RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
24th Navajo Nation Council --- First Year, 2019

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING HOUSING PROJECT MASTER LEASE AZ12-210 BETWEEN THE NAVAJO NATION AND THE NAVAJO HOUSING AUTHORITY FOR AN ASSISTED LIVING FACILITY WITHIN THE WHIPPOORWILL CHAPTER OF THE NAVAJO NATION

BE IT ENACTED:

SECTION ONE. AUTHORITY

The Resources and Development Committee has oversight authority over land and the authority to grant final approval for non-mineral leases within the Navajo Nation. 2 N.N.C. §§ 500(C), 501(B) (2) (a).

SECTION TWO. FINDINGS

A. The proposed Housing Project Master Lease AZ12-210 between the Navajo Nation and Navajo Housing Authority for an assisted living facility within the Whippoorwill Chapter is attached hereto as **Exhibit A.**

B. The proposed Master Lease AZ12-210 regarding 19.9974 acres is described in **Exhibit B.**

C. Environmental and archaeological studies and clearances are attached in **Exhibit C** and incorporated herein by this reference.

D. The proposed Housing Project Master Lease AZ12-210 between the Navajo Nation and the Navajo Housing Authority for an assisted living facility within the Whippoorwill Chapter is on the former Business Site Lease No. CH-04-128 site. See attached Resources and Development Committee Resolution RDCF-19-17 terminating Business Site Lease No. CH-04-128 of Lessee Hoosh Doh Dii T'o Development, Inc., January 8, 2019 Navajo Housing Authority letter, Hoosh Doh Dii T'o Development, Inc. Resolution, and the Whippoorwill Chapter Resolution WC15:149 attached as **Exhibit D.**

E. The proposed Housing Project Master Lease AZ12-210 has been reviewed through Executive Official Review Document Number 011841. Executive Official Review Document Number 011841 is attached as **Exhibit E.**

SECTION THREE. APPROVAL

A. The Resources and Development Committee of the Navajo Nation Council hereby approves the Housing Project Master Lease AZ12-210 between the Navajo Nation and the Navajo Housing Authority for an assisted living facility within the Whippoorwill Chapter of the Navajo Nation found at **Exhibit A.**

B. The Resources and Development Committee of the Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute this Housing Project Master Lease and all other documents necessary to effectuate the intent of this resolution.

CERTIFICATION

I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 24th Navajo Nation Council at a duly called meeting at the Red Lake Chapter, Navajo, Navajo Nation (New Mexico), at which a quorum was present and that same was passed by a vote of 5 in favor, and 0 opposed, on this 28th day of August 2019.

Rickie Nez, Chairperson
Resources and Development Committee
of the 24th Navajo Nation Council

Motion: Honorable Thomas Walker, Jr.
Second: Honorable Mark A. Freeland

Chairperson Rickie Nez not voting.

EXHIBIT
A

LEASE NO. _____

THE NAVAJO NATION
and
NAVAJO HOUSING AUTHORITY

HOUSING PROJECT MASTER LEASE
(Trust or Restricted Land Only)

Whippoorwill, Arizona
Assisted Living Facility
AZ12-210

THIS LEASE is made and entered into this _____ day of _____, 20____, by and between THE NAVAJO NATION, hereinafter called the "Lessor," whose address is P.O. Box 9000, Window Rock, Navajo Nation (Arizona) 86515, and the NAVAJO HOUSING AUTHORITY, a public body established and existing pursuant to the provisions of 6 N.N.C. § 601 et seq., hereinafter called the "Lessee," whose address is P.O. Box 4980, Window Rock, Navajo Nation (Arizona) 86515, in accordance with the provisions of 2 N.N.C. § 501(B)(2)(a) and 25 U.S.C. § 415 (e), Navajo General Leasing Act Regulation, 16 N.N.C. § 2301 et seq., the Navajo Nation Homesite Lease Regulations RDCO-74-16 of 2016, and as implemented by the regulations contained in 25 C.F.R. Part 162; and all amendments or successors thereto, which by this reference are made a part hereof.

1. DEFINITIONS.

(A) "Approved Encumbrance" means an encumbrance approved in writing by Lessor and the Secretary in accordance with the terms and conditions of this Lease.

(B) "Encumbrancer" means the owner and holder of an Approved Encumbrance, including all successors and assigns.

(C) "Hazardous Substance" means any "hazardous substance" as defined under the provisions of section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601(14), including all amendments or successors thereto, and "petroleum" as defined under the provisions of section 9001(8) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6991(8).

2. LEASED PREMISES.

For and in consideration of the rents, covenants, agreements, terms and conditions contained herein, Lessor hereby leases to Lessee all that tract or parcel of land situated within the **Whippoorwill Chapter** of the Navajo Nation, (County of Navajo, State of Arizona), a tract of land situate within the Southeast Quarter (SE ¼) of Section 2 and within the Southwest Quarter (SW ¼) of Section 1, Township 30 North, Range 21East, of the Gila and Salt River Meridian.

Said **Navajo Housing Authority Project AZ12-210** is more particularly described in Exhibit "A," attached hereto and by this reference made a part hereof containing approximately **19.9974 acres, more or less.** Together with the right of reasonable ingress and egress, subject to any prior, valid, existing rights-of-way, hereinafter called the "Leased Premises". There is hereby reserved and excepted from the Leased Premises rights-of-way for utilities constructed by or on authority of Lessor, provided that such rights-of-way do not unreasonably interfere with Lessee's use of the Leased Premises.

3. USE OF PREMISES; GENERAL PLAN.

(A) Lessee shall develop, use and occupy the Leased Premises for the purpose of constructing and operating a Housing Project and its appurtenances, including constructing and operating appropriate related residential and public facilities such as roads, utilities, playgrounds, multi-purpose buildings, day care centers, ceremonial structures, laundry facilities, police, fire and medical facilities and other like facilities, consistent with a General Plan developed and approved in accordance with subsection (B) of this Section, known as Project No . **AZ12-210.**

(B) Prior to development of the Leased Premises, Lessee shall develop and submit to Lessor for approval a General Plan for the complete development of the Leased Premises. The approval of Lessor may be withheld, granted or granted upon conditions, in the sole discretion of Lessor.

(C) The Leased Premises shall not be used by Lessee for any purpose other than as provided in an approved General Plan, except with the prior written consent of Lessor . The consent of Lessor may be withheld, granted or granted upon conditions, in the sole discretion of Lessor.

(D) Lessee agrees not to use or permit to be used any part of the Leased Premises for any unlawful conduct or purpose.

4. TERM.

The term of this Lease shall be Seventy-Five (75) years, beginning on _____ and ending _____.

5. RENTAL.

In consideration of the foregoing and the covenants, agreements, terms and conditions of this Lease, Lessee hereby covenants and agrees to pay Lessor, in lawful money of the United States, an annual rental of: none. In accordance with the provisions of 25 C.F.R. § 162.320 and 162.326 and 16 N.N.C § 2332(C) and 2334(F), this Lease is for housing for public purpose to an agency of local government, is for the purpose of subsidization or the benefit of the Navajo Nation, and/or is for homesite purposes to Tribal members and the Leased Premises are not commercial or industrial in character.

6. CONDITION OF LEASED PREMISES.

Lessee has examined and knows the Leased Premises and improvements thereon and accepts the same as-is. No representations as to the condition of the Leased Premises have been made by Lessor, any agent of Lessor or the United States prior to or at the time of execution of this Lease. Lessee warrants that it has not relied on any warranty or representation made by or on behalf of Lessor or the United States, but solely upon Lessee's independent investigation.

7. IMPROVEMENTS.

(A) All buildings and other improvements on the Leased Premises, excluding removable personal property and trade fixtures, shall remain on the Leased Premises after termination of this Lease. At its option, Lessor may require Lessee to remove said buildings and other improvements and to restore the Leased Premises to its original state upon termination of this Lease.

(B) Lessee shall remove all removable personal property and trade fixtures prior to termination of this Lease. Should Lessee fail to remove said personal property and trade fixtures prior to termination of this Lease, said property shall thereupon become property of Lessor, and may be disposed of in any manner by Lessor.

(C) As used in this Section, the term "removable personal property" shall not include property which normally would be attached or affixed to buildings, other improvements or land in such a way that it would become a part of the realty, regardless of whether such property in fact is so attached or affixed.

(D) All Hazardous Substances, Hazardous Substance storage systems or conveyance facilities placed on or under the Leased Premises are the property of Lessee and shall remain the property of Lessee upon termination of this Lease. Within a reasonable time prior to termination of this Lease, Lessee shall remove any such substances or improvements, shall assess the Leased Premises for contamination, shall remediate all contamination, if any, and shall address any third party damages occasioned by any contamination or otherwise by the use or storage of such substances or improvements on the Leased Premises. Should Lessee fail to complete such responsibilities prior to the termination of this Lease, Lessee shall remain responsible therefore, and shall be required to post a bond in an amount reasonably required to ensure that such responsibilities are completed within a reasonable time after termination of this Lease.

8. CONSTRUCTION; MAINTENANCE; REPAIR; ALTERATION.

(A) All buildings and other improvements placed on the Leased Premises shall be constructed in a good and workmanlike manner in compliance with applicable laws and building codes. All parts of buildings or other improvements visible to the public or from adjacent premises shall present a pleasant appearance and all service areas shall be screened from public view.

(B) Lessee shall maintain the Leased Premises and all buildings and other improvements thereon and any alterations, additions or appurtenances thereto, in good order and repair and in a safe, sanitary and neat condition.

(C) Lessee shall have the right to make reasonable alterations, additions or repairs to buildings or other improvements on the Leased Premises, consistent with other provisions of this Lease.

