of 4:1. The operations will be conducted as to minimize all potential pollution problems. The effect on wildlife, threatened and endangered species and archeological resources are minimal to non-existent. We have addressed all aspects of reclamation and the operations needed to return the permit area, upon completion of all mining, to a productive and useful area.

The following measures will be undertaken at the borrow pit:

Archaeological avoidance areas will be flagged/fenced along with an adequate buffer sone.

Sloping and seeding will be done as part of the reclamation process. The disturbed area will be reseeded upon completion of the excavation activity, to the requirements of the Navajo Nation.

When dust becomes a problem, due to weather conditions or working conditions, then the area will be sprayed regularly with water to reduce the dust problem.

Dikes and berms will be constructed to avoid erosion if deemed necessary.

Sanitation measures will conform to State of Arizona and Navajo Nation standards.

The site will be maintained in a clean, orderly and safe manner.

Onsite dumping of oil and other liquid pollutants is not allowed. All solid debris will be removed to an established sanitary landfill.

Cattle guards will be installed if necessary.

The overall impacts to the resources are minimal and the benefits that the Navajo Nation derives from the exploitation of this mineral resource are positive.

VII. CONSULTATION AND COORDINATION

A. Personnel

Tressia Contreras
Environmental Manager
FNF Construction, Inc.
115 S. 48th Street
Tempe, Arizona 85281

Archaeologist
Complete Archaeological Service Associates
12400 Highway 666
Cortez, Colorado 81321

Shawn Knox
Biologists
Rocky Mountain Ecology
306 Rosalie Drive
Durango, Colorado 81301

James Spring
Land Survey
Atwell, LLC
4700 E. Southern Ave.
Mesa, AZ 85206

B. Consultation/Coordination

Navajo Land Department, Mr. Howard Draper

Navajo Mineral Resources, Mr. Ram Das

CRCS, NNHPD, Ms. Tamara Billie

Ganado Community Service, Mr. Harry J. Yazzie

Navajo Natural Heritage Program, Ms. Sonja Detsoi

Navajo EPA, Ms. Rita Whitehorse-Larsen

U.S. Fish & Wildlife

MINE / RECLAMATION PLAN
FOR
GANADO BORROW SOURCE
APACHE COUNTY, ARIZONA

Prepared By:

FNF Construction, Inc. (FNF)
Tressia Contreras, Environmental Manager
115 S. 48th St.
Tempe, AZ 85281
(480) 929-6733

April 17, 2015

TABLE OF CONTENTS

MINE PLAN

Proponent.....	Page 1
Preparer of Document.....	Page 1
Location of the Planned Work.....	Page 1
Schedule.....	Page 1
Mining Activities.....	Page 1
Processing Activities	Page 1
Production Water.....	Page 2
Overburden ..	Page 2
Fugitive Dust	Page 2
Slope Treatment.....	Page 2
Erosion Protection	Page 2
Fuel Storage	Page 2
Equipment Parking and Servicing.....	Page 2
Emergency Plan for Spills	Page 2
Insurance	Page 2

RECLAMATION PLAN

Shaping Contours Drainage.....	Page 4
Runoff.....	Page 4
Cleanup	Page 4
Final Reclamation.....	Page 4
Post Reclamation	Page 4

ATTACHMENTS

- Attachment 1 Maps showing outline of subject property and haul routes
- Attachment 2 Ground Level photographs of Existing Condition
- Attachment 3 Aerial Photograph
- Attachment 4 Land Survey of the Site

MINE PLAN

- A. Proponent: FNF Construction, Inc. (FNF), 115 S. 48th Street, Tempe, AZ 85281, (480) 784-2910, Contact person: Tim Diekmann (FNF's Project Manager) 602-558-0996.
- B. Preparer of Document: Ms. Tressia Contreras, Environmental Manager, FNF Construction, Inc., 115 S. 48th Street, Tempe, AZ 85281 (480) 929-6733, FAX 480-921-8720, Tressia@fnfinc.com.
- C. Location of the Planned Work: The area proposed for these activities is part of the Navajo Nation near Ganado Lake. The subject area is an existing sand and borrow source that has been extensively mined in the past. The site is located in Apache County, Arizona, within the southeast quarter of Section 13, Township 27 North, Range 26 East of the Gila and Salt River Base and Meridian. Being more particularly described in the Survey documents in Attachment 4. The site is located about 2 miles north of the SR 264 and BIA Route 27 Junction and then just west of BIA Route 27. The area surveyed was approximately 26.436 acres for the borrow area and 2.038 for the haul road. However, due to archaeological avoidance areas at the site the entire 26.436 acres will not be mined. We anticipate that only about 6.7 acres will be excavated and an additional 3 acres will be used for equipment parking and material processing with an additional 1 acre of access roads. There is an existing access point to the site via BIA Route 27. Borrow material will be hauled to the ADOT project located on SR 264 between MP 450 and 459.02.
- D. Schedule: Construction activity is expected to commence once permission has been granted by the Navajo Nation, and is expected to continue until the completion of the ADOT project (August 2016). FNF will need to start the borrow excavation in early July 2015 to meet the construction schedule.
- E. Mining Activities: The project consists of excavating borrow material from the permit area after removal of vegetation. The existing pit floor elevations will remain the same. Several small hills at the site (approximately 20' high) will be excavated for the borrow material. Slopes altered by FNF activities will be contoured to a neat appearance and left at a 4:1 or flatter slope. The material will be mined with a 988 loader. The potential area of excavation disturbance is approximately \pm 6.7 acres.
- F. Processing Activities: Mined borrow material will be loaded into belly dump haul trucks and hauled to the nearby ADOT project site for incorporation into the roadway construction project. Haul trucks along with excavation equipment, will be parked in the 3 acre processing area when not in use.

Anticipated Equipment List:

1 - 4,000 Gal Water Truck
1 988 Loaders
10 – Belly Dump Hauling Trucks
Equipment Service Vehicles

Anticipated Support Facilities:

Equipment Service Vehicles
Dumpster
Portable Toilets
Sanitation Service Vehicle
Supply Deliveries
ADOT Inspectors with vehicles, Employee parking

Heavy equipment will be cleaned prior to entering the site to prevent the introduction of noxious weeds. Weed control will be conducted through the life of the permit to prevent the spread of undesirable plants.

- G. Production Water: This project will use water daily to control fugitive dust on the processing equipment, dirt access roads and pit working area. Water will be obtained from a source located outside of the Navajo Nation lands. Water will be applied to surface areas by a 4,000 gallon water truck.
- H. Overburden: This operation will not produce overburden. All material excavated will be used as borrow material and hauled from the site.
- I. Fugitive Dust: It is not anticipated that fugitive dust from this site will be a problem for property or people. However fugitive dust sources-haul road, excavation area and parking areas will be water sprayed as much as 3 times daily if necessary.
- J. Slope Treatment: Pit slopes altered or created by FNF activities will be constructed at an inclination no steeper than 4:1 with maximum height of about 20 feet. Slopes constructed at this inclination are considered stable.
- K. Erosion Protection: Once approvals for the site have been obtained FNF will apply for an EPA Storm Water permit for this area and provide a Storm Water Pollution Prevention Plan (SWPPP) written specifically for the proposed operations. The SWPPP will contain Best Management Practices (BMPs) designed to contain runoff on site and prevent runoff from entering the site. A spill containment and countermeasures plan will also be included in the SWPPP.
- L. Fuel Storage: A mobile re-fueling vehicle will service the equipment at the site. Good housekeeping rules will be followed to keep chemicals and waste materials from entering Waters of the U.S. These rules include: proper disposal of oil and greasy substances to preclude them from mixing with the runoff; and if necessary lined storage pits for chemical storage.
- M. Equipment Parking and Servicing: All equipment will be serviced in the existing processing area. Care will be taken to see that no oil, grease or used filters can contaminate the soil. Proper containers will be provided for these items. Used wiping rags will also be containerized. A contract recycling facility will pick up all these items on a regular basis. Heavy equipment will be parked in the existing processing area along with haul trucks, other equipment parking and employee parking.
- N. Emergency Plan for Spills: In the event of a spill or other accidental discharge, the on-site Emergency Coordinator will direct an immediate cleanup and notify Mr. Tim Diekmann FNF's Project Manager at 602-558-0996 and corporate office Risk Assessment personnel at 480-784-2910. A copy of this plan and emergency phone numbers must remain on site and placed in a readily accessible area.
- O. Insurance: At all times FNF will carry public liability insurance in the primary amount as specified in the Lease Agreement, per claim or incident with coverage for personal injury, bodily injury, including death, and property damage resulting for each incident. FNF also agrees to carry such insurance covering all FNF's employees working in, on, or in connection with the

Leased Premises and will fully comply with the provisions of the statutes of the State of Arizona covering workers' compensation and occupation disease as such statutes are now in force or as they may be amended. Further, FNF agrees to comply with all the terms and provisions of all applicable laws of the Navajo Nation and the United States, as now exist or as may be amended, pertaining to Social Security, unemployment compensation, wages, hours, and conditions of labor; and to indemnify and hold the Navajo Nation harmless from payment of any damages occasioned by FNF's failure to comply with such law.

RECLAMATION PLAN

P. Shaping, Contours - Drainage: The existing pit floor elevations will remain the same. Several small hills at the site (approximately 20' high) will be excavated for the borrow material. Slopes altered by FNF activities will be contoured to a neat appearance and left at a 4:1 or flatter slope. The processing area is currently level and will not require contouring. Reclamation will include contouring of the mine area to return them to as near their pre-project appearance as feasible. It is concluded that post-project drainage patterns and volumes will remain essentially the same and pose no threat to adjacent property from increased runoff, sedimentation, stream bed stability or stream flow.

Q. Runoff: Precipitation falling within the pit will be confined therein avoiding surface runoff, Precipitation will be contained so that the water will either percolate or evaporate without creating surface runoff.

R. Cleanup: The area will be kept clean and neat in appearance. The collection of trash and waste generated by site employees will be contained in the proper receptacle and maintained regularly by contract services. The excavation equipment will be hauled by truck from the site. This will be accomplished as soon as borrow excavation has been completed.

Upon completion of the project the area will be left without stockpiles, equipment, trash or miscellaneous items. All items not removed by contract services will be removed by the company to a landfill for proper disposal.

S. Final Reclamation: Final Reclamation will commence with the mining activities at the site and will consist of the following measures:

1. All equipment will be removed from the site.
2. The area will be scarified and contoured to as natural an appearance as possible. FNF will provide seeding utilizing the Navajo Nation recommended seed mix for the area:

T. Post - Reclamation: At completion of reclamation, the areas impacted by FNF activities will have slopes which are constructed at 4:1 or flatter. No structures or equipment will be left on site after closure of this facility. Reclamation will not adversely affect potential future use of this site or adjacent property. It is anticipated the future use of this property will be a continued sand and borrow operation and or livestock grazing.



COMPLETE ARCHAEOLOGICAL SERVICE ASSOCIATES

P.O. Box 1777 • Cortez, Colorado 81321 • (970) 565-9229

April 13, 2015

Tamara Billie
CRCS, NNHPD
P.O. Box 4950
Window Rock, AZ 86515

RE: Permit B15162 - FNF Construction Inc.'s Proposed Ganado Borrow Pit and Access Road -
CASA 15-16

Dear Tamara,

Enclosed are two copies of an inventory report for a borrow pit expansion and access road in Ganado, Arizona for FNF Construction, Inc. Three sites were identified during the project. It is recommended that all sites be fenced for the duration of the undertaking.

The NNHPD permit fee of \$ 110.00 (B15162) has been sent directly to the Tribal Accounting Office.

Please review and give me a call if you have any questions.

Sincerely,

Mary Erickson
CASA

Enclosures: 2 copies report
 2 copies of 3 site forms
 1 copy AIRS Form
 2 copies of Burial Form

cc: ✓ Tressia Contreras, FNF Construction, Inc.