9. UTILITY SERVICE LINE AGREEMENTS.

(A) Lessee specifically is authorized to enter into appropriate service line agreements with utility companies for the provision of utility services to the Leased Premises, including gas, water, sewer, electricity, telephone, television and other utilities, without further consent by Lessor, on the condition that:

(1) such agreements are for the sole purpose of supplying utility services to the Leased Premises;

(2) such agreements authorize utility service lines only within the Leased Premises;

(3) such agreements do not extend beyond the term of this Lease;

(4) executed copies of such agreements, together with plats or diagrams showing with particularity the location, size and extent of such service lines, are filed by the utility companies with Lessor and with the Secretary within thirty (30) days of their execution; and

(5) such agreements are otherwise in accordance with the provisions of 25 C.F.R. Section 169.51-56, including any amendments or successors thereto.

(B) Nothing contained herein shall be construed to limit the right of Lessor to enter into service line agreements with utility companies for service lines across the Leased Premises, provided that such service lines do not unreasonably interfere with Lessee's use of the Leased Premises, nor otherwise to affect the rights-of-way reserved to Lessor in Section 2 of this Lease.

10. LIENS; TAXES AND ASSESSMENTS; UTILITY CHARGES.

(A) Lessee shall not permit any liens arising from any work performed, materials furnished, or other obligations incurred by Lessee to be enforced against the Leased Premises, any interest therein or improvements thereon. Lessee shall discharge all such liens before any action is brought to enforce same.

(B) Lessee shall pay, before becoming delinquent, all taxes, assessments and other like charges levied upon or against the Leased Premises, any interest therein or improvements thereon, for which Lessee is liable. Upon request by Lessor, Lessee shall furnish Lessor written evidence

duly certified that any and all such taxes, assessments and other like charges required to be paid by Lessee have been paid, satisfied or otherwise discharged. Lessee shall have the right to contest any asserted tax, assessment or other like charge against the Leased Premises, any interest therein or improvements thereon, by posting bond to prevent enforcement of any lien resulting therefrom. Lessee agrees to protect and hold harmless Lessor, and the Leased Premises and all interests therein and improvements thereon from any and all such taxes, assessments and like charges and from any lien therefore, any sale or other proceedings to enforce payment thereof, and all costs in connection therewith. Upon request by Lessee, Lessor shall execute and deliver any appropriate documents with reference to real estate tax exemption of the Leased Premises, any interest therein or improvements thereon.

(C) Lessee shall pay, before becoming delinquent, all charges for water, sewage, gas, electricity, telephone and other utility services supplied to the Leased Premises.

(D) Lessor shall have the right to pay any lien, tax, assessment or other charge payable by Lessee under this Lease, or to settle any action therefore, if, within a reasonable time after written notice thereof from Lessor, Lessee fails to pay or to post bond against enforcement thereof. All costs and other expenses incurred by Lessor in so doing shall be repaid by Lessee to Lessor on demand, together with interest at the legal rate from the date of payment or incursion thereof by Lessor until repayment is made by Lessee.

11. SUBLEASES AND ASSIGNMENTS; PARTIAL RELINQUISHMENTS.

(A) Except as otherwise provided in subsections (B) and (C) of this Section, this Lease may not be assigned, subleased or otherwise transferred or conveyed, in any manner whatsoever, in whole or in part, without the prior written consent of Lessor , and then only upon the condition that the assignee or other successor in interest shall agree in writing to be bound by each and every covenant, agreement, term and condition of this Lease. Any such attempted assignment, sublease, transfer or conveyance without such prior written approval shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of Lessor.

(B) Notwithstanding the provisions of subsection (A) of this Section, and subject to the provisions of subsection (D) of this Section, Lessee Navajo Housing Authority, but no successor in interest thereto, is hereby authorized to sublease the Leased Premises, in whole or in part, with the prior written approval of Lessor, but without further approval of the Secretary. Subleases so made shall not serve to relieve the Lessee from any liability under this Lease nor to diminish any supervisory authority of the Navajo Nation provided for under this Lease or under applicable federal laws and regulations. During the term of any sublease, should the sublessee succeed to the interests of Lessee hereunder, it is hereby agreed that no merger of interests shall occur thereby.

(C) Notwithstanding the provisions of subsection (A) of this Section, and subject to the provisions of subsection (D) of this Section, this Lease may be assigned, in whole or in part, by Lessee Navajo Housing Authority, but not by any successor in interest thereto, with the prior written approval of Lessor,, provided that the assignee shall agree in writing to be bound by all the covenants, agreements, terms and conditions of this Lease, and no such assignment shall be valid

unless and until the assignee shall so agree. Assignments so made shall not serve to relieve the Lessee from any liability under this Lease nor to diminish any supervisory authority of the Navajo Nation provided for under this Lease or under applicable federal laws and regulations; provided, that Lessee may be relieved from its liability under this Lease, in whole or in part, with the prior written approval of the Lessor.

(D) Lessee shall provide a copy of any sublease, assignment or partial relinquishment to Lessor and to the Navajo Nation within thirty (30) days of its execution. Any sublease or assignment authorized by this Section shall be on a form approved by Lessor, and no such sublease or assignment shall be valid unless it is on an approved form. No sublease or assignment authorized by this Section shall be valid unless and until it is duly recorded in accordance with the provisions of 25 C.F.R. Part 150, including any amendment or successor thereto, at the Land Titles and Records Office of the Bureau of Indian Affairs, Albuquerque, New Mexico Office, or any successor thereto.

(E) Lessee is hereby authorized to relinquish to Lessor any part of this Lease, with the prior written approval of Lessor , for the purpose of Lessor issuing a Homesite Lease for the part relinquished; provided, that each person to whom the Homesite Lease is proposed to be issued is eligible to receive a Homesite Lease and the issuance of the Homesite Lease is otherwise in compliance with all applicable requirements of the Navajo Nation Homesite Regulation 2016 adopted by Resolution No. RDCO-74-16, including amendments or successors thereto.

12. QUIET ENJOYMENT.

Lessor hereby covenants and agrees that, upon performing each of its covenants, agreements, terms and conditions contained in this Lease, that Lessee shall peaceably and quietly have, hold and enjoy the Leased Premises without any hindrance, interruption, ejection or molestation by Lessor or by any other person or persons claiming from or under Lessor.

13. ENCUMBRANCE.

(A) This Lease or any interest therein may not be encumbered without the prior written approval of Lessor, and no such encumbrance shall be valid or binding without such prior written approval. An encumbrance shall be confined to the leasehold interest of Lessee, and shall not jeopardize in any way Lessor's interest in the land. Lessee agrees to furnish any requested financial statements or analyses pertinent to the encumbrance that Lessor may deem necessary to justify the amount, purpose and terms of said encumbrance.

(B) In the event of default by Lessee of the terms of an Approved Encumbrance, Encumbrancer may exercise any rights provided in such Approved Encumbrance, provided that prior to any sale of the leasehold, Encumbrancer shall give to Lessor notice of the same character and duration as is required to be given to Lessee by the terms of such Approved Encumbrance and by applicable law. In the event of such default, Lessor shall have the right, which may be exercised at any time prior to the completion of sale, to pay to Encumbrancer any and all amounts secured by the Approved Encumbrance, plus unpaid interest accrued to the date of such payment, plus expenses of sale incurred to the date of such payment.

(C) If Lessor exercises the above right, all right, title and interest of Lessee in this Lease shall terminate and Lessor shall acquire this Lease; provided, however, that such termination shall not relieve Lessee of any obligation or liability which shall have accrued prior to the date of termination. Acquisition of this Lease by Lessor under these circumstances shall not serve to extinguish this Lease by merger or otherwise.

(D) If Lessor declines to exercise the above right and sale of the leasehold under the Approved Encumbrance shall occur, the purchaser at such sale shall succeed to all of the right, title and interest of Lessee in this Lease. It is further agreed that the purchaser at such sale if is Encumbrancer, Encumbrancer may sell and assign this Lease without any further approval by Lessor, provided that the assignee shall agree in writing to be bound by all the covenants, agreements, terms and conditions of this Lease, and no such assignment shall be valid unless and until the assignee shall so agree. If Encumbrancer is the purchaser, it shall be required to perform the obligations of this Lease only so long as it retains title thereto. If the purchaser is other than Encumbrancer, the purchaser shall agree in writing to be bound by all the covenants, agreements, terms and conditions of this Lease, and no such purchase shall be valid unless and until purchaser shall so agree.

14. DEFAULT.

(A) Time is declared to be of the essence of this Lease. Should Lessee default in any payment of monies when due under this Lease, fail to post bond or be in violation of any other provision of this Lease, said violation may be acted upon by the Lessor in accordance with the provisions of 25 C.F.R. Part 162, including any amendments or successors thereto.

(B) In addition to the rights and remedies provided by the aforementioned regulations, Lessor, either jointly or severally, may exercise the following options upon Lessee's default, subject to the provisions of subsection (D) below:

(1) Collect, by suit or otherwise, all monies as they become due hereunder, or enforce by suit or otherwise, Lessee's compliance with all provisions of this Lease; or

(2) Re-enter the premises and remove all persons and property therefrom, and re-let the premises without terminating this Lease as the agent and for the account of Lessee, but without prejudice to the right to cause the termination of the Lease under applicable law thereafter, and without invalidating any right of Lessor or any obligations of Lessee hereunder. The terms and conditions of such re-letting shall be in the sole discretion of Lessor, who shall have the right to alter and repair the premises as it deems advisable and to re-let with or without any equipment or fixtures situated thereon. Rents from any such re-letting shall be applied first to the expense of re-letting, collection, altering and repairing, including reasonable attorney's fees and any reasonable real estate commission actually paid, insurance, taxes and assessments and thereafter toward payment to liquidate the total liability of Lessee. Lessee shall pay to Lessor monthly when due, any deficiency and Lessor may sue thereafter as each monthly deficiency shall arise; or

(3) Take any other action authorized or allowed under applicable law.