Cultural Resource Inventory

**FNF Construction Inc's
Proposed Ganado Borrow Pit and Access Road
ADOT project HSIP-STP-264-A(217)T
Apache County, Arizona**

Prepared by:

Mary Errickson
Complete Archaeological Service Associates
P.O. Box 1777
Cortez, Colorado 81321

CASA 15-16



Prepared for:

FNF Construction, Inc.
P.O. Box 5005
115 South 48th Street
Tempe, Arizona 85281

Submitted to:

Navajo Nation Historic Preservation Department
P.O. Box 4950
Window Rock, Arizona 86515

Permit:
NNCRIP B15162

April 10, 2015

Abstract

A cultural resource inventory was carried out for a proposed 26.436 acre materials pit and 0.92 mile access road in Ganado, Arizona. FNF Construction, Inc. proposes to re-open and expand a borrow pit for use in construction along State Road 264 between mileposts 450 - 459.02 for ADOT project HSIP-STP-264-A(217)T. The inventory was conducted by Mary Errickson of Complete Archaeological Service Associates (CASA) between March 30 and April 6, 2015. The project areas are located on Navajo Tribal Trust lands within the Ganado Chapter of the Fort Defiance Agency. The project was carried out under the provisions of Navajo Nation Cultural Resource Inventory Permit B15162, issued to CASA.

A total of 43.049 acres was inventoried for the project in Apache County, Arizona. A 31.832 acre tract, including the staked pit and a 50 foot buffer zone, was inventoried for the 26.436 acre gravel pit. A 100 foot-wide corridor (11.217 ac) was inventoried for a 20 foot-wide ROW (2.038 ac) along the access road. The portion of the access road between Curves 11 and 12 (Attachment B) will not be used due to avoidance fencing stipulations around site AZ-P-20-82. Total area of potential effect is 28.474 acres for the gravel pit and access road.

Two previously recorded sites, AZ-P-20-70 and AZ-P-20-82, one new site, AZ-P-20-177, and one Isolated Occurrence (IO) were identified during the project. All sites are considered significant and are recommended as eligible for nomination to the NRHP under criterion d and for protection under ARPA. Site AZ-P-20-70 is eligible for protection under AIRFA and NAGPRA. A determination of "No Historic Properties Affected" is recommended for FNF Construction Inc.'s proposed Ganado Borrow Pit and access road with the following stipulations for avoidance: 1) under the direction of a qualified archaeologist, a 100 foot-wide buffer zone should be fenced around site AZ-P-20-70 for the duration of the project and 2) under the direction of a qualified archaeologist, 50 foot-wide buffer zones should be fenced around sites AZ-P-20-82 and AZ-P-20-177 for the duration of the project.

INTRODUCTION

A cultural resource inventory was carried out for FNF Construction Inc. for a proposed sand borrow pit and access road near Ganado Lake, Arizona. (Figures 1-2; Attachment B). Materials obtained from the pit will be utilized in construction along U.S. 264 between MP 450 and 459.2 under ADOT Project HSIP-STP-264-A(217)A. The fieldwork was conducted by Mary Errickson of Complete Archaeological Service Associates (CASA) between March 30 and April 6, 2015. The project areas are located on Navajo Tribal Trust lands within the Ganado Chapter of the Ft. Defiance Agency. The project was carried out under the provisions of Navajo Nation Cultural Resource Inventory Permit B15162, issued to CASA.

PROJECT LOCATION AND DESCRIPTION

The project area is located approximately two miles northeast of Ganado and two miles north of U.S. 264 in Apache County, Arizona. FNF Construction, Inc. will re-open and expand an existing borrow pit located between BIA 27 and Ganado Lake. Approximately half of the proposed borrow pit has been previously mined and most of the access road has been previously bladed, levelled, and partially graveled. The 7.5 minute USGS quadrangle map for the project is Ganado, Arizona dated 1973. A complete legal description of the proposed project is presented below.

Legal Location: T 27N, R 26E:

Pit / Access Road: Section 13: portions of the SE 1/4

UTM Location: Pit: NW Corner Pt. a - Zone 12, 634559mE / 3956139mN
NAD 83 SW Corner Pt. b - Zone 12, 634410mE / 3955708mN
SE Corner Pt. c - Zone 12, 634751mE / 3955507mN
NE Corner Pt. d - Zone 12, 634719mE / 3956074mN

Road: BOL at BIA 27 - Zone 12, 634872mE / 3955888mN
Curve 1 - Zone 12, 634762mE / 3955908mN
Curve 4 - Zone 12, 634751mE / 3955507mN
Curve 7 - Zone 12, 634405mE / 3955885mN
EOL Curve 11 - Zone 12, 634709mE / 3956108mN

The project area lies within the general physiographic province of the Colorado Plateau along the southwestern slopes of the Defiance Plateau. The Defiance Plateau is an uplifted oval area characterized by rolling-to-flat topography, with rock outcrops and steep canyons along the periphery of the plateau. This portion of the Plateau is comprised primarily of De Chelly Sandstone. Soils, predominantly sandy and sandy clay loams, are derived from the underlying sandstone. Vegetation zones include pine forest, pinyon-juniper woodland, shrubland, and grassland. An overview of the environment and physical setting of the general project area has been published as a result of the Transwestern Pipeline Project (Eck 1994).

The proposed pit area encompasses the southern slopes of a prominent, north-south trending dunal ridge overlooking the alluvial flats of the Pueblo Colorado Wash valley. The western half of the pit, which has been previously mined numerous times, lies just east of Ganado Lake. Several track roads cross the proposed pit expansion area. The access road was constructed and used during previous borrow projects and is presently used by local residents and hikers as access to the eastern shore of Ganado Lake. The proposed access road commences at BIA Route 27 at MP 2, bends southward, and continues around the periphery of the pit. The portion of the road between Curves 11 and 12 (Attachment B) will not be used due to avoidance fencing around site AZ-P-20-82.

Elevation of the undisturbed pit area varies slightly between 6500 feet on the north side to 6460 on the south side. The project area is located within the Upper Sonoran Life Zone. The dominant plant community is a scrub-grassland. Vegetation within the undisturbed pit area includes sagebrush, rabbitbrush, snakeweed, bunch grasses, prickly pear, and wolfberry.

PREVIOUS RESEARCH AND CULTURE HISTORY

A record search was conducted at the offices of the Cultural Resource Compliance Section and the Traditional Cultural Program of the Navajo Nation Historic Preservation Department in Window Rock on March 30, 2015. Previously recorded sites located within 100 m of project areas are listed in Table 1. The entire pit and access road areas were previously inventoried under three projects in the early 1990s (HPD 91-065; HPD 93-302; HPD 93-594). The original reference for sites AZ-K-6-19 and AZ-K-6-20 was not readily available at NNHPD but the sites were re-recorded as AZ-P-20-70 (HPD 93-302).

Table 1. Previously recorded sites within 100 m of project areas.

Site No.	Affiliation	Site Type	Reference
AZ-P-20-70	Basketmaker III-Pueblo I	Habitation	93-302
AZ-P-20-71	Re-recorded as part of AZ-P-20-70		93-302
AZ-P-20-81	Unknown	Lithic Scatter	91-065
AZ-P-20-82	Basketmaker III-Pueblo I	Artifact Scatter	91-065
AZ-K-6-19	No information		
AZ-K-6-20	No information		

Excavations by Fuller and Chang (1978) and Mount and others (1993) at Wide Reed Ruin indicate that the Ganado area was occupied continuously from BMIII through PIII. Excavation of the Sand Dune Site (Jones 1988) places the historic occupation of the Ganado area as early as the mid-eighteenth century. According to Van Valkenburgh (1941) Ganado is named after Ganado Mucho, the last peace chief of the Navajo in the late 1800s. Trading posts were established in Ganado in the 1870s, of which the most famous is the Hubbell Trading Post.

One Traditional Cultural Property (TCP) is located in the vicinity of the project area. *Be' ek' id Hatsoh* / Big Lake / Ganado Lake (#43) lies on the western side of the project area. Mr. Tim Begay of the TCP Department indicated that the TCP refers to the channel which feeds the lake and determined that the present undertaking will have no adverse impacts to the TCP (Attachment A).

SURVEY METHODOLOGY

The Class III inventory was conducted by Mary Errickson between March 30 and April 6, 2015. The project area was inventoried by the archaeologist walking multiple, parallel, zig-zag, pedestrian transects spaced no more than 15 m apart within the staked pit and a 50 foot buffer zone. A 100 foot-wide corridor was inventoried for a 20 foot-wide easement for the access road.

Sites are defined as cultural manifestations containing ten or more artifacts in a 10 square meter area and/or the location of an event, a prehistoric or historic activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historic, archaeological, or traditional cultural value regardless of the value of the existing structure. Isolated occurrences (IOs) are any non-architectural feature or assemblage of less than 10 artifacts in an area

10 square meters or less.

During the inventory, a discussion was conducted with the Ganado Community Service Coordinator, Harry J. Yazzie, concerning TCPs, graves, or other concerns within or near the project area. Mr. Yazzie was aware of the project area and the location of AZ-P-20-70. Mr. Yazzie stated that the Chapter had no concerns about re-using the pit as long as the cultural resources were adequately protected.

INVENTORY RESULTS

Two previously recorded sites, AZ-P-20-70 and AZ-P-20-82, one new site, AZ-P-20-177, and one IO were identified during the project.

SITE DESCRIPTIONS

Site Number: AZ-P-20-70
USGS Map: Ganado, AZ 1973
Legal Location: NE, SW, SE and the SE, NE, SE of Sec. 13, T 27N, R 26E, G&SRPM, Apache County, Arizona
UTM: Zone 12, 634570mE / 3955950mN (NAD 83)
Site Type: Habitation
Affiliation: Basketmaker III - middle Pueblo I, A.D. 550 - 800
Site Size: 250 m x 62 m = 15,500 m²

Setting: The site is situated on the crest of a north-south trending dunal slope. The site has been partially disturbed by erosion along the steep, upper eastern slope of a borrow pit and by a track road. Vegetation is sparse and includes snakeweed, various grasses, dropseed, narrow leaf yucca, and prickly pear.

Description: The site was previously recorded during an earlier borrow pit project (HPD 93-302 - 93-302.2). The site (Figure 3) is a Basketmaker III or early-middle Pueblo I habitation which is exposed along the upper eastern edge of a borrow pit and within a track road. Erosion along the upper edge of the borrow pit wall and on-going local use of the track road are heavily impacting the western edge of the site.

Feature 1 contains the remnants of a small roomblock and a probable pithouse associated with two prehistoric burials. A roomblock of 2-3 rooms is indicated by upright slab wall lines and rubble which are collapsing downslope into the borrow pit. The roomblock extends approximately 5 m x 2 m and is cut by a small erosional channel. A squarish ash stain suggestive of a burned pithouse lies east of the roomblock. During flagging and re-evaluation of the site in 2002, two burials were observed eroding out of the roomblock area. Subsequently, Ron Maldonado of NNHPD assessed the condition of the burials but it was not noted in NNHPD files whether the burials were stabilized or re-interred elsewhere within the site boundaries.

Feature 2 is a large, faint stain which may represent a structure or large feature. A continuous artifact and burned rock scatter extends along the upper eastern edge of the pit to the south and southwest of Features 1 and 2. A bulldozed dirt pile containing artifacts lies just east of the road. Approximately 500 sherds of Lino Gray and lesser amounts of La Plata B/w are present within the site. Flaked lithics (100+) are limited to items of petrified wood, primarily shatter and secondary and tertiary flakes.

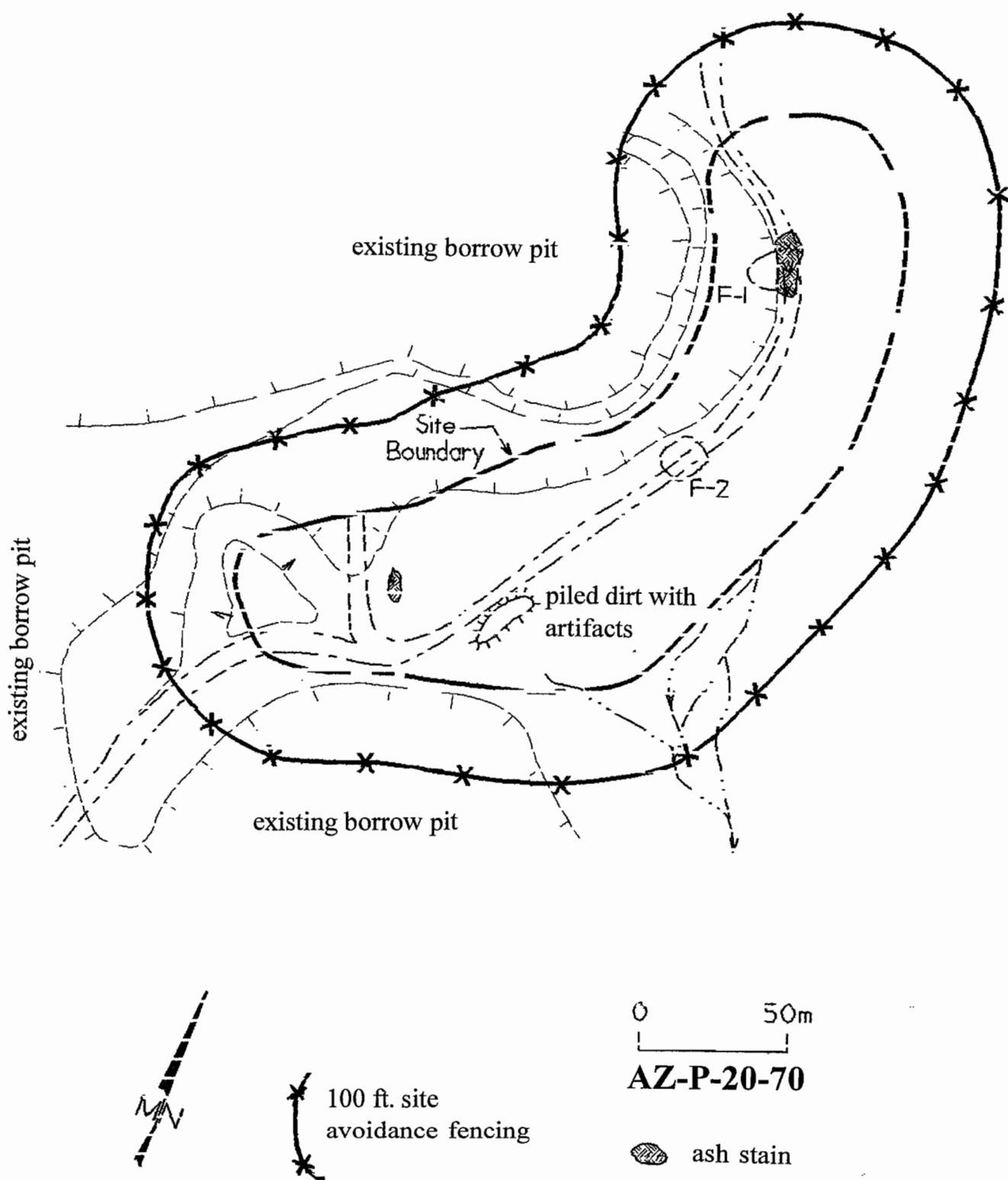


Figure 3. Plan map, AZ-P-20-70 and avoidance fencing.

Although the condition of Features 1 and 2 is poor due to on-going erosion of the upper borrow pit wall, it is likely that substantial, buried midden deposits and possibly architectural features are present within the site.

Significance: The site is over 100 years of age and is recommended as eligible for nomination the NRHP under criterion d and for protection under ARPA. The site has known qualities meriting protection under AIRFA and NAGPRA.

Project Effect: The site is located within the proposed pit expansion area.

Recommendations: A determination of “no historic properties affected is recommended with the stipulations that the site and a 100 foot-wide buffer zone be temporarily fenced as shown in Figure 3 under the direction of a qualified archaeologist for the duration of the project.

Site Number: AZ-P-20-82
USGS Map: Ganado, AZ 1973
Legal Location: NW, SE, SE of Sec. 13, T 27N, R 26E, G&SRPM, Apache County, Arizona
UTM: Zone 12, 634726mE / 3955813mN (NAD 83)
Site Type: Artifact Scatter
Affiliation: Basketmaker III - middle Pueblo I, A.D. 550 - 800
Site Size: 70 m x 50 m = 3,500 m²

Setting: The site is situated on the crest and east-facing slope of a north-south trending dunal ridge overlooking the Pueblo Colorado Wash valley to the south. Occasional juniper is present within a shrubland of rabbitbrush, snakeweed, prickly pear, wolfberry, prickly pear, and bunch grasses. A bladed gas pipeline ROW borders the site to the east.

Description: The site was originally recorded during an inventory around Ganado Lake (HPD 91-065) and was misplotted slightly to the south on the Ganado, AZ USGS map. The site (Figure 4) is an extensive artifact and burned rock scatter exposed within and along a deep, wide track road. There is no evidence of architecture, but the size of the site and quantities of artifacts suggests that a habitation is present. Ceramics (200+) are limited to Lino Gray and small quantities of La Plata B/w. Flaked lithics (200+) include various colors of petrified wood and chalcedony. Flaked items are secondary and tertiary flakes and shatter. A one-hand, sandstone, unifacial mano lies along the southern edge of the site.

Significance: The site is over 100 years of age and is recommended as eligible for nomination the NRHP under criterion d and for protection under ARPA. The site has no known qualities meriting protection under AIRFA.

Project Effect: The site is located within the proposed pit expansion area and within the proposed access road between Curves 11 and 12 (Attachment B). The portion of the access road through the site and within 50 feet of the site will be not be used due to avoidance fencing around site AZ-P-20-82.

Recommendations: A determination of “no historic properties affected is recommended with the stipulations that the site and a 50 foot-wide buffer zone be temporarily fenced as shown in Figure 4 under the direction of a qualified archaeologist for the duration of the project.

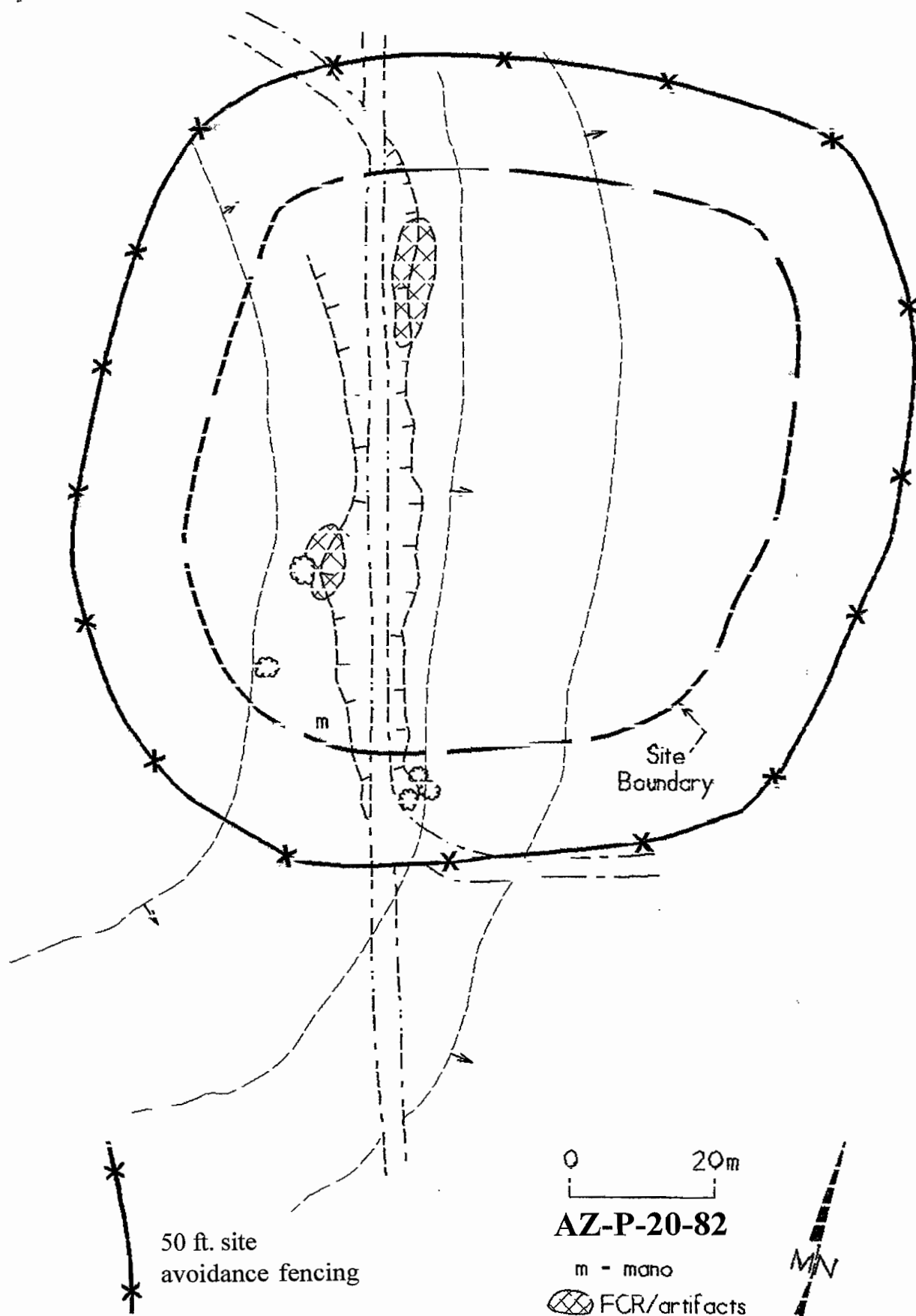


Figure 4. Plan map, AZ-P-20-82 and avoidance fencing.

Site Number: **AZ-P-20-177**
USGS Map: Ganado, AZ 1973
Legal Location: SW, SE, SE of Sec. 13, T 27N, R 26E, G&SRPM, Apache County, Arizona
UTM: Zone 12, 634726mE / 3955813mN (NAD 83)
Site Type: Activity Area
Affiliation: Basketmaker III - Pueblo I, A.D. 550 - 900
Site Size: 32 m x 33 m = 1,056 m²

Setting: The site is situated on the east-facing slope of a north-south trending dunal ridge along the north side of the Pueblo Colorado Wash valley. Vegetation includes a few scattered juniper, sagebrush, snakeweed, rabbitbrush, and prickly pear.

Description: The site (Figure 5) is a small activity area containing 1-2 burned features and an artifact scatter. Feature 1 is a scatter of twelve, medium-sized, burned sandstone rocks which may represent a hearth or roasting pit. The feature is deflated and a small erosional channel cuts through the scatter. One upright, burned slab located 18 m to the southeast of Feature 1 may indicate a hearth. Artifacts include 3 Lino Gray sherds, 1 expedient, bifacial, white chert scraper, and 13 secondary and tertiary flakes and pieces of shatter of petrified wood. The site may be an activity area associated with AZ-P-20-70 or AZ-P-20-82.

Significance: The site is over 100 years of age and is recommended as eligible for nomination the NRHP under criterion d and for protection under ARPA. The site has no known qualities meriting protection under AIRFA.

Project Effect: The site is located within the proposed pit expansion area.

Recommendations: A determination of "no historic properties affected is recommended with the stipulations that the site and a 50 foot-wide buffer zone be temporarily fenced as shown in Figure 5 under the direction of a qualified archaeologist for the duration of the project.

ISOLATED OCCURRENCE

IO No. 1:

USGS Map: Ganado, AZ 1973
UTM Location: Zone 12, 634730mE / 3955856mN (NAD 83)
Description: A recent hearth located on east-facing ridge slope