(C) No waiver of a breach of any of the terms and conditions of this Lease shall be construed to be a waiver of any succeeding breach of the same or any other term or condition of this Lease. Exercise of any of the remedies herein shall not exclude recourse to any other remedies, by suit or otherwise, which may be exercised by Lessor, or any other rights or remedies now held or which may be held by Lessor in the future.

(D) Lessor, as the case may be, shall give to an Encumbrancer a copy of each notice of default by Lessee at the same time as such notice of default shall be given to Lessee. Lessor shall accept performance by an Encumbrancer of any of Lessee's obligations under this Lease, with the same force and effect as though performed by Lessee. An Encumbrancer shall have standing to pursue any appeals permitted by applicable federal or Navajo Nation law that Lessee would be entitled to pursue. Neither Lessor shall terminate this Lease if an Encumbrancer has cured or is taking action diligently to cure Lessee's default and has commenced and is pursuing diligently either a foreclosure action or an assignment in lieu of foreclosure.

15. SANITATION.

Lessee hereby agrees to comply with all applicable sanitation laws, regulations or other requirements of the United States and the Navajo Nation. Lessee agrees to dispose of all solid waste in compliance with applicable federal and Navajo Nation law. Lessee further agrees at all times to maintain the entire Leased Premises in a safe and sanitary condition, presenting a good appearance both inside and outside the Leased Premises.

16. HAZARDOUS SUBSTANCES.

Lessee shall not cause or permit any Hazardous Substance to be used, stored, generated or disposed of on or in the Leased Premises without the prior written approval of Lessor, which approval may be given, given upon conditions or denied in the sole discretion of Lessor. Without limitation of the foregoing, if Lessee causes or permits the presence of any Hazardous Substance on the Leased Premises and such results in contamination to the Leased Premises or any building or other improvement thereon, Lessee shall promptly take any and all actions necessary or appropriate to restore the Leased Premises or building or other improvement to the condition existing prior to the presence of any such Hazardous Substance on the Leased Premises. Lessee shall obtain written approval from Lessor prior to commencement of any such remedial action.

17. PUBLIC LIABILITY INSURANCE.

(A) At all times during the term of this Lease, Lessee shall carry a public liability insurance policy in the amount of at least $1,000,000 for personal injury to one (1) person and $3,000,000 per occurrence, and $500,000 for damage to property. Said policy shall be obtained from a reliable insurance company authorized to do business in the Navajo Nation and in the State identified in Section 2 of this Lease and shall be written to protect Lessee, Lessor and the United States and shall provide for notification to Lessor prior to any material change, cancellation or

non-renewal of said policy for any reason, including non-payment of premiums. Upon written request therefore, copies of said policy shall be furnished to Lessor.

(B) Lessor may require that the amount of the insurance policy required by subsection (A) of this Section be increased at any time, whenever either shall determine that such increase reasonably is necessary for the protection of Lessor or the United States.

(C) With the prior written approval of Lessor, the insurance obligation under this Section may be satisfied by a self-insurance program maintained by Lessee or by other means of alternative performance satisfactory to Lessor.

18. FIRE AND CASUALTY INSURANCE.

(A) At all times during the term of this Lease, Lessee shall carry fire and casualty insurance with an extended coverage endorsement covering not less than the full insurable value of all improvements on the Leased Premises. Said policy shall be obtained from a reliable insurance company authorized to do business in the Navajo Nation and in the State identified in Section 2 of this Lease, and shall be written to protect Lessee, Lessor, the United States and an Encumbrancer, if any, and shall provide for notification to Lessor and any Encumbrancer prior to any material change, cancellation or non-renewal of said policy for any reason, including non-payment of premiums. Upon written request therefore, copies of said policy shall be furnished to Lessor.

(B) In the event of destruction of or damage to any improvement on the Leased Premises while an Approved Encumbrance remains in effect, the proceeds of fire and damage insurance equal to the amount of destruction or damage to the encumbered improvements (but not exceeding the remaining balance of the Approved Encumbrance) shall be paid to Encumbrancer on the condition that Encumbrancer agrees to promptly replace or repair the destroyed or damaged improvements to a condition as good or better than before the destruction or damage occurred. If such amount paid to Encumbrancer is sufficient to repair the destroyed or damaged improvements with respect to which it was paid, or, if within three (3) months after such payment by the insurer to Encumbrancer, Lessor or Lessee shall deposit with Encumbrancer sufficient additional funds, if any, required to completely replace or repair the destruction or damage, upon written order of Lessor or Lessee, Encumbrancer shall pay such the costs of such replacement or repair, and such payment shall not be deemed a payment or credit on the Approved Encumbrance. Otherwise, at the expiration of such three (3) months said sum so paid by the insurer to Encumbrancer shall be applied and credited on the Approved Encumbrance.

(C) With the prior written approval of the Lessor the insurance obligations under this Section may be satisfied by a self-insurance program maintained by Lessee or by other means of alternative performance satisfactory to Lessor

19. INSPECTION.

The Navajo Nation shall have the right, at any reasonable time during the term of this Lease, to enter upon the Leased Premises, or any part thereof, to inspect the Leased Premises and

any buildings and other improvements erected or placed thereon.

20. MINERALS.

All minerals, including sand and gravel, contained in or on the Leased Premises are reserved for the use of Lessor. Lessor also reserves the right to enter upon the Leased Premises and search for and remove minerals located thereon, paying just compensation for any damage or injury caused to Lessee's personal property or improvements constructed by Lessee.

21. EMINENT DOMAIN.

If the Leased Premises or any part thereof is taken under the laws of eminent domain at any time during the term of this Lease, Lessee's interest in the Leased Premises or the part of the Leased Premises taken shall thereupon cease. Compensation awarded for the taking of the Leased Premises or any part thereof, including any improvements located thereon, shall be awarded to Lessor and Lessee as their respective interests may appear at the time of such taking, provided that Lessee's right to such awards shall be subject to the rights of an Encumbrancer under an Approved Encumbrance.

22. DELIVERY OF PREMISES.

At the termination of this Lease, Lessee shall peaceably and without legal process deliver up the possession of the Leased Premises in good condition, usual wear and tear excepted. Upon the written request of the Navajo Nation, Lessee shall provide to the Navajo Nation, at Lessee's sole cost and expense, an environmental audit assessment of the Leased Premises at least sixty (60) days prior to delivery of said premises.

23. HOLDING OVER.

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

24. INDEMNIFICATION.

Lessee shall indemnify and hold harmless the Navajo Nation and their authorized agents, employees, land users and occupants, against any liability for loss of life, personal injury and property damages arising from the construction on or maintenance, occupancy or use of the Leased Premises by Lessee.

25. ATTORNEY'S FEES.

Lessee agrees to pay and discharge all reasonable costs, attorney's fees and expenses that may be incurred by Lessor in enforcing the provisions of this Lease.

26. AGREEMENT TO ABIDE BY NAVAJO NATION AND FEDERAL LAWS.

In all activities conducted by Lessee within the Navajo Nation, Lessee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect.

27. GOVERNING LAW AND CHOICE OF FORUM.

Except as prohibited by applicable federal law, the law of the Navajo Nation shall govern the construction, performance and enforcement of this Lease. Any action or proceeding brought by Lessee against the Navajo Nation in connection with or arising out of the terms and conditions of this Lease shall be brought only in the courts of the Navajo Nation, and no such action or proceeding shall be brought by Lessee against the Navajo Nation in any court or administrative body of any State.

28. CONSENT TO JURISDICTION.

Lessee hereby consents to the legislative, executive and judicial jurisdiction of the Navajo Nation in connection with all activities conducted by the Lessee within the Navajo Nation.

29. COVENANT NOT TO CONTEST JURISDICTION.

Lessee hereby covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation 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 in this Section shall be construed to negate or impair federal responsibilities with respect to the Leased Premises or to the Navajo Nation.

30. NO WAIVER OF SOVEREIGN IMMUNITY.

Nothing in this Lease shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

31. TERMINATION OF FEDERAL SUPERVISION.

Nothing in this Lease shall operate to delay or prevent a termination of federal responsibilities with respect to the Leased Premises by the issuance of a fee patent, or otherwise, during the term of this Lease, however, such termination shall not serve to abrogate this Lease. Lessor, Lessee and an Encumbrancer, if any, shall be notified of any such change in the status of the Leased Premises.

32. INTEREST OF MEMBER OF CONGRESS.

No member of or delegate to Congress or any Resident Commissioner shall be admitted to any share or part of this Lease or to any benefit that may arise here from, but this provision shall not be construed to extend to this Lease if made with a corporation or company for its general benefit.

33. OBLIGATIONS TO THE UNITED STATES.

It is understood and agreed that while the Leased Premises are in trust or restricted status, all of Lessee's obligations under this Lease are to the United States as well as to Lessor.

34. NOTICES AND DEMANDS.

(A) Any notices, demands, requests or other communications to or upon either party or the Navajo Nation provided for in this Lease, or given or made in connection with this Lease, (hereinafter referred to as "notices,") shall be in writing and shall be addressed as follows:

To or upon Lessor:

President
The Navajo Nation
Office of the President/Vice-President
P.O. Box 9000
Window Rock, Navajo Nation (Arizona) 86515
Fax: 1-928-871-4025

To or upon Lessee:

Chief Executive Officer
Navajo Housing Authority
P.O. Box 4980
Window Rock, Navajo Nation (Arizona) 86515
Fax: 1-928-871-2604

(B) All notices shall be given by personal delivery, by registered or certified mail, postage prepaid, by facsimile transmission. Notices shall be effective and shall be deemed delivered: if by personal delivery, on the date of delivery if during normal business hours, or if not during normal business hours on the next business day following delivery; if by registered or certified mail, by facsimile transmission, on the next business day following actual delivery and receipt.