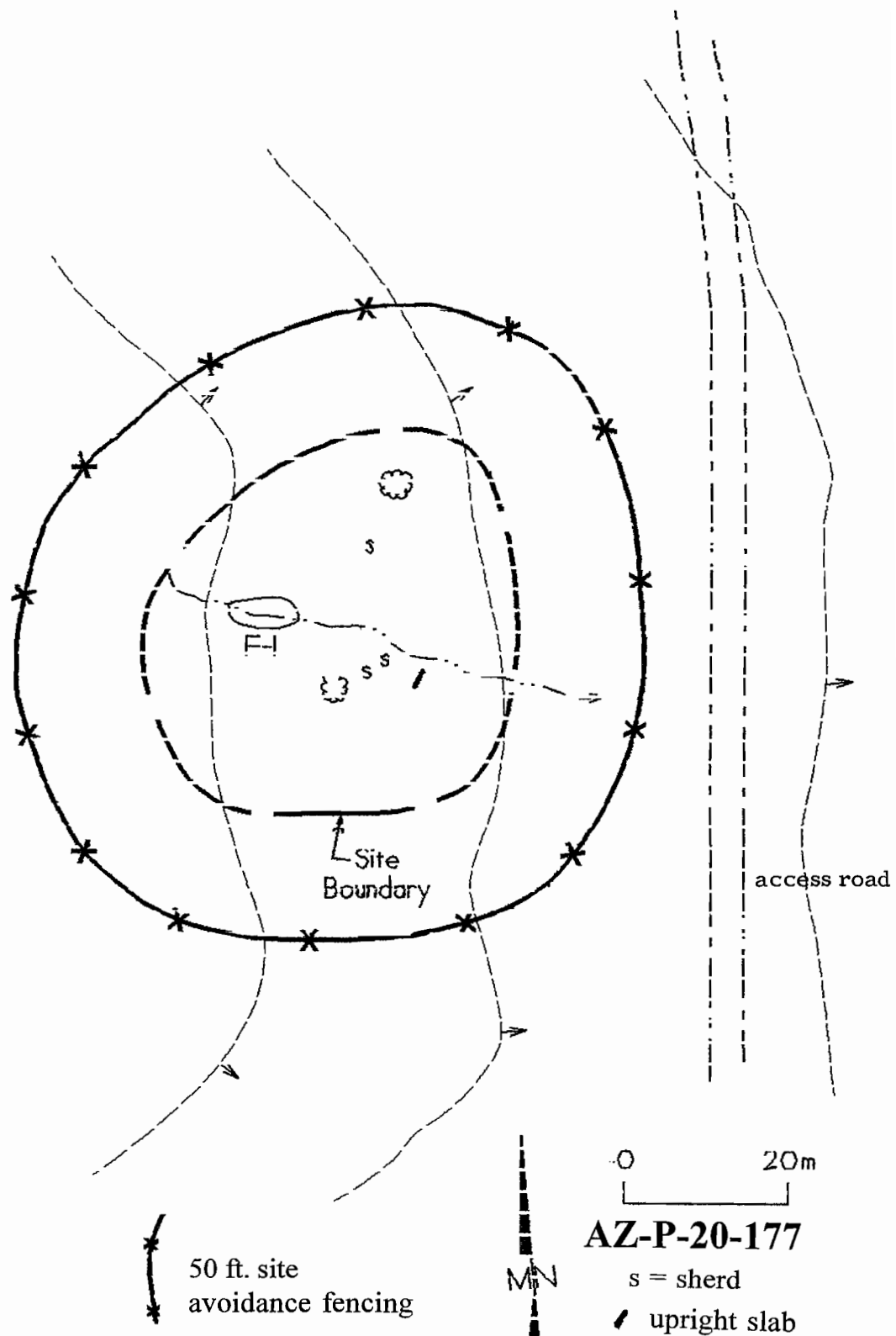


Figure 5. Plan map, AZ-P-20-177 and avoidance fencing.

EVALUATION OF SIGNIFICANCE

Significance and eligibility recommendations for the three sites are summarized in Table 2. The IO is not considered significant and is not eligible for nomination to the NRHP or for protection under ARPA. The IO does not exhibit qualities meriting consideration under AIRFA.

Table 2. Significance and eligibility of sites.

AZ-P-20-70 BMIII-PI Habitation	36 CFR 60.4:	Site is eligible for nomination to the NRHP because it is over 50 years old
	Integrity:	Site does retain integrity.
	Criteria a-d:	Site does meet Criterion d.
	Exclusions:	None.
	ARPA:	Site is over 100 years old and is of archaeological interest.
	AIRFA:	Site has known qualities meriting protection.
	NAGPRA:	Site has known qualities meriting protection.
AZ-P-20-82 BMIII-PI Artifact Scatter	36 CFR 60.4:	Site is eligible for nomination to the NRHP because it is over 50 years old
	Integrity:	Site does retain integrity.
	Criteria a-d:	Site does meet Criterion d.
	Exclusions:	None.
	ARPA:	Site is over 100 years old and is of archaeological interest.
	AIRFA:	Site has no known qualities meriting protection.
AZ-P-20-177 BMIII-PI Activity Area	36 CFR 60.4:	Site is eligible for nomination to the NRHP because it is over 50 years old
	Integrity:	Site does retain integrity.
	Criteria a-d:	Site does meet Criterion d.
	Exclusions:	None.
	ARPA:	Site is over 100 years old and is of archaeological interest.
	AIRFA:	Site has no known qualities meriting protection.

RECOMMENDATIONS

A determination of “No Historic Properties Affected” is recommended for FNF Construction Inc.’s proposed Ganado Borrow Pit and access road with the following stipulations for avoidance: 1) under the direction of a qualified archaeologist, a 100 foot-wide buffer zone should be fenced around site AZ-P-20-70 for the duration of the project and 2) under the direction of a qualified archaeologist, 50 foot-wide buffer zones should be fenced around sites AZ-P-20-82 and AZ-P-20-177 for the duration of the project.

REFERENCES

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- 1994 The Anasazi of Wide Ruin Wash and Hopi Buttes. In *Across the Colorado Plateau: Anthropological Studies for the Transwestern Pipeline Expansion Project*, Volume XI. Office of Contract Archaeology, University of New Mexico, Albuquerque.

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- 1978 Final Report for Archaeological Excavations at 11 Prehistoric Sites Within the Ganado Sewer Lagoon and Along the Right-of-way for Route N27(1). Museum of Northern Arizona, Department of Anthropology, Flagstaff.

Jones, Karin L

- 1988 Excavation of the Sand Dune Site (AZ K:6:11) at Hubbell Trading Post National Historic Site, Ganado, Arizona. Southwest Archaeological Consultants, Inc., Santa Fe.

Mount, James E., Stanley J. Olsen, George A. Teague, John W. Olsen, and B. Dean Treadwell

- 1993 Wide Reed Ruin, Hubbell Trading Post National Historic Site. *Southwest Cultural Resources Center Professional Paper No. 51*. National Park Service, Dept. of the Interior.

Olson, Alan P.

- 1971 Archaeology of the Arizona Public Service Company's 345 Kv Line. *Museum of Northern Arizona Bulletin No. 46*, Flagstaff.

Van Valkenburgh, Richard

- 1974 Navajo Sacred Places. In *Navajo Indians III*, edited by Clyde Kluckhohn, pp. 9-99. Garland Press, New York.

Cultural Resource Inventory
Proposed FNF Construction Inc's
Ganado Borrow Pit/Hot Plant Site and Access Road
Apache County, Arizona

Prepared by

Mary Errickson
Complete Archaeological Service Associates
P.O. Box 1777
Cortez, Colorado 81321

CASA 15-16

ATTACHMENT A
TCP RECORD SEARCH

Permit

NNCRIP B15162

April 10, 2015



THE NAVAJO NATION
Historic Preservation Department

PO Box 4950, Window Rock, AZ 86515
TEL: (928) 871-7198 / 7134 FAX: (928) 871-7886

TRADITIONAL CULTURAL PROPERTY (TCP) RECORD
SEARCH VERIFICATION FORM

****TCP WILL NOT SIGN/APPROVE IF THIS PORTION IS LEFT BLANK****

Project Information:	
DATE	03/30/15
RESEARCHER & COMPANY	Mary Errickson - CASA
PROJECT NAME	FNF Construction Ganado Lake Borrow Pit
PROJECT/PERMIT NUMBER	CASA 15-16
PROJECT LOCATION	Ganado, Arizona

*****TO BE FILLED OUT & SIGNED BY AUTHORIZED NNHPD STAFF ONLY*****

A literature search of TCP Records at NNHPD on the above date indicates the following:	
<input type="checkbox"/>	There are <u>no</u> TCP(s) present within the project area and/or buffer zone. The project may proceed as proposed.
<input type="checkbox"/>	TCP(s) <u>are</u> present within the project area and/or buffer zone. Project may have the potential to adversely affect TCP(s). Please document TCP(s) as a summary (with only general location information) in the body of reports submitted for review to HPD/CRCs. Give full detail on the TCP Documentation Forms in a separate, and clearly labeled, confidential appendix.
<input checked="" type="checkbox"/>	Project may proceed with the following stipulations: Note TCP# 43 in Report & Findings.
<input type="checkbox"/>	Further consultation is required. Consult with the following:
<input type="checkbox"/>	There are no mitigative measures. Project may not proceed.

NNHPD/TCP Program Reviewer:		Date: 3/23/15
-----------------------------	--	---------------

****Return this form along with report to the NNHPD/Compliance Section****

Note: In addition to the TCP Record search, the consultant must demonstrate that a good-faith effort to consult with 1.) Surface user(s): grazing-permit holder(s) (individuals whose consents for right-of-way have been sought by developer); any other residents in or within view of the proposed project area. 2. Chapter(s) within which the proposed project is located: chapter officers and/or delegate(s) of the Navajo Nation Council; at the request of any of these individuals, the developer's consulting anthropologist will also make a presentation at a meeting of general chapter membership. 3. Other knowledgeable people recommended by the present surface user(s), chapter officials, and chapter members.

ATTACHMENT B

PLAT MAPS

**Prepared by
Atwell Land Development and Real Estate**

BORROW PIT

LEGAL DESCRIPTION

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 27 NORTH, RANGE 26 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, APACHE COUNTY, ARIZONA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND BRASS CAP MARKING THE NORTH QUARTER CORNER OF SAID SECTION 13 FOR WHICH A FOUND BRASS CAP MARKING THE NORTHWEST CORNER OF SAID SECTION 13 LIES SOUTH 89°44'53" WEST, 2638.93 FEET;

THENCE SOUTH 19°29'51" EAST, ALONG A TIE LINE, 3661.87 FEET TO THE **POINT OF BEGINNING**;

THENCE SOUTH 67°23'02" EAST, 560.17 FEET;

THENCE SOUTH 05°16'15" EAST, 1311.59 FEET;

THENCE NORTH 84°29'27" WEST, 1137.99 FEET;

THENCE NORTH 19°19'19" EAST, 1496.49 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 26.436 ACRES MORE OR LESS.

TOGETHER WITH:

A 20 FEET WIDE STRIP OF LAND TO BE USED AS AN INGRESS-EGRESS EASEMENT 10 FEET EITHER SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;

COMMENCING AT A FOUND BRASS CAP MARKING THE NORTH QUARTER CORNER OF SAID SECTION 13 FOR WHICH A FOUND BRASS CAP MARKING THE NORTHWEST CORNER OF SAID SECTION 13 LIES SOUTH 89°44'53" WEST, 2638.93 FEET;

THENCE SOUTH 28°17'37" EAST, ALONG A TIE LINE, 4835.38 FEET TO A POINT AT THE WESTERLY EDGE OF PAVEMENT OF B.I.A. ROUTE 27 AND THE **POINT OF BEGINNING**

THENCE SOUTH 87°10'31" WEST, 125.87 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 89.69 FEET, THROUGH A CENTRAL ANGLE OF 35°23'46", AN ARC DISTANCE OF 55.41 FEET;

THENCE SOUTH 51°46'53" WEST, 34.54 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 319.80 FEET, THROUGH A CENTRAL ANGLE OF 22°31'50", AN ARC DISTANCE OF 125.76 FEET;

THENCE SOUTH 29°14'52" WEST, 183.59 FEET TO THE BEGINNING OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 296.61 FEET, THROUGH A CENTRAL ANGLE OF 31°01'22", AN ARC DISTANCE OF 160.60 FEET;

THENCE SOUTH $1^{\circ}46'30''$ EAST, 96.91 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 204.75 FEET, THROUGH A CENTRAL ANGLE OF $100^{\circ}49'13''$, AN ARC DISTANCE OF 360.29 FEET TO A POINT OF REVERSE CURVATURE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 4536.98 FEET, THROUGH A CENTRAL ANGLE OF $5^{\circ}01'17''$ AN ARC DISTANCE OF 397.62 FEET;

THENCE NORTH $85^{\circ}58'34''$ WEST, 334.77 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 235.40 FEET, THROUGH A CENTRAL ANGLE OF $78^{\circ}06'00''$, AN ARC DISTANCE OF 320.88 FEET;

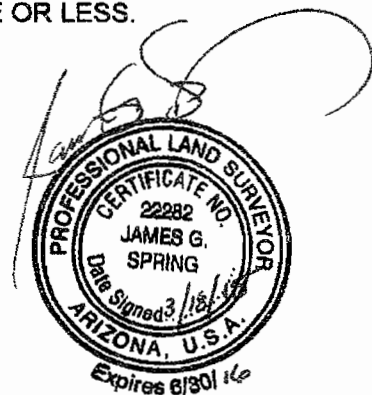
THENCE NORTH $1^{\circ}05'00''$ WEST, 412.56 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 293.64 FEET, THROUGH A CENTRAL ANGLE OF $47^{\circ}37'26''$, AN ARC DISTANCE OF 244.07 FEET;

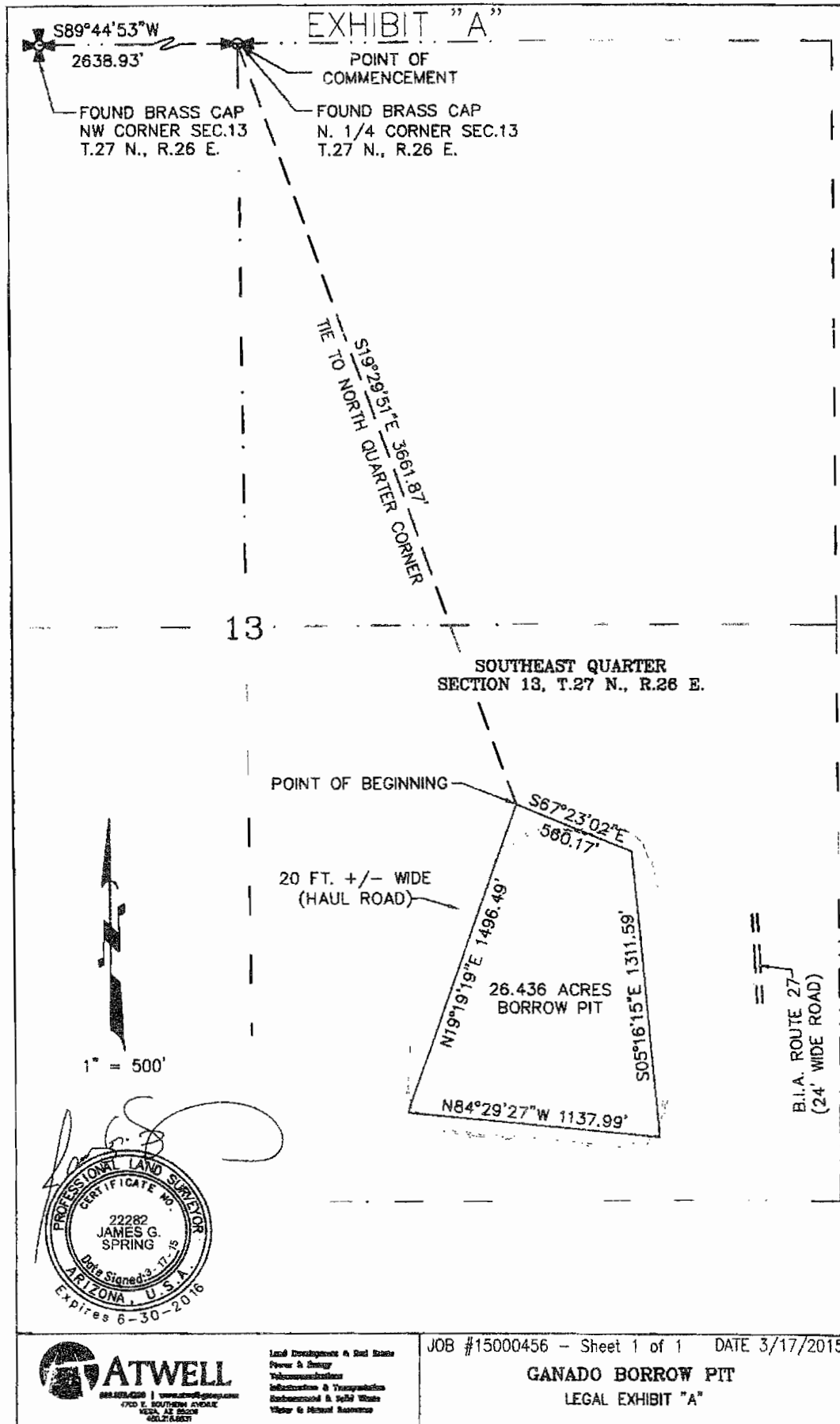
THENCE NORTH $46^{\circ}32'28''$ EAST, 99.18 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 1593.13 FEET, THROUGH A CENTRAL ANGLE OF $15^{\circ}52'48''$, AN ARC DISTANCE OF 441.55 FEET TO A POINT OF REVERSE CURVATURE, CONCAVE SOUTHEASTERLY WITH A RADIUS OF 207.90 FEET, THROUGH A CENTRAL ANGLE OF $37^{\circ}18'38''$, AN ARC DISTANCE OF 135.39 FEET TO A POINT OF COMPOUND CURVATURE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 692.06 FEET, THROUGH A CENTRAL ANGLE OF $34^{\circ}34'31''$, AN ARC DISTANCE OF 417.63 FEET TO A POINT OF COMPOUND CURVATURE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 234.16 FEET, THROUGH A CENTRAL ANGLE OF $59^{\circ}03'11''$, AN ARC DISTANCE OF 241.34 FEET;

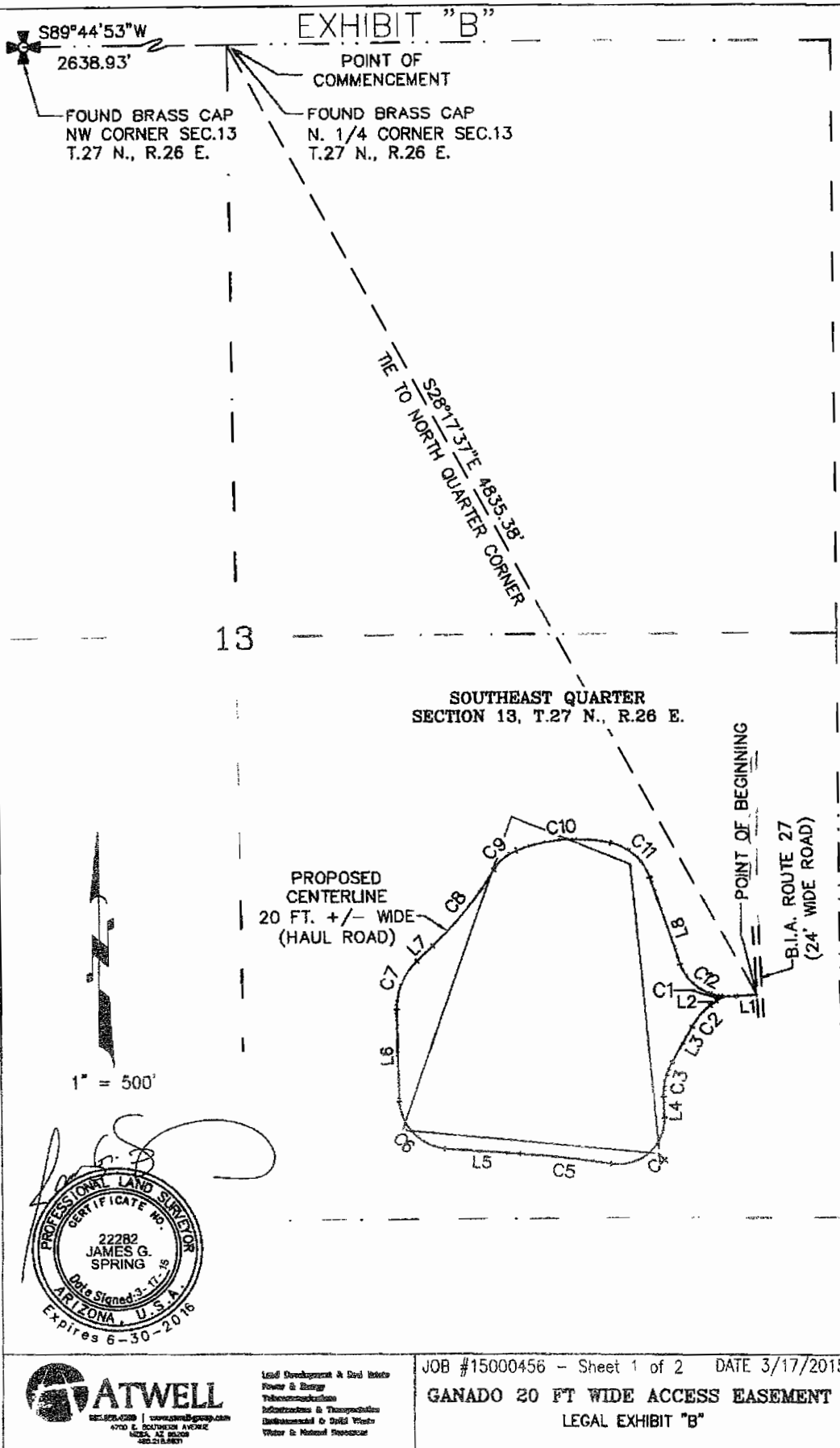
THENCE SOUTH $18^{\circ}24'22''$ EAST, 415.60 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 210.41 FEET, THROUGH A CENTRAL ANGLE OF $74^{\circ}25'08''$, AN ARC DISTANCE OF 273.30 FEET TO A POINT OF TERMINUS, ALSO BEING A POINT ON DESCRIBED CENTERLINE, LYING SOUTH $87^{\circ}10'31''$ WEST, 125.87 FEET FROM THE POINT OF BEGINNING.

THE SIDELINES ON THE ABOVE DESCRIBED STRIP OF LAND SHALL BE EXTENDED OR SHORTENED TO MEET AT ANGLE AND END POINTS TO FORM A CONTINUOUS 20.00 FEET WIDE STRIP OF LAND THROUGH THE GRANTOR'S PROPERTY.

CONTAINING 88,796.83 SQUARE FEET OR 2.038 ACRES MORE OR LESS.







Lead Development & Soil Tests
Power & Energy
Telecommunications
Infrastructure & Transportation
Industrial & Civil Works
Water & Natural Resources

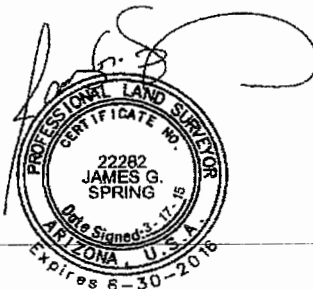
JOB #15000456 - Sheet 1 of 2 DATE 3/17/2015
GANADO 20 FT WIDE ACCESS EASEMENT
LEGAL EXHIBIT "B"

EXHIBIT "B"

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S87°10'31"W	125.87'
L2	S51°46'53"W	34.54'
L3	S29°14'52"W	183.59'
L4	S01°46'30"E	96.91'
L5	N85°58'34"W	334.77'
L6	N01°05'00"W	412.56'
L7	N46°32'28"E	99.18'
L8	S18°24'22"E	415.60'

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C1	55.41'	89.69'	35°23'46"
C2	125.76'	319.80'	22°31'50"
C3	160.60'	296.61'	31°01'22"
C4	360.29'	204.75'	100°49'13"
C5	397.62'	4536.98'	5°01'17"
C6	320.88'	235.40'	78°06'00"
C7	244.07'	293.64'	47°37'26"
C8	441.55'	1593.13'	15°52'48"
C9	135.39'	207.90'	37°18'38"
C10	417.63'	692.06'	34°34'31"
C11	241.34'	234.16'	59°03'11"
C12	273.30'	210.41'	74°25'08"

1" = 500'



Land Development & Real Estate
Power & Energy
Telecommunications
Infrastructure & Transportation
Environmental & Field Work
Water & Mineral Resources

JOB #15000456 - Sheet 2 of 2 DATE 3/17/2015
GANADO 20 FT WIDE ACCESS EASEMENT
LEGAL EXHIBIT "A"



July 7, 2015

Navajo Nation Environmental Protection Agency
Office of Environmental Review
P.O. Box 339
Window rock, AZ 86515

Attention: Rita A. Whitehorse-Larsen, Senior Environmental Specialist
Reference: Ganado Borrow Source
Subject: Environmental Assessment

FNF Construction, Inc. (FNF) has been awarded Arizona Department of Transportation (ADOT) Project: Tuba City – Window Rock Hwy (SR 264), Fish Wash – Cross Canyon (ADOT Project No. HSIP-STP-264-A(217)T, 264 AP 450, H813301C), located on SR 264 between milepost 450 and 459.02. The work on this project will include overlaying the existing pavement with asphaltic concrete, shoulder widening with asphaltic concrete over aggregate base, placing AR-ACFC and construction of a NEW Fish Wash Bridge to replace the existing bridge. The work also includes construction of guardrail, installation of new pipes, extension of the existing pipes, installation of barbed wire fence and cattle guards, pavement markings and other related work.

A significant part of the project requirements will be obtaining approximately 39,000 cubic yards of borrow material to be incorporated into the construction project. After consultation with the Navajo Land Department, the Navajo Mineral Resources Department and the Navajo EPA Department, FNF feels that the existing borrow source located east of Ganado Lake would be the most economical and environmentally suited location for this project. The site is located about 2 miles north of the SR 264 and BIA Route 27 Junction and then just west of BIA Route 27. The permit will be issued for the duration of the ADOT project, (approximately 200 working days). Based on samples obtained from the site, the material will meet ADOT material quality specifications.