(C) Copies of all notices shall be sent to the Navajo Nation.

(D) Lessor, Lessee may at any time change its address for purposes of this Section by notice.

35. SUCCESSORS AND ASSIGNS.

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 Lessee. Except as the context otherwise requires, the term "Lessee," as used in this Lease, shall be deemed to include all such successors, heirs, executors, assigns, employees and agents.

36. EFFECTIVE DATE; VALIDITY.

This Lease shall take effect on the date it is approved by the Navajo Nation. This Lease, and any modification of or amendment to this Lease, shall not be valid or binding upon either party until it is approved by the Navajo Nation.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the date first above written.

NAVAJO HOUSING AUTHORITY, LESSEE

By:_____
Chief Executive Officer

Date: 04/05/2019

THE NAVAJO NATION, LESSOR

By:_____
President

Date:_____

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the date first above written.

NAVAJO HOUSING AUTHORITY, LESSEE

By:_____
Chief Executive Officer

Date: 04/05/2019

THE NAVAJO NATION, LESSOR

By:_____
President

Date:_____

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the date first above written.

NAVAJO HOUSING AUTHORITY, LESSEE

By:_____
Chief Executive Officer

Date: 04/05/2019

THE NAVAJO NATION, LESSOR

By:_____
President

Date:_____

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the date first above written.

NAVAJO HOUSING AUTHORITY, LESSEE

By:_____
Chief Executive Officer

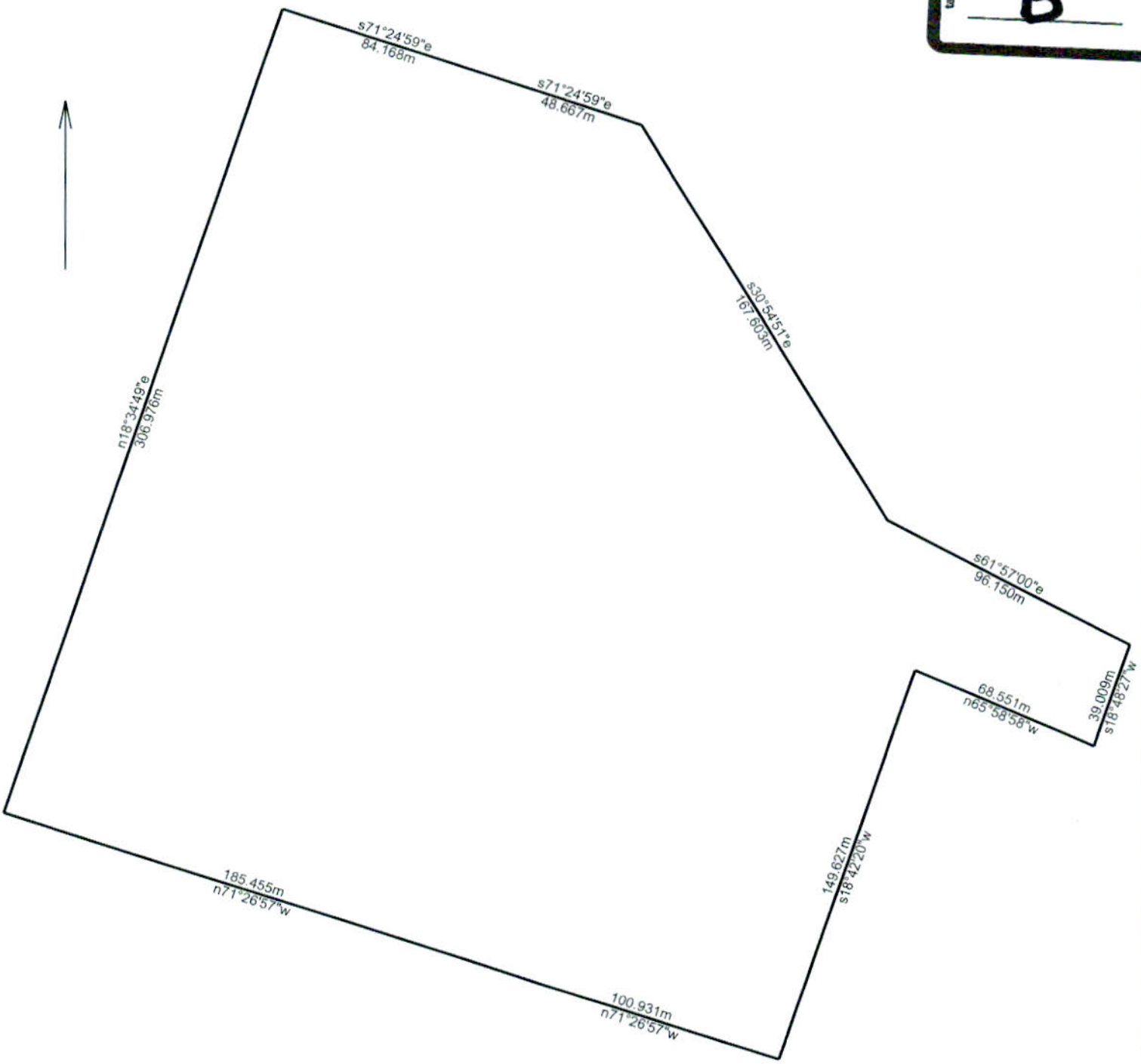
Date: 04/05/2019

THE NAVAJO NATION, LESSOR

By:_____
President

Date:_____

EXHIBIT B



1/3/2019

Scale: 1 inch= 167 feet | File: BOUNDARY Whipporwill - Assisted Living Facility.ndp

Tract 1: 19.9974 Acres, Closure: n00.0000e 0.00 ft. (1/999999), Perimeter=4092 ft.

01 n71.2657w 100.931m
02 n71.2657w 185.455m
03 n18.3449e 306.976m
04 s71.2459e 84.168m
05 s71.2459e 48.667m
06 s30.5451e 167.603m
07 s61.5700e 96.150m
08 s18.4827w 39.009m
09 n65.5858w 68.551m
10 s18.4220w 149.627m

LEGAL DESCRIPTION

A TRACT OF LAND SITUATE WITHIN THE SOUTHEAST QUARTER OF SECTION 2 AND THE WITHIN THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 30 NORTH, RANGE 21 EAST, OF THE GILA AND SALT RIVER MERIDIAN IN THE VICINITY OF WHIPPOORWILL, NAVAJO COUNTY, ARIZONA AND IN THE LAND MANAGEMENT DISTRICT NO. 04 OF THE NAVAJO NATION. SAID TRACT OF LAND IS DESIGNATED AS HOOSH DOOH DII TO' DEVELOPMENT TRACT, AND IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SECTION CORNER COMMON TO SECTIONS 1, 2, 11, AND 12, T. 30 N., R. 21 E. OF THE G.S.R.M., BEING A FOUND BLM CADASTRAL SURVEY BRASS CAP MONUMENT DATED 2011;

THENCE, A 00°00'00" E, A DISTANCE OF 96.000 METERS TO A POINT ON THE SOUTHERLY BOUNDARY OF THE SENIOR CITIZENS CENTER, BEING A FOUND NO. 5 REBAR AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT OF LAND;

THENCE, A 71°23'27" N, A DISTANCE OF 130.931 METERS TO A POINT ON THE SECTION LINE COMMON TO SECTIONS 1 AND 2, T30N, R21E, OF THE G.S.R.M.;

THENCE, A 71°28'57" N, A DISTANCE OF 185.455 METERS TO A FOUND ALUMINUM CAP MARKED "LS 14487" (NZ RLS JOHN J. HOUSE);

THENCE, A 05°24'19" E, A DISTANCE OF 209.676 METERS TO A FOUND ALUMINUM CAP MARKED "LS 14487" (NZ RLS JOHN J. HOUSE);

THENCE, A 71°23'56" E, A DISTANCE OF 84.168 METERS TO A POINT ON THE SECTION LINE COMMON TO SECTIONS 1 AND 2, T30N, R21E, OF THE G.S.R.M.;

THENCE, A 71°23'56" E, A DISTANCE OF 48.887 METERS TO A FOUND ALUMINUM CAP MARKED "LS 14487" (NZ RLS JOHN J. HOUSE);

THENCE, A 05°24'31" E, A DISTANCE OF 147.803 METERS TO A FOUND ALUMINUM CAP MARKED "LS 14487" (NZ RLS JOHN J. HOUSE);

THENCE, A 01°37'06" E, A DISTANCE OF 84.104 METERS TO A FOUND NO. 5 REBAR WITH A RED CAP MARKED "RLS 16";

THENCE, A 18°42'37" W, A DISTANCE OF 26.008 METERS TO A POINT ON THE NORTHERLY BOUNDARY OF A SENIOR CITIZENS CENTER, BEING A FOUND ALUMINUM CAP MARKED "LS 14487" (NZ RLS JOHN J. HOUSE);

THENCE, CONTINUING ON SAID BOUNDARY, A 85°36'28" N, A DISTANCE OF 86.551 METERS TO A FOUND NO. 5 REBAR;

THENCE, CONTINUING ON SAID BOUNDARY, S 18°42'37" W, A DISTANCE OF 149.827 METERS TO THE POINT OF BEGINNING.