As part of the Environmental Assessment (EA) document, prepared by FNF's Environmental Manager, Tressia Contreras, surface water and ground water was addressed. The location of the proposed borrow excavation area is more than 300 feet from Ganado Lake. The excavation and processing area does not contain any surface waters or jurisdictional waters of the U.S. An U.S. Army Corps of Engineers 404 permit or a NNEPA 401 certification is not required. The temporary removal of the natural vegetative cover will make surface more susceptible to water erosion, but maintaining the excavation in a topographically negative condition will minimize any deleterious effects to runoff water quality. On-going operations will not materially affect surface or underground water. The only surface water in the permit area is the runoff from bordering landscape. The on-going operations will not materially affect surface or underground water or the drainage pattern



The EA document did not assess the Recreation Area because the shore line where people would fish would not be impacted. The borrow area would be at least 300' from the shoreline. As stated in the EA and the Mine and Reclamation Plan the borrow area will be bermed between the borrow activity area and the lake, so there will be no potential for contaminant leaching or surface runoff into the lake.

Per the Biological Resource Land Use Clearance Policies and Procedures the Ganado Borrow Source area is included in Area 6, which is a Recreation Area. However, the policy also states that development is allowed within Recreation Areas if it is compatible with management goals. Borrow excavation at this site along with the proposed safe sloping described in the Mine and Reclamation Plan would leave the area with a flatter surface and remove the steep/unsafe area that currently exists at the site. This would create a more usable and safer area for campers and ATV riders. Removing borrow from an existing disturbed location is less harmful to the environment than mining virgin ground at another location. Since borrow material removal has been on-going from this site for at least 20 years one would assume the Navajo Nation was in favor of continuing these types of activities at this location.

FNF hopes this clarification of the EA document helps to further your understanding of the proposed project. Please contact me at 480-929-6733 or e-mail Tressia@fnfinc.com if you have any further questions or require any additional information.

Sincerely,
FNF CONSTRUCTION, INC.

A handwritten signature in black ink that reads "Tressia Contreras". The signature is written in a cursive, flowing style.

Tressia Contreras
Environmental Manager

Pc: Ganado Borrow Source File



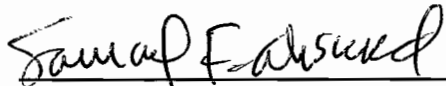
THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT

MEMORANDUM

To: 164 Reviewers

From:


Samuel Diswood, Wildlife Manager
Department of Fish and Wildlife
Natural Heritage Program

Date: August 4, 2015

Subject: GANADO BORROW SOURCE SAS #003982

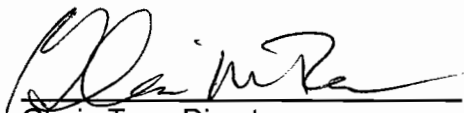
RECEIVED
AUG - 5 2015
DEPARTMENT OF JUSTICE
NATURAL RESOURCES UNIT
Dropped off by
H. Brown

In the initial review of this document, the Natural Heritage program determined there were no impacts to Threatened or endangered species, however, concerns were expressed by the Fisheries Biologist on a remediation plan should a spill of diesel fuel or hydraulic fluid occur and the potential impact to water quality. A response was request and the SAS review marked the package as insufficient and would remain so until FNF construction provided a response.

In consultation with FNF, a spill and containment plan was submitted. The plan provides protection to Ganado lake fisheries and has protocols to contain any spill. Our office also met with Navajo EPA on this issue and their office also recommends stipulations for the project which protect the lake and water quality. Therefore, after the consultation process, the Department of Fish and Wildlife recommends this Package to be sufficient.

If you have any questions, contact me at extension 7062. Thank you.

Concurrence:



Gloria Tom, Director
Department of Navajo Fish and Wildlife



115 SOUTH 48TH STREET • TEMPE, ARIZONA 85281

PHONE: 480 784 2910
FAX: 480 829 8607

July 29, 2015

Navajo Natural Heritage Program
PO Box 1480
Window Rock, AZ 86515

Attention: Mr. Samuel Diswood, Wildlife Manager

Reference: Ganado Borrow Source

Subject: Spill and Containment Plan - Addendum

Hello Mr. Diswood,

FNF Construction, Inc. (FNF) would like to make an addendum to the Ganado Borrow Source application. This addendum will address potential spills and containment of pollutants at the Ganado Borrow Source location.

Please add the following commitment to our package:

The area to be excavated and equipment operations area will be more than 300' from the lake. FNF will construct an earthen berm between our area of operations and the lake which would contain any potential spills and prevent any pollutants from entering the lake. If any leaks or spills should occur they will be scooped up immediately and will not be allowed to soak into the soil. The material that would be scooped up would be placed in sealed 55-gallon drums and taken to a landfill that is permitted to dispose of such wastes.

This spill containment and disposal plan is typical of what FNF provides at all of our borrow and aggregate mining locations and has worked well for us in the past.

We hope this plan meets with your approval.

If you should require any further information or have any other concerns that need to be addressed please contact me right away so we can keep the Ganado Borrow Source approval process moving forward. Thank you for your assistance in this matter.

Sincerely,
FNF CONSTRUCTION, INC.

Tressia Contreras
Environmental Manager

Pc: Ganado Borrow Source File



CONSTRUCTION, INC.

115 SOUTH 48TH STREET • TEMPE, ARIZONA 85281

PHONE: 480 784 2910
FAX: 480 829 8607

July 29, 2015

Navajo Natural Heritage Program
PO Box 1480
Window Rock, AZ 86515

Attention: Mr. Samuel Diswood, Wildlife Manager

Reference: Ganado Borrow Source

Subject: Spill and Containment Plan - Addendum

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We hope this plan meets with your approval.

If you should require any further information or have any other concerns that need to be addressed please contact me right away so we can keep the Ganado Borrow Source approval process moving forward. Thank you for your assistance in this matter.

Sincerely,
FNF CONSTRUCTION, INC.

Tressia Contreras
Environmental Manager

Pc: Ganado Borrow Source File

Tressia Contreras

From: sdiswood@nndfw.org
Sent: Wednesday, July 29, 2015 3:17 PM
To: Tressia Contreras
Subject: Re: Ganado Borrow Source

If you could send a letter /addendum titled the Ganado Borrow source spill & containment plan and use the language you just sent, I feel that will meet & address the concerns. Send it on your company letterhead to my email & I will forward it. Thank you.

Samuel Diswood, Wildlife Manager
Navajo Natural Heritage Program
PO Box 1480
Window Rock, AZ 86515
(928) 871-7062

Sent from my Verizon Wireless 4G LTE Smartphone

----- Reply message -----

From: "Tressia Contreras" <Tressia@fnfinc.com>
To: "Samuel Diswood" <sdiswood@nndfw.org>
Cc: "Parker Brownell" <pbrownell@fnfinc.com>
Subject: Ganado Borrow Source
Date: Wed, Jul 29, 2015 3:29 PM

Hello Mr. Diswood,

Thank you for getting back with me on this most important matter.

The area to be excavated and equipment operations area will be more than 300' from the lake. FNF will construct an earthen berm between our area of operations and the lake which would contain any potential spills and prevent any pollutants from entering the lake. If any leaks or spills should occur they will be scooped up immediately and will not be allowed to soak into the soil. The material that would be scooped up would be place in sealed 55-gallon drums and taken to a landfill that is permitted to dispose of such wastes.

This spill containment and disposal plan is typical of what FNF provides at all our borrow and aggregate locations and has worked well for us in the past.

We hope this plan meets with your approval.

If you should require any further information or have any other concerns that need to be addressed please contact me right away so we can keep the Ganado Borrow Source approval process moving forward.

Thank you for your help!



Tressia Contreras
Environmental Manager, FNF Construction, Inc.

p:480-929-6733 | m:602-619-0588 | f: 480-921-8720

tressia@fnfinc.com | 115 S. 48th St. Tempe, AZ 85281

www.fnfinc.com

From: Samuel Diswood [<mailto:sdiswood@nndfw.org>]
Sent: Wednesday, July 29, 2015 2:13 PM
To: Tressia Contreras
Subject: RE: Ganado Borrow Source

I am currently in a meeting with our Resources Development committee, addressing an IRMP for the forest management plan. The concern of potential fuel or hydraulic spill occurring and getting into the water during the moving of borrow material was brought up by the fisheries program. Since it is in close proximity to Ganado Lake, how and what would the remedial plan be if that should happen. If this could be address we will consider this project sufficient and it will be forwarded in the 164 review process.. I will not be back in the office until late Friday of this week, but will work to get a call to Parker Brownell. Thanks Sam Diswood

From: Tressia Contreras [<mailto:Tressia@fnfinc.com>]
Sent: Wednesday, July 29, 2015 1:34 PM
To: 'sdiswood@nndfw.org' <sdiswood@nndfw.org>
Subject: Ganado Borrow Source
Importance: High

Hello Mr. Diswood,

FNF's Project Coordinator Parker Brownell (505-239-2730) has an urgent matter to discuss with you regarding the approval of the Ganado Borrow Material Source.

Could you call him at your earliest convenience so we can figure out just what the problem may be?

Pam Kyselka thinks you have issues regarding the fisheries program and our use of the borrow source. (See message below)

Sam,

Please follow up on this. I did not receive FNF's response letter. Apparently, Jeff failed to route it to me. In that letter dated 6/4/15, FNF requested to meet with us regarding the PROPOSED Ganado Borrow Pit. There are no T&E issues; however, the sport fisheries program needs to address their concerns at this requested meeting and work something out with FNF Construction.

Thank you.

Pam



Tressia Contreras
Environmental Manager, FNF Construction, Inc.

p:480-929-6733 | m:602-619-0588 | f: 480-921-8720

tressia@fnfinc.com | 115 S. 48th St. Tempe, AZ 85281

www.fnfinc.com

Tressia Contreras

From: Tressia Contreras
Sent: Wednesday, July 29, 2015 10:32 AM
To: pkyselka@nndfw.org
Subject: Ganado Borrow Source Correspondence from Rocky Mountain Ecology
Attachments: GanadoLakePit---Response to Comment 1 from 4_June_2015 letter from NNHAP.pdf
Importance: High

Ms. Kyselka,

The consulting firm who did our Biological Evaluation (Rocky Mountain Ecology) would like me to forward their comments on to you regarding your concerns with our request to utilize the Ganado Borrow source.

Please contact myself or Shawn Knox directly if you have any questions or require any further information.



Tressia Contreras
Environmental Manager, FNF Construction, Inc.
p:480-929-6733 | m:602-619-0588 | f: 480-921-8720
tressia@fnfinc.com | 115 S. 48th St. Tempe, AZ 85281
www.fnfinc.com



ROCKY MOUNTAIN ECOLOGY

ENVIRONMENTAL CONSULTING | APPLIED RESTORATION SERVICES

July 29, 2015

FNF Construction, Inc.
Tressia Contreras
115 S. 48th St. Tempe, AZ 85281

RE: Ganado Pit consultation re: Recreation Area

Dear Ms. Contreras:

We are addressing comments from Ms. Kyselka regarding the proposed Ganado Pit on 4 June 2015.

Specifically, we want to address the following comment:

1. The project is located within a designated Recreational Area, Ganado Lake, according to the NNDFW's Resource Compliance Policy (RCP formerly known as the BRLOCPP). The Biological Evaluation (BE) prepared by Rocky Mountain Ecology, LLC did not address the RCP in regards to project planning within a designated Recreational Area. Furthermore, a borrow pit is not compatible with the management goals for Ganado Lake. The contractor made no attempt to consult with NNDFW fisheries staff on potential impacts from lost revenue from a decrease in fishing permit sales to contaminant leaching and surface runoff into the lake.

We realize the project is in a designated Recreational Area. The proposed project area has been previously highly disturbed from past mining activities, as noted in the Biological Assessment (BA) document. In fact, much of the landscape is devoid of surface vegetation.

We stand by our assessment that impacts to fish in Ganado Lake will not occur from the proposed project. Regarding "potential contaminant leaching" - we offer the following explanation. Our understanding is that the existing steep slopes within the project, and any created during excavation work, would be laid back to > 3:1 prior to site closure. We also understand that a Stormwater Pollution Prevention Plan (SWPPP) would be in place prior to earth-moving activities. That document should outline the necessary erosion controls which would minimize erosion during work activities. Further, the SWPPP should articulate reclamation and revegetation measures that would prevent post-mining runoff and sedimentation into Ganado Lake. These types of erosion control measures could include but not be limited to, construction of a berm, erosion control fence or wattles along the western boundary of the project area to prevent runoff from entering the lake.

It is our opinion that implementation of these management measures would minimize runoff and sedimentation into Ganado Lake both during and after the project is complete. We cannot speculate on whether or not there would be a loss of revenue from decreased fishing permit sales, as a result of the proposed project; that is far beyond the scope of the BA document (which is to evaluate the impacts to the biological community with emphasis on protected species). However, based on the project scope of work, there would still be adequate shore line for people to fish. The borrow area would be at least 300' from the shoreline. Further, selection of the proposed site in this highly disturbed area would minimize impacts to vegetation and wildlife. Specifically, use of this site would avoid impacts to native, undisturbed habitat.

I hope this clarifies things and am happy to discuss this further. Feel free to call me at (505) 992-6150.

Best Regards,

Shawn C. Knox,
Co-Owner/ Director, Rocky Mountain Ecology, LLC

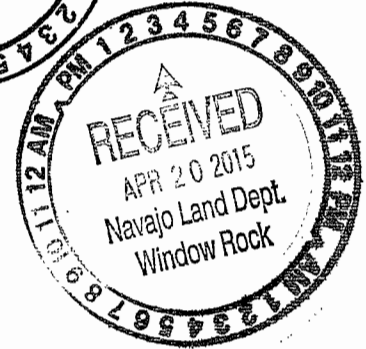
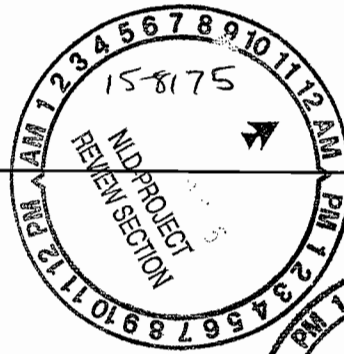
P.O. Box 1441
Bernalillo, NM 87004

(505) 992-6150
knox@rockymountaineecology.com

FNF**CONSTRUCTION, INC.**

115 SOUTH 48TH STREET • TEMPE, ARIZONA 85281

April 17, 2015

RUSHPHONE: 480 784 2910
FAX: 480 829 8607**RUSH**

Navajo Nation
Division of Natural Resources
Navajo Land Department
P.O. Box 9000 (Navajo Boulevard, W008-247, Bld #4)
Window Rock, AZ 86515

Attention: Mr. Howard Draper
Program & Projects Specialists

Reference: ADOT Project:
Tuba City – Window Rock Hwy (SR 264)
Fish Wash – Cross Canyon
HSIP-STP-264-A(217)T, 264 AP 450, H813301C
FNF Project No. 1639

Subject: Borrow Lease Application

Gentlemen:

FNF Construction, Inc. (FNF) has been awarded Arizona Department of Transportation (ADOT) Project: Tuba City – Window Rock Hwy (SR 264), Fish Wash – Cross Canyon ADOT Project No. HSIP-STP-264-A(217)T, 264 AP 450, H813301C, located on SR 264 between milepost 450 and 459.02. The work on this project will include overlaying the existing pavement with asphaltic concrete, shoulder widening with asphaltic concrete over aggregate base, placing AR-ACFC and construction of a NEW Fish Wash Bridge to replace the existing bridge. The work also includes construction of guardrail, installation of new pipes, extension of the existing pipes, installation of barbed wire fence and cattle guards, pavement markings and other related work.

As part of the construction project FNF would like to obtain 39,000 cubic yards of borrow material from the Navajo Nation to incorporate into the referenced ADOT Project. Please consider this correspondence as our official request for a Navajo Nation Borrow Lease Permit. Permit Information is as follows:

1. Company: FNF Construction, Inc. 115 S. 48th St. Tempe, AZ 85281 (480) 929-6733
2. Principal Officers: Matt Gully President, Lee Hulbert V.P. and Manager of Operations
3. Maps/Legal Description: 10.7 acres in the SE ¼ of Section 13, T27N, R26E, Apache County. Maps have been include in Appendix A Attachment 4 of the Environmental Assessment (Mine and Reclamation Plan)
4. Land Users Consent: Verbal consent was obtained from Mr. Harry Yazzie, Ganado Community Service

5. Archaeological Clearance: Appendix B of the Environmental Assessment
6. Mining and Reclamation Plan: Appendix A of the Environmental Assessment
7. Health and Safety: FNF will comply with all MSHA regulations. Crushing and screening of the borrow material will not be required; therefore Part 46 training will not be necessary.
8. Water Use Permits: FNF has been in contact with Mr. Jack Utter from the Navajo Water Authority to obtain water from the Navajo Nation.
9. Payments to the Navajo Nation: FNF is aware that royalty payments will be required and is prepared to make these payments.
10. Lease Duration: Lease of the property will only be required until the completion of the referenced ADOT project, about 200 working days.
11. Chapter Resolution: FNF will try to obtain this if necessary.
12. Approval Process: A check in the amount of \$500.00 has been attached.

Enclosed please find the following.

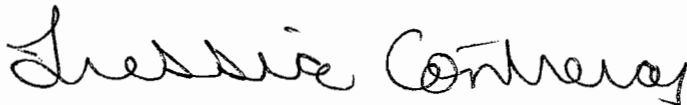
The Draft Borrow Lease Agreement, The Environmental Assessment document which includes the Mining and Reclamation Plan, the Archaeological Report, The Biological Evaluation and Assessment, and the land survey documents.

Stormwater and Spill Containment requirements for the borrow site will be added to the EPA Stormwater Pollution Prevention Plan for the ADOT project.

FNF and ADOT would greatly appreciate any actions you could take to expedite this application in order for the project to proceed to meet the deadlines that have been set.

Please contact me at Tressia@fnfinc.com or 480-929-6733 if you have any questions, concerns or require any further information.

Sincerely,
FNF CONSTRUCTION, INC.



Tressia Contreras
Environmental Manger

Enclosures

Pc: Tim Diekmann, FNF
(ltr-1593)

June 11, 2015

Navajo Department of Fish and Wildlife
P.O. Box 1480
Window Rock, AZ 86515

Navajo Land Department
P.O. Box 9000
Window Rock, AZ 86515

Attn: Ms. Gloria Tom, Director

Attn: Mr. Howard Draper, Project Review

Reference: Ganado Borrow Source

Subject: 6/4/15 Correspondence from Navajo Department of Fish and Wildlife

Dear Ms. Tom and Mr. Draper,

FNF Construction, Inc. (FNF) is in receipt of a copy of the above referenced document and would like to comment on some of the statements that need further clarification.

1. FNF's Consultant (Rocky Mountain Ecology RME) did consult with the NNDFW, a project data request was submitted and evaluated by Ms. Sonja Detsoi, Wildlife Tech. The Biological Evaluation (BE) prepared by RME did not address the loss of revenue from decrease in fishing permit sales because there would still be adequate shore line for people to fish. The borrow area would be at least 300' from the shoreline. The BE also did not address contaminant leaching or surface runoff into the lake because there will be no potential for that to occur. As stated in the Environmental Assessment (EA) and the Mine and Reclamation Plan (MRP) the borrow area will be bermed between the borrow activity area and the lake.

Borrow material removal has been on-going from this site for at least 20 years. We were informed by Mr. Draper that he had permitted the area previously but could not access his old files because they were currently inaccessible due to facility complications with his old office. This location was chosen because of its proximity to the ADOT project and because removing borrow from an existing disturbed location is less harmful to the environment than mining virgin ground at another location.

2. FNF's Consultant RME did consult with the NNDFW, a project data request was submitted and evaluated by Ms. Sonja Detsoi, Wildlife Tech. The BRCF document had not been provided prior to the 4/1/15 on-site meeting with NNEPA. FNF may have made the statement that NNDFW had not had any issues with the site previously, since Mr. Draper had told FNF that the site had been permitted before. The statement you listed may have been a misunderstanding.

FNF would be very appreciative to schedule a meeting with the NNDFW at their earliest convenience to discuss the Ganado Borrow site.

3. Per the Biological Resource Land Use Clearance Policies and Procedures the Ganado Borrow Source area is included in Area 6, which is a Recreation Area. However, the policy also states that development is allowed within Recreation Areas if it is compatible with management goals. Borrow excavation at this site along with the proposed safe sloping described in the MRP would leave the area with a flatter surface and remove the steep/unsafe area that currently

exists at the site. This would create a more usable and safer area for campers and ATV riders. Since borrow material removal has been on-going from this site for at least 20 years one would assume the Navajo Nation was in favor of continuing these types of activities at this location. As stated above, removing borrow from an existing disturbed location is less harmful to the environment than mining virgin ground at another location.

The ADOT project that is associated with this borrow source is on a strict timeline and FNF employees are doing what they can to keep the permitting process on track. We apologize if it appeared that NNDFW employees were being coerced. That certainly was not our intent.

4. We were informed by Mr. Draper that he had permitted the area previously but could not access his old files because they were currently inaccessible due to facility complications with his old office. We hope that Mr. Draper can locate the missing files which will show that all departments have previously approved borrow excavation at this location.

5. The Environmental Assessment (EA) document did not assess the Recreation Area because the shore line where people would fish would not be impacted. The borrow area would be at least 300' from the shoreline. As stated in the EA and the MRP the borrow area will be bermed between the borrow activity area and the lake, so there will be no potential for contaminant leaching or surface runoff into the lake.

6. At the time the permit application and the MRP was written FNF considered obtaining water from a site outside of the Navajo Nation. We have since (5/14/15) signed an approved agreement with the Navajo Nation Water Code Administration for a well located south of site. Please incorporate the attached map in your EOR package.

7. The borrow area will be bermed between the borrow activity area and the lake, so there will be no potential for contaminant leaching or surface runoff into the lake. The Stormwater Pollution Prevention Plan has been approved by ADOT and is located at the FNF office trailer, a copy can be provided upon your request.

As soon as you schedule a meeting with Fisheries Manager and NNEPA Water Quality please contact me at 480-929-6733 or Tressia@fnfinc.com so we can make arraignments to attend.

We hope we have alleviated your items of concern and the permit process can keep moving forward.

Sincerely,
FNF CONSTRUCTION, INC.

Tressia Contreras
Environmental Manager

Enclosure

Pc: Ganado Borrow Source File



**PRESIDENT
RUSSELL BEGAYE
VICE PRESIDENT
JONATHAN NEZ**

NAVAJO FISH AND WILDLIFE P.O. BOX 1480 WINDOW ROCK, AZ 86515

04 June 2015

EOR003982

Howard Draper, Project Review
Navajo Land Department
Post Office Box 2249
Window Rock, Arizona 86515

Dear Howard,

The Navajo Nation Department of Fish and Wildlife (NNDFW) reviewed EOR Document No. 003982 for the proposed **Ganado Borrow Pit** project located upslope 200-250 feet from the shoreline of Ganado Lake. The NNDFW cannot recommend approval for the proposed project. There are several issues with the project that need to be addressed prior to approval.

1. The project is located within a designated Recreational Area, Ganado Lake, according to the NNDFW's Resource Compliance Policy (RCP formerly known as the BRLUCPP). The Biological Evaluation (BE) prepared by Rocky Mountain Ecology, LLC did not address the RCP in regards to project planning within a designated Recreational Area. Furthermore, a borrow pit is not compatible with the management goals for Ganado Lake. The contractor made no attempt to consult with NNDFW fisheries staff on potential impacts from lost revenue from a decrease in fishing permit sales to contaminant leaching and surface runoff into the lake.
2. A meeting between a FNF Construction representative and the Navajo Nation Environmental Protection Agency (NNEPA) occurred on 01 APR 2015 to consult on 401 and 404 permitting for the project. At that meeting, NNEPA informed the FNF Construction representative that they require compliance with NNDFW before they can proceed with processing the permits. FNF Construction responded that the NNDFW did not have any concerns with the project; however, they could not produce an approved Biological Resources Compliance Form (BRCF) during that meeting. The NNDFW requests to convene a meeting with FNF Construction to clear a claim that is false in regards that we do not have any biological concerns.
3. On 03 JUN 2015, Mr. Parker Brownell made a visit to the NNDFW office to coerce an expedited review of EOR003982. I was upfront with Mr. Brownell and informed him that I cannot recommend approval of the project due to the fact that it would conflict with the Resource Compliance Policy, a policy that was supported and approved by the Resources & Development Committee of the Navajo Nation Council on 10 SEP 2008. Mr. Brownell's response was that he could have the R&DC "un-do" the policy that NNDFW staff worked diligently on developing in effort to streamline the planning and approval of projects while conserving, protecting, enhancing and restoring the Navajo people's wildlife resources.