THE DESCRIBED ENCLOSED AREA COMPRISING OF 9.0927 HECTARES (19.9974 ACRES), MORE OR LESS, BEING SUBJECT TO ANY AND ALL EXISTING EASEMENTS OR UNDERGROUND UTILITIES LOCATED THEREON.

GENERAL NOTES:

1. NAD CONFORMAL STEREOGRAPHIC DOUBLE GRID PROJECTION PARAMETERS:
LATITUDE OF ORIGIN = 34°13'00" FALSE NORTHING: 500,000 METERS
LONGITUDE OF ORIGIN = 108°30'00" FALSE EASTING: 1,500,000 METERS
SCALE FACTOR: 1.000000 EXACT AT ORIGIN

BASIS OF BEARING FOR THIS SURVEY IS THE LINE BETWEEN POINTS 100 AND 99, THE NAD CONFORMAL STEREOGRAPHIC DOUBLE GRID PROJECTION GRID BEARING BETWEEN THESE POINTS IS N 00°00'00" E AND THE GRID DISTANCE IS 304.800 METERS. THE COORDINATES WERE GENERATED USING STATIC GPS OBSERVATIONS AND ARE DERIVED FROM NGS OPUS SOLUTIONS. THE RELEVANT DATA FOR THESE CONTROL POINTS ARE AS FOLLOWS:

DATUM:	NAD83 (2011)
EPOCH:	2010.0000
COORD SYSTEM:	ARC, ZONE: 2011
ELLIPSOID:	GRS80
VERTICAL DATUM:	NAVD88
GEOID MODEL:	GEOID12B

POINT 99N
POINT 100
NAD CONFORMAL STEREOGRAPHIC DOUBLE GRID PROJECTION COORDINATES AND ELEVATION
NORTHING: 475,287.761 METERS
EASTING: 1,456,136.996 METERS
ELEVATION: 1,910.842 METERS
GEODETIC COORDINATES:
LATITUDE: = 34°01'37.15435"
LONGITUDE: = 110°02'47.41394"
EL. HEIGHT: 1,896.144 METERS
DESCRIPTION: FOUND B.L.M. CADASTRAL BRASS CAP MONUMENT COMMON TO SECTIONS 1, 2, 11, AND 12, T30N, R21E, OF THE G.S.R.M., DATED 2011.

POINT 99N
POINT 99
NAD CONFORMAL STEREOGRAPHIC DOUBLE GRID PROJECTION COORDINATES AND ELEVATION
NORTHING: 476,192.237 METERS
EASTING: 1,456,174.919 METERS
ELEVATION: 1,896.044 METERS
GEODETIC COORDINATES:
LATITUDE: = 34°01'50.25342"
LONGITUDE: = 110°02'47.41394"
EL. HEIGHT: 1,872.849 METERS
DESCRIPTION: FOUND B.L.M. CADASTRAL BRASS CAP MONUMENT COMMON TO SECTIONS 1 AND 2, T30N, R21E, OF THE G.S.R.M., DATED 2011.

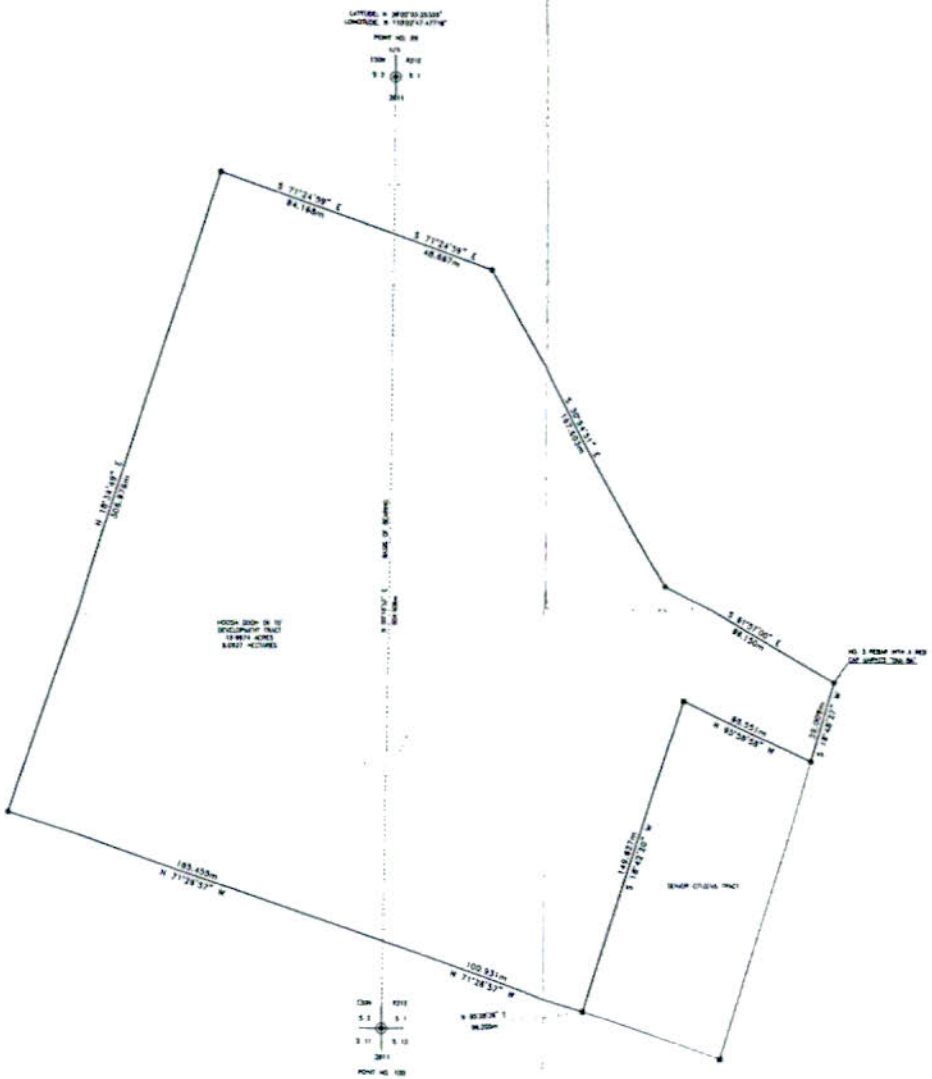
3. DOCUMENTS USED:
A) HOOSH DOOH DII TO' DEVELOPMENT TRACT BOUNDARY SURVEY BY JOHN HOUSE (NZ RLS#14487), DATED 12/07/2000
B) UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT SURVEY OF TOWNSHIP 30 NORTH, RANGE 21 EAST, OF THE GILA AND SALT RIVER MERIDIAN, ARIZONA, OFFICIALLY FILED SEPTEMBER 10, 2012.
C) WHIP SCHOOL HOMES TRACT SURVEYED BY JOHN A. YOUNGKIN (NMLS [?14621]), DATED 12-18-2011
D) ADDITIO USING FACILITY TRACT SURVEYED BY JOHN A. YOUNGKIN (NMLS [?14621]), DATED 0-0-2011
E) HOOSH DOOH DII TO' UNDEVELOPED TRACT SURVEYED BY JOHN A. YOUNGKIN (NMLS [?14621]) DATED 12-19-2011.

2. THE LAND STYLE FOR THIS SITE IS NAVAJO TRIBAL TRUST LAND

4. ALL DISTANCES SHOWN ON THE PLAT ARE GRID DISTANCES

5. BEARING AND DISTANCES ARE REFERENCED TO THE NAVAJO HOUSING AUTHORITY CONFORMAL STEREOGRAPHIC DOUBLE GRID PROJECTION (OR OTHER AS APPLICABLE) TO OBTAIN GROUND DISTANCES, MULTIPLY BY 1.000296529 (I.E. THE INVERSE OF COMBINED GROUND TO GRID FACTOR).

6. ALL POSITIVE CORNERS WILL BE TAGGED WITH A WASHER MARKED "LS" RLS 30609 PAISANO (NZ RLS MICHAEL P. PAISANO).



PROJECT SITE

VICINITY MAP (not to scale)

MONUMENT LEGEND

- FOUND BLM CADASTRAL SURVEY BRASS CAP MONUMENT DATED 2011 UNLESS OTHERWISE NOTED
- FOUND ALUMINUM CAP MARKED "LS" RLS 14487" UNLESS OTHERWISE NOTED
- FOUND NO. 5 REBAR

SUMMARY OF AREA			
	SECTION 1	SECTION 2	TOTAL
HECTARES	0.8148 HA	8.2779 HA	9.0927 HA
ACRES	2.0132 AC	20.4842 AC	22.4974 AC

SURVEYOR'S CERTIFICATE

I, Michael P. Paisano, a duly qualified Professional Surveyor under the laws of the State of Arizona, do hereby certify that the survey and plat shown hereon was prepared from an actual survey conducted by me or under my direct supervision and that the same is true and correct to the best of my knowledge and belief.

Michael P. Paisano, Professional Surveyor. Arizona Certificate No. 30609

NO.	DESCRIPTION	DATE	BY
1			
2			
3			
4			
5			
6			

NAVAJO HOUSING AUTHORITY
DEVELOPMENT & CONSTRUCTION SERVICES DIVISION
LAND SURVEYING DEPARTMENT
P.O. BOX 1579
FORT DEFIANCE, ARIZONA, 86504
PHONE (928) 729-6502 FAX (928) 729-6507

BOUNDARY PLAT OF HOOSH DOOH DII TO' DEVELOPMENT TRACT
WHIPPOORWILL, NAVAJO COUNTY, ARIZONA

Checked By	MICHAEL P. PAISANO
Check Date	01/2019
Drawing By	MC
Drawing Date	12/2018
Surveyed By	RL, HM
Survey Date	12/2018
Sheet	1 OF 1

EXHIBIT
C

NNDFW Review No. EOR-011841

BIOLOGICAL RESOURCES COMPLIANCE FORM
NAVAJO NATION DEPARTMENT OF FISH AND WILDLIFE
P.O. BOX 1480, WINDOW ROCK, ARIZONA 86515-1480

It is the Department's opinion the project described below, with applicable conditions, is in compliance with Tribal and Federal laws protecting biological resources including the Navajo Endangered Species and Environmental Policy Codes, U.S. Endangered Species, Migratory Bird Treaty, Eagle Protection and National Environmental Policy Acts. This form does not preclude or replace consultation with the U.S. Fish and Wildlife Service if a Federally-listed species is affected.

PROJECT NAME & NO.: NHA Master Lease Re-Assignment

DESCRIPTION: The Hoosh Dooh Dii To' Development, Inc. relinquishes 20 acres with housing units to the Navajo Housing Authority.

LOCATION: East side of Balakai Mesa, Whippoorwill Chapter, Navajo County, Arizona

REPRESENTATIVE: General Land Development Department (GLDD)

ACTION AGENCY: Bureau of Indian Affairs and Navajo Nation

B.R. REPORT TITLE / DATE / PREPARER: Section 164 Review/23 JAN 2019/GLDD

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: NA

CONDITIONS OF COMPLIANCE*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/28 JAN 2019

COPIES TO: (add categories as necessary)

☐ _____ ☐ _____

2 NTC § 164 Recommendation:	Signature	Date
☐Approval ☐Conditional Approval (with memo) ☐Disapproval (with memo) ☒Categorical Exclusion (with request letter) ☐None (with memo)	Daniel Tulsa Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife	2/27/19

*I understand and accept the conditions of compliance, and acknowledge that lack of signature may be grounds for the Department not recommending the above described project for approval to the Tribal Decision-maker.

Representative's signature Date

C:\old_pc2010\My Documents\NNHP\BRCF_2019\EOR-011841.doc

NNDFW –B.R.C.F.: FORM REVISED 12 NOV 2009

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

MEMORANDUM

TO : David Mikesic, Zoologist
Department of Fish and Wildlife

FROM : Gloria M. Tom, Director
Department of Fish and Wildlife

DATE : February 24, 2019

SUBJECT : **DELEGATION OF AUTHORITY**

I will be on travel Sunday through Wednesday, February 24, 2019 through February 27, 2019. I am hereby delegating you to act in the capacity of the Director, Department of Fish and Wildlife, effective 5:00 p.m. on Sunday, February 24, 2019 to 5:00 p.m. on Wednesday, February 27, 2019. This delegation shall end at 5:00 p.m. on Wednesday, February 27, 2019.

Your authority will cover the review and signing off of all routine documents pertaining to the Department of Fish and Wildlife, except for issues that you feel should have the attention of the Director.

ACKNOWLEDGEMENT

2/25/19

David Mikesic, Zoologist
Department of Fish and Wildlife

THE NAVAJO NATION
ENVIRONMENTAL PROTECTION AGENCY

Public Water Systems Supervision Program
Post Office Box 339, Window Rock, AZ 86515
Telephone (928) 871-7755
Fax (928) 871-7818
www.navajopublicwater.org

Jonathan Nez
President

Myron Lizer
Vice President

January 28, 2019

MEMORANDUM

TO: Navajo Land Title Data Systems
Land Department
Division of Natural Resources

FROM: Yolanda Barney, Environmental Program Manager
Public Water Systems Supervision Program
Surface and Ground Water Protection Department
Navajo Nation Environmental Protection Agency

SUBJECT: DOCUMENT No. 011841

The Navajo Nation Environmental Protection Agency's Public Water Systems Supervision Program and Domestic Wastewater Program reviewed Document No. 011841, Navajo Housing Authority Housing Project Master Lease Whippoorwill Chapter, in Whippoorwill, Arizona. This project sought to terminate the Business Site Lease CH-04-128 and change the lease from the Hoosh Dooh Dii To' Development Inc. to Navajo Housing Authority. This project includes fourteen (14) homes on about 20 acres of land within the Whippoorwill Chapter area including all utilities (water and wastewater). PWSSP recommends approval of this document.

All proposed drinking water projects will need to be permitted by the PWSSP-NNEPA. All proposed drinking water projects (extensions, upgrades, new wells, new public water systems, etc.) must also comply with the design review and construction permit requirements of the PWSSP pursuant §§1501 and 1601 of the Navajo Nation Primary Drinking Water Regulations.

All proposed wastewater projects will need to be permitted by the Domestic Wastewater Program-NNEPA. Extensions, upgrades, new sewer infrastructure, septic tanks, and other wastewater infrastructure must comply with the design review and construction permit requirements pursuant to §201 of the Domestic Wastewater Program.

If there are any questions, please contact me at 871-7755.

xc: Ronnie Ben, Environmental Department Manager, Surface/Ground Water Protection Dept., NNEPA
PWSID#NN0403004
PWSID#NN04040067

CULTURAL RESOURCES COMPLIANCE FORM
HISTORIC PRESERVATION DEPARTMENT
PO BOX 4950
WINDOW ROCK, ARIZONA 86515

ROUTING: COPIES TO
AZ SHPO
REAL PROPERTY MGT/330
XX CSWTA

NNHPD NO. **HPD-06-154**
OTHER PROJECT NO.
CSWTA-ARCH-2005092

PROJECT TITLE: **A Cultural Resources Inventory Survey for the Hoosh Dooh Dii To' Development Incorporated Business Site with Associated Utilities in the Vicinity of Whippoorwill, Navajo County, Arizona**

LEAD AGENCY: BIA/NR

SPONSOR: Al Wartz, Dooh Dii To' Development, Inc., PO Box 4204, Blue Gap, Arizona 86520

PROJECT DESCRIPTION: The proposed undertaking will involve the construction of a new children's shelter home along with the installation of associated utilities/facilities within the twenty-acre lease area. Ground disturbance will be intensive and extensive with the use of heavy equipment.

LAND STATUS: Tribal Trust
CHAPTER: **Whippoorwill**
LOCATION: Unplatted & Projected T30N, R21E; Whippoorwill Spring Quadrangle, Navajo County, Arizona G&SRPM&B

PROJECT ARCHAEOLOGIST: **Loretta Flatrock**
NAVAJO ANTIQUITIES PERMIT NO.: B05801

DATE INSPECTED: **12/14/05**
DATE OF REPORT: 12/27/05
TOTAL ACREAGE INSPECTED: **20.0 ac**

METHOD OF INVESTIGATION: Class III pedestrian inventory with transects spaced **10-12** m apart.

LIST OF CULTURAL RESOURCES FOUND: **None**
LIST OF ELIGIBLE PROPERTIES: **None**
LIST OF NON-ELIGIBLE PROPERTIES: **None**
LIST OF ARCHAEOLOGICAL RESOURCES: **None**

EFFECT/CONDITIONS OF COMPLIANCE: **No historic properties affected.**

In the event of a discovery [*"discovery"* means any previously unidentified or incorrectly identified cultural resources including but not limited to archaeological deposits, human remains, or locations reportedly associated with Native American religious/traditional beliefs or practices], all operations in the immediate vicinity of the discovery must cease, and the Navajo Nation Historic Preservation Department must be notified at (928) 871-7132.

FORM PREPARED BY: TAMARA BILLIE
FINALIZED: March 10, 2006

Notification to
Proceed Recommended: Yes **XX** No ____
Conditions: Yes ____ No **XX**

Tamara Billie
Alan S. Downer, Navajo Nation
Historic Preservation Officer
03/10/06
Date

Navajo Region Approval: Yes X No ____

Acting Regional Director
3/16/06
Date

ARCHAEOLOGICAL INVENTORY REPORT DOCUMENTATION PAGE (HPD JAN/91)

1.	**HPD REPORT NO.** 2. **(FOR HPD USE ONLY)**	3.	**RECIPENTS ACCESSION NO.**
4.	**TITLE OF REPORT:** A Cultural Resources Inventory Survey for the Hoosh Dooh Dii To' Development Incorporated Business Site with Associated Utilities in the Vicinity of Whippoorwill, Navajo County, Arizona. **AUTHOR:** Loretta Flatrock	5.	**FIELDWORK DATE:** December 14, 2005
		6.	**REPORT DATE:** December 27, 2005
7.	**CONSULTANTS NAME AND ADDRESS:** **Gen'l Charge:** Carol S. Yazzie-Ward **Org. Name:** CSWTA, Inc. **Org. Address:** Post Office Box 790 Tuba City, Arizona 86045 **Phone:** (928) 283-4323	8.	**PERMIT NO.:** B05801
		9.	**CONSULTANT REPORT NO.** CSWTA-ARCH-2005092
10.	**SPONSOR NAME AND ADDRESS:** **Ind. Responsible:** Al Wartz **Org. Name:** Hoosh Dooh Dii To' Development, Inc. **Org. Address:** Post Office Box 4204 Blue Gap, Arizona 86520 **Phone:** (928) 725-3333	11.	**SPONSOR REPORT NO.** NA
		12.	**AREA OF EFFECT:** 20.0 ac **AREA SURVEYED:** 20.0 ac

13. **LOCATION: (Map Attached).**

a.	**Chapter:**	Whippoorwill	e.	**Land Status:**	Navajo Tribal Trust Lands
b.	**Agency:**	Chinle	f.	**UTM Center:**	See attachment sheet.
c.	**County:**	Navajo	g.	**Area:**	Section Unplatted, Projected at T30N, R21E
d.	**State:**	Arizona	h.	**7.5' Map Name:**	Whippoorwill Spring, AZ 1982