The following are issues that the NNDFW has with the environmental documents enclosed within the EOR package.

4. Mr. Brownell claims that project location was an existing borrow pit; therefore, the NNDFW should not have any concerns. The NNDFW requests information from the Navajo Land Department on the former leasee of this existing borrow pit and their mine reclamation plan.
5. The Environmental Assessment (EA) prepared by an unknown author appears to be incomplete and not a final document. It does not examine impacts to the Recreational Area, nor were mitigation measures outlined to avoid impacts to the lake from the operation and maintenance of the borrow pit.
6. The Mine Reclamation Plan indicates that water for the project will be obtained from a source located outside of the Navajo Nation lands. This conflicts with the water permit issued by the Navajo Nation Water Code Administration stating that the water source is from the Pipestand

Pond. If the water source is obtained off-reservation the NNDFW is concerned about the quality of that water. In addition, the NNDFW requests to know where Pipestand Pond is located. This water source is included in the proposed action and should be illustrated on the project map in the EOR package.


7. The Stormwater Pollution Prevention Plan (SWPPP) is not included in the EOR0033982 package. Considering that the proposed Processing Area is located right next to the lake, the NNDFW requests to know how FNF Construction proposes to ensure that there will be no impacts to the lake.

Overall, it is apparent that all documents conflict with one another and are incomplete. All environmental documents attached to an EOR package are legal documents and should be finalized and consistent throughout the package. Although no suitable habitat exists for federally and tribally listed species within the project area, the environmental documents failed to address the project area as occurring within a designated Recreational Area and failed to address the impacts the proposed borrow pit presents to the management goals of Ganado Lake.

The NNDFW is fully aware of the importance of this project; however, we need to ensure that projects are in compliance with tribal and federal wildlife laws and regulations. We highly recommend that we are consulted with early-on in the planning stages of all projects in order to avoid delays in the EOR approval process. I recommend that we convene a meeting as soon as possible with our Fisheries Managers, NNEPA Water Quality and FNF Construction. Your assistance in this matter is appreciated.

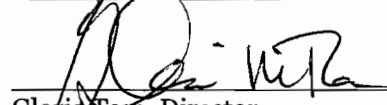
Please contact me at 928-871-7065 with any questions that you have concerning the review of this project.

Sincerely,



Pamela A. Kyselka, Wildlife Biologist
Navajo Natural Heritage Program

CONCURRENCE



Gloria Fenn, Director
Department of Fish and Wildlife

6/10/15
Date

xc: CONS-100-15
Glenn Selby, NNDFW
Lee Anna Martinez-Silvermith, NNEPA
Parker Brownell, FNF Construction, Inc.



**PRESIDENT
RUSSELL BEGAYE
VICE PRESIDENT
JONATHAN NEZ**

NAVAJO FISH AND WILDLIFE P.O. BOX 1480 WINDOW ROCK, AZ 86515

04 June 2015

EOR003982

Howard Draper, Project Review
Navajo Land Department
Post Office Box 2249
Window Rock, Arizona 86515

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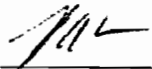
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Sincerely,



Pamela A. Kyselka, Wildlife Biologist
Navajo Natural Heritage Program

CONCURRENCE



Gloria Fem, Director
Department of Fish and Wildlife

6/10/15
Date

xc: CONS-100-15
Glenn Selby, NNDFW
Lee Anna Martinez-Silvermith, NNEPA
Parker Brownell, FNF Construction, Inc.

Document No. 003982Date Issued: 05/20/2015**EXECUTIVE OFFICIAL REVIEW**Title of Document: FNF Construction Inc for Borrow Lease Contact Name: DRAPER, HOWARDProgram/Division: DIVISION OF NATURAL RESOURCESEmail: howarddraper@frontiernet.net Phone Number: 928/871-6447☐ **Business Site Lease** Sufficient Insufficient

1. Division: _____	Date: _____	☐	☐
2. Office of the Controller: _____	Date: _____	☐	☐
(only if Procurement Clearance is not issued within 30 days of the initiation of the E.O. review)			
3. Office of the Attorney General: _____	Date: _____	☐	☐

☐ **Business and Industrial Development Financing, Veteran Loans, (i.e. Loan, Loan Guarantee and Investment) or Delegation of Approving and/or Management Authority of Leasing transactions**

1. Division: _____	Date: _____	☐	☐
2. Office of the Attorney General: _____	Date: _____	☐	☐

☐ **Fund Management Plan, Expenditure Plans, Carry Over Requests, Budget Modifications**

1. Office of Management and Budget: _____	Date: _____	☐	☐
2. Office of the Controller: _____	Date: _____	☐	☐
3. Office of the Attorney General: _____	Date: _____	☐	☐

☐ **Navajo Housing Authority Request for Release of Funds**

1. NNEPA: _____	Date: _____	☐	☐
2. Office of the Attorney General: _____	Date: _____	☐	☐

☐ **Lease Purchase Agreements**

1. Office of the Controller: _____	Date: _____	☐	☐
(recommendation only)			
2. Office of the Attorney General: _____	Date: _____	☐	☐

☐ **Grant Applications**

1. Office of Management and Budget: _____	Date: _____	☐	☐
2. Office of the Controller: _____	Date: _____	☐	☐
3. Office of the Attorney General: _____	Date: _____	☐	☐

☐ **Five Management Plan of the Local Governance Act, Delegation of an Approving Authority from a Standing Committee, Local Ordinances (Local Government Units), or Plans of Operation/Division Policies Requiring Committee Approval**

1. Division: _____	Date: _____	☐	☐
2. Office of the Attorney General: _____	Date: _____	☐	☐

☐ **Relinquishment of Navajo Membership**

1. Land Department: _____	Date: _____	☐	☐
2. Elections: _____	Date: _____	☐	☐
3. Office of the Attorney General: _____	Date: _____	☐	☐

☐ **Land Withdrawal or Relinquishment for Commercial Purposes**

			Sufficient	Insufficient
1. Division:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☐ **Land Withdrawals for Non-Commercial Purposes, General Land Leases and Resource Leases**

1. NLD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. F&W	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. HPD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5. NNEPA	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
6. DNR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
7. DOJ	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☒ **Rights of Way Borrow Lease**

1. NLD	<i>See Htr of 6/14/15</i>	Date: <i>27 May 15</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. F&W	<i>Subject to proposed changes</i>	Date: <i>6/10/15</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. HPD	<i>(IC)</i>	Date: <i>10/15/15</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Minerals	<i>John</i>	Date: <i>7/1/15</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. NNEPA	<i>John</i>	Date: <i>7-8-2015</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Office of the Attorney General:	<i>John</i>	Date: <i>8/11/15</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. OPVP	<i>John</i>	Date: <i>8-12-15</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

☐ **Oil and Gas Prospecting Permits, Drilling and Exploration Permits, Mining Permit, Mining Lease**

1. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. OPVP	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. NLD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☐ **Assignment of Mineral Lease**

1. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. DNR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. DOJ	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☐ **ROW (where there has been no delegation of authority to the Navajo Land Department to grant the Nation's consent to a ROW)**

1. NLD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. F&W	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. HPD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5. NNEPA	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
6. DNR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
7. DOJ	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
8. OPVP	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☐ **OTHER:**

1.	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2.	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3.	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4.	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5.	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



DOJ	
07/09/15 - 9:35a	
DATE / TIME	
<input type="checkbox"/> 7 Day Deadline	
DOC #:	003982
SAS #:	
UNIT:	NLD

☒ RESUBMITTAL

*** FOR NNDOJ USE ONLY - DO NOT CHANGE OR REVISE FORM. VARIATIONS OF THIS FORM WILL NOT BE ACCEPTED. ***

CLIENT TO COMPLETE

DATE OF REQUEST:	5/18/2015 7/9/2015	DIVISION:	Natural Resources (DNR)
CONTACT NAME:	Howard P. Draper or Vera Shurley	DEPARTMENT:	Navajo Land Dept (NLD)
PHONE NUMBER:	X-6447, 6490, 6401	E-MAIL:	howarddraper@frontiernet.net or verashurley@frontiernet.net

TITLE OF DOCUMENT: Approving Borrow Lease of 28.474 acres including access road to FNF Construction to extract, operate and maintain a borrow lease pit in the Ganado Lake vicinity, for road improvement (ADOT Hwy 264) and construction related purposes, Ganado Lake, AZ

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT:	7/9/15 1pm	REVIEWING ATTORNEY/ADVOCATE:	Irvine Chee
JUL - 9 2015			7/20/15
DATE/TIME OUT OF UNIT:			

DOJ ATTORNEY / ADVOCATE COMMENTS

- Rtd. document to P.R. Office because the sponsor, Parker Brownell, with FNF Construction, Inc., wants to work directly with Project

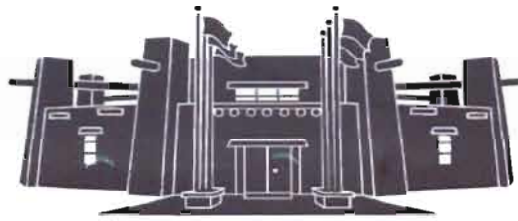
REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
Irvine Chee	7/28/15	Toni Kola	8/11/15 127pm

DOJ Secretary Called: Irvine Chee 8/5/15 for Document Pick Up on 8/11/15 at 135 By: NG

PICKED UP BY: (Print) DATE / TIME:

NNDOJ/DRRF-July 2013

8-5-15: Doc. was rec'd. by FNF Construction w/a response to NNDFWL's concern and NNDFWL had accepted FNF response and had changed their review of this packet from insufficient to sufficient. After FNF's response was considered, the why FSWL cannot recommend approval to sufficient. Thx. they had responded to FSWL's memo. but the check mark for insufficient is not changed to legally sufficient mark. Please Rtd. doc to DOJ so I can complete my review. Thx. - Irvine.



MEMORANDUM

To : Honorable Alton Shepherd
Navajo Nation Council Delegate

From : Mariana Kahn
Mariana Kahn, Attorney
Office of Legislative Counsel

Date : August 13, 2015

Re : PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A BORROW LEASE TO FNF CONSTRUCTION, INC. TO OPERATE AND MAINTAIN THE GANADO LAKE BORROW PIT AND AN ACCESS ROAD FOR A TOTAL OF 28.474 ACRES, MORE OR LESS, OF NAVAJO NATION TRUST LANDS LOCATED WITHIN THE GANADO CHAPTER VICINITY, NAVAJO NATION (APACHE COUNTY, ARIZONA) FOR ROAD IMPROVEMENT PROJECTS AND CONSTRUCTION RELATED PURPOSES

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution drafted is legally sufficient. However, as with all legislation, it is subject to review by the courts in the event of challenge. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

The Office of Legislative Council confirms the appropriate standing committee(s) reviews based on the standing committees powers outlined in 2 N.N.C. §§ 301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. § 164(A)(5).

If you are satisfied with the proposed resolution, please sign it as "sponsor" and submit it to the Office of Legislative Services where it will be given a tracking number and sent to the Office of the Speaker for assignment. If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution. Thank you for your service to the Navajo Nation.

15-603-1

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0286-15__

SPONSOR: Alton Joe Shepherd

TITLE: An Action Relating Resources And Development: Approving A Borrow Lease To FNF Construction, Inc. To Operate And Maintain The Ganado Lake Borrow Pit And An Access Road For A Total Of 28,474, More Or Less, Of Navajo Nation Trust Lands Located Within The Ganado Chapter Vicinity, Navajo Nation (Apache County, Arizona) For Road Improvement Projects And Construction Related Purpose

Date posted: August 14, 2015 at 3:30PM

Digital comments may be e-mailed to_comments@navajo-nsn.gov

Written comments may be mailed to:

**Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586**

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0286-15

SPONSOR: Honorable Alton Shepherd

TITLE: An Action Relating To Resources And Development: Approving A Borrow Lease To FNF Construction, Inc. To Operate And Maintain The Ganado Lake Borrow Pit And An Access Road For A Total Of 28,474, More Or Less, Of Navajo Nation Trust Lands Located Within The Ganado Chapter Vicinity, Navajo Nation (Apache County, Arizona) For Road Improvement Projects And Construction Related Purpose.

Posted: August 14, 2015 at 3:30PM

5 DAY Comment Period Ended: August 19, 2015

Digital Comments received: *No comments received.*



Policy Analyst
Office of Legislative Services



Date/Time