13. **REPORT /X/ OR SUMMARY (Report Attached).**

a. **Description of Undertaking:** The proposed undertaking will involve the construction of a Children Shelter Home with associated utilities within a 315.0 feet by 550.0 feet by 435.36 feet by 1,007.11 feet, 939.76 feet by 490.89 feet by 225.97 by 127.92 feet parcel of land. The total area of potential effect equals 152,459 square feet or 20.0 acres. Ground disturbance is expected to be intensive and extensive from the use of heavy equipment. Hoosh Dooh Dii To' Development, Incorporated is in the process of a business site lease approval through BIA.

b. **Existing Data Review:** A check of Navajo Nation Historic Preservation Department (NNHPD) site files indicated that one site was previously recorded within one kilometer of the project area. Site #AZ-J-57-30 is a Anasazi Pueblo I-II sherd and rubble scatter. This site was recorded in report #HPD 86-219. Three other projects were reported: #HPD 88-125, #HPD 90-210, and #HPD 92-327.

c. **Area Environmental and Cultural Setting:** The project area is situated at an elevation of 6,252 feet above mean sea level. The proposed children shelter home is on a 20-acre parcel of disturbed land, which already has fourteen elderly hogan style houses; and an Assisted Living/Group home ready for construction. Vegetation consists of Russian thistle, shadescale, blue grama, globemallow, Kochia, Indian rice grass, prickly pear, four-wing saltbush and tansy mustard. The nearest water resources are Polacca Wash to the west, Whippoorwill Spring to the west, White Horse Spring to the northwest, Smoke Signal Spring to the southeast. Peaches

Spring to the northeast, and Donkey Spring to the southeast. The contemporary cultural setting is modern Navajo. The prehistoric use was Anasazi.

d. **Field Methods:** Loretta Flatrock and Carol S. Yazzie-Ward walked subparallel transects spaced 10-12 meters apart to survey for cultural resources. The survey included a buffer zone of 50 feet around the perimeter of the business site. The total area surveyed equaled 194,005 square feet or 20.0 acres. Mr. Wartz was interviewed for Traditional Cultural Properties.

14. CULTURAL RESOURCES FINDINGS:

a. **Location/Identification of Each Resource:** No cultural resources were inventoried and no Traditional Cultural Properties were reported.

b. **Evaluation of Significance of Each Resource:** No significant findings were made.

16. MANAGEMENT SUMMARY (Recommendations): Archaeological clearance is recommended for the proposed children shelter home with associated utilities.

17. CERTIFICATION: **Signature:** Carol S Yazzie Ward **Date:** 01/27/06
General Charge Name: Carol S. Yazzie-Ward
Signature: Carol S Yazzie Ward for **Date:** 01/27/06
Direct Charge Name: Loretta Flatrock

Attachment Sheet

13f. UTM Coordinates: Zone 12

Point a:	3987280N, 586180E
Point b:	3987320N, 586080E
Point c:	3987470N, 585980E
Point d:	3987500N, 585850E
Point e:	3987190N, 585760E
Point f:	3987130N, 586050E
Point g:	3987250N, 586100E
Point h:	3987220N, 586160E

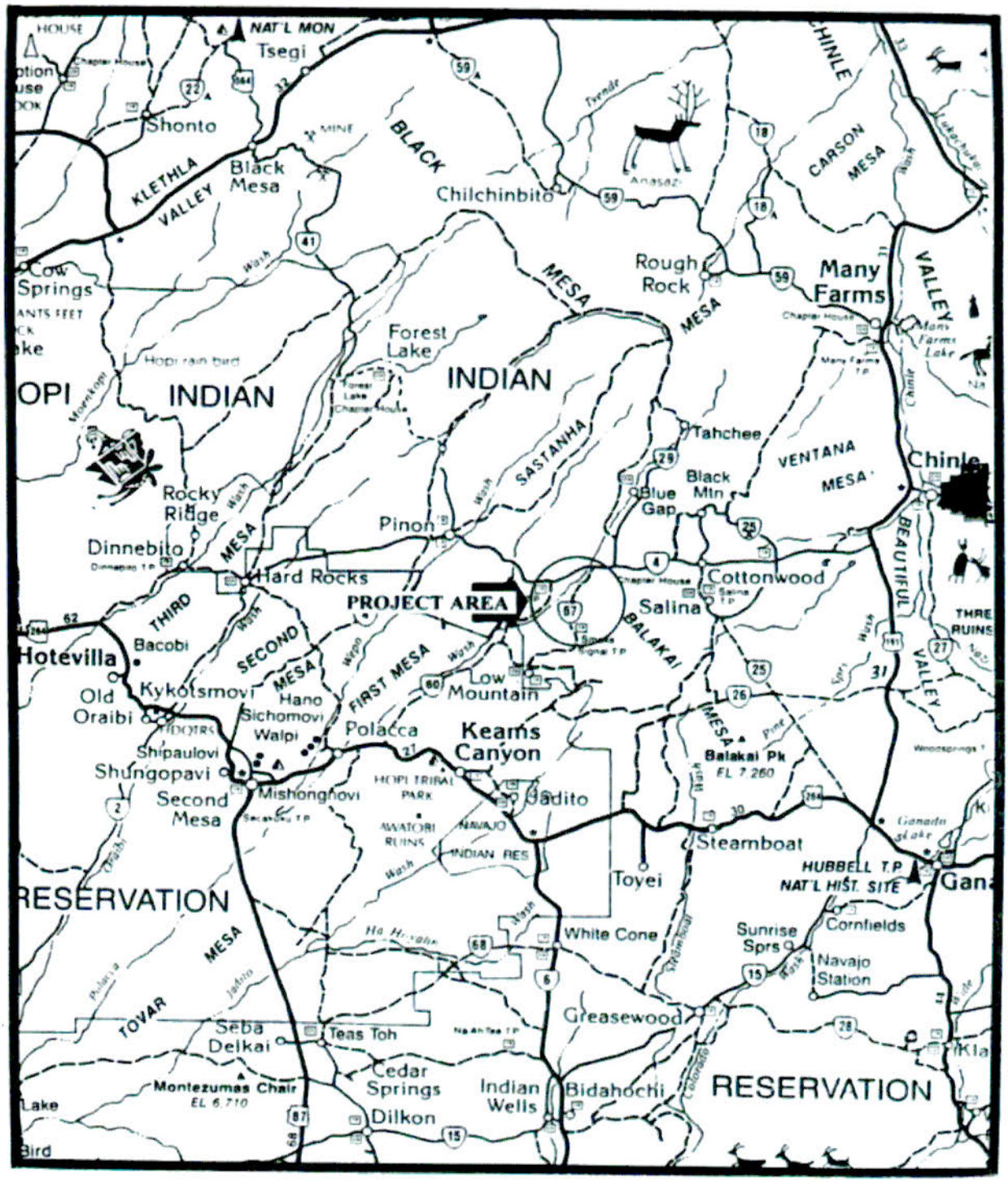


Figure 1. General project area on Navajo Tribal Trust Lands, Whippoorwill Chapter, Chinle Agency, Navajo County, Arizona.

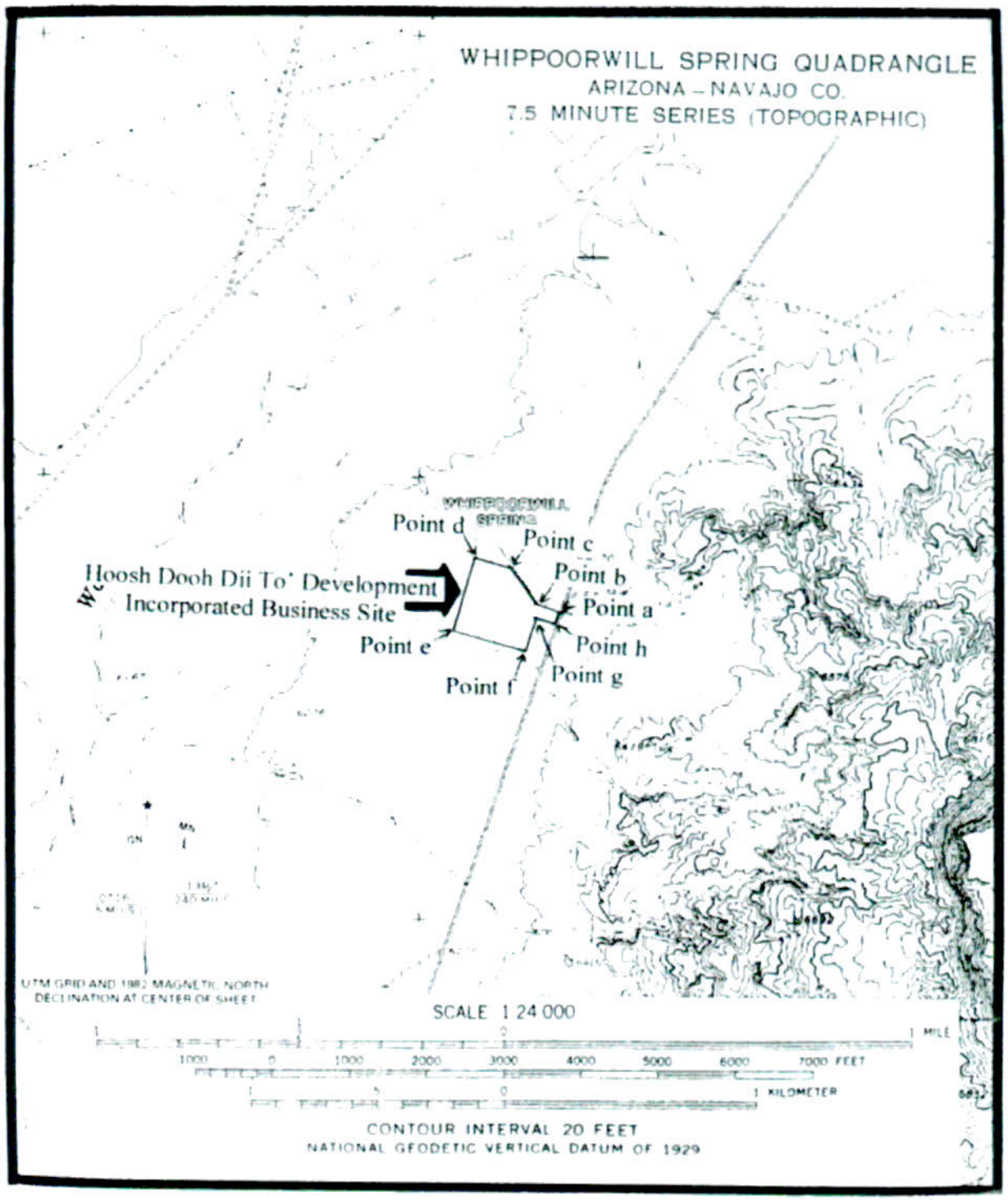


Figure 2. The project area plotted on USGS Whippoorwill Spring Quadrangle, 7.5-minute series, Navajo County, Arizona.

Albert Deschenny, Advisor
RC

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
Navajo Area Office
P. O. Box 1060
Gallup, New Mexico 87305-1060

TAKE PRIDE IN AMERICA

IN REPLY REFER TO:

500/Environmental Services

Mr. Clark Etsitty
Hoosh Doh Dii To'
P. O. Box 980
Pinon, Arizona 86510

Dear Mr. Etsitty:

The "Environmental Assessment of a Proposed Community Facility Project for Whippoorwill Springs Chapter, Whippoorwill, Navajo County, Arizona", EA-96-053, has been reviewed by the Navajo Area Environmental Quality Services.

A Finding of No Significant Impact (FONSI) has been determined for the proposed action; the action will not have a significant impact on the quality of the natural and human environmental. Therefore, an environmental impact statement for the community facilities project is not required.

The enclosed FONSI determination should be appended to the final environmental assessment and all other copies prepared for distribution. Please submit a copy of the final environmental assessment to the Navajo Area Environmental Quality Services for their files.

Should you require any additional information or have any question on the FONSI determination, please contact or leave message for Leonard Robbins, Area Environmental Protection Specialist, at (505) 863-8286.

Sincerely,

Melvin Rousseau

ACTING Area Director

Enclosure

FINDING OF NO SIGNIFICANT IMPACT
ENVIRONMENTAL ASSESSMENT DOCUMENT EA-96-053
TOWNSHIP 31N, RANGE 17E
UTM ZONE 12, N3988060, E585770
Whippoorwill Springs, Navajo County, Arizona

The proposed action addresses the Whippoorwill Springs Chapter Facility Development project which encompasses 170 acres. The project is sponsored by the Hoosh Doh Dii To' Development of Whippoorwill, Arizona.

The project environmental assessment (EA) has been reviewed by the Navajo Area Office of Environmental Quality Services. On the basis of environmental mitigation measures as specified in the environmental assessment document, it is determined the proposed project will not have a significant impact on the natural and human environment. Therefore, in accordance with the National Environmental Policy Act, Section 102 (2) (C), an environmental impact statement will not be prepared.

The following references serve as the basis for this decision and are incorporated in the project environmental assessment document:

1. Agency and public involvement was conducted and environmental issues related to the development of the facilities development project were identified. Alternative courses of action and mitigation measures were developed in response to environmental concerns and issues.

2. The EA disclosed the environmental consequences of the proposed action and three potentially viable alternatives, which includes the "no action" alternative.

3. Impacts to floodplain and wetlands affected by the proposed alternative have been evaluated in accordance with E.O. 11988 and E.O. 11990 respectively.

4. Protective measures will be levied to protect air and noise as outlined in Chapter 5.1, Mitigation Measures.

5. In compliance with the National Historic Preservation Act of 1966, as amended, Section 106 consultation and 36 CFR 800.9 (b), an archeological field inventory was performed for the project. A Cultural Resource Compliance Form NTM-87-179.2 was issued by the Navajo Historic Preservation Department as shown in Appendix 9.3. No cultural or historic properties eligible for the National List of Historic Places will be impacted.

Should undiscovered archeological remains be encountered during the project ground disturbing activities, work will stop in the area of discovery and the stipulations of 36 CFR 800.11 will be followed.

6. In compliance with the Endangered Species Act, an informal request for endangered species information from the Navajo Nation Natural Heritage Program was initiated by the project sponsor. A field survey was performed and biological assessment crafted, no threatened or endangered species will be impacted.

7. In accordance with the Resource Conservation and Recovery Act Subtitle C, hazardous materials waste is mitigated in Section 5.1 to minimize the effects of the proposed action.

8. In accordance with the Resource Conservation and Recovery Act Subtitle D, nonhazardous materials solid waste is mitigated in Section 5.1 to minimize the effects of the proposed action.

9. The proposed action would improve the economic and social conditions of the affected Indian community. The development project is supported by the local land users and the Whippoorwill Chapter which issued a support resolution.

ACTING Lorette G. W. Brown
Area Environmental Quality Officer

6-13-96
Date

AN
ENVIRONMENTAL ASSESSMENT

OF A
PROPOSED COMMUNITY FACILITIES PROJECT
FOR
HOOSH DOH DII TO' DEVELOPMENT, INCORPORATED
IN
WHIPPOORWILL SPRINGS, NAVAJO COUNTY, ARIZONA

INTRODUCTION

This Environmental Assessment (EA.) has been prepared in accordance with Sections 101 and 102 of the National Environmental Policy Act (NEPA) of 1969, as amended. An environmental assessment is an instrument required by federal law and regulations to determine if the potential impacts of a Proposed Action are of such significance as to require the preparation of an Environmental Impact Statement (EIS).

This EA also complies with the Navajo Nation Council Resolution RCF-014-91 "Threatened and/or Endangered Species list for the Navajo Nation (NESL)" which is monitored and enforced by the Navajo Nation Fish & Wildlife Department and Archaeological and Cultural Resources monitored and enforced by the Navajo Nation Historic Preservation Department.

The proposed action is the development of socioeconomic and related facilities by Hoosh Doh Dii To', Incorporated on 51.8 Ha (128 acres) of Navajo Nation trust land in Whippoorwill, Navajo County, Arizona. Hoosh Do Dii To' Development, Inc. plans to develop the following facilities for the betterment of the community: Senior Citizen Housing, Youth Development Center, Convenience Store or a Trading Post, Industrial Development, School and Public Safety Facility. The Proposed Actions will consist of: site preparation, construction of buildings and related facilities, parking, on-site and off-site improvements. The developments will also include office spaces for various employees, rest rooms, food and beverage areas and waiting areas. The buildings will also include equipment rooms and auxiliary service provisions.

The Environmental Assessment describes project alternatives and characterizes the existing environment in terms of physical resources, biotic resources, including threatened and/or endangered species, socioeconomic factors, archaeological resources, and cultural resources of the project area. Mitigation procedures are recommended concerning any impacts as a result of the development.

Supporting documents are attached to amend and justify the proposed action.

TABLE OF CONTENTS

CONTENTS		PAGE
	INTRODUCTION	01
	TABLE OF CONTENTS	02
1.0.	PROPOSED ACTION	05
	1.1. Project Description	05
	1.2. Purpose and Need for Action	05
	1.3. Location	06
	1.4. Vicinity Maps	07
2.0.	ALTERNATIVES	08
	2.1. Reasonable Alternatives	08
	2.1.a. Alternative One: Preferred Alternative	08
	2.1.b. Alternative Two: Relocate the Proposed Action	08
	2.1.c. Alternative Three: No Action	08
3.0.	DESCRIPTION OF AFFECTED ENVIRONMENT	09
	3.1. Land Resources	09
	3.1.a. Topography	09
	3.1.b. Soils	09
	3.1.c. Geology and Mineral Resources	09
	3.2. Water Resources	10
	3.2.a. Surface Water	10
	3.2.b. Ground Water	10
	3.2.c. Floodplains and Wetlands	10
	3.3. Air Resources	10
	3.3.a. Air Quality	10
	3.3.b. Visibility	11
	3.3.c. Climate/Meteorology	11
	3.4. Biotic Resources	13
	3.4.a. Wildlife	13
	(1) Threatened and Endangered Species	14
	3.4.b. Vegetation	15
	(1) Threatened and Endangered Species	15
	3.4.c. Agriculture	15
	3.5. Cultural Resources	16
	3.5.a. Archaeological Resources	16
	3.5.b. Traditional Cultural Properties	16
	3.6. Socioeconomic Conditions	16
	3.6.a. Employment and Income	16
	3.6.b. Demographics and Trends	17
	3.6.c. Life-styles and Cultural Values	19
	3.6.d. Community Infrastructure	19
	3.7. Resource/Land Use Patterns	21
	3.7.a. Hunting, Fishing, Gathering	21
	3.7.b. Timber Harvesting	21

3.7.c. Agriculture 21
3.7.d. Mining 21
3.7.e. Outdoor Recreation 21
3.7.f. Transportation Use Networks 22
3.7.g. Land Use Plans 22
3.7.h. Solid and Hazardous Waste Sites 22
3.7.i. Hazardous Waste Site 22
3.8. Other Values 22
3.8.a. Wilderness, Wetlands, Floodplalin 22
3.8.b. Noise 23
3.8.c. Public Health and Safety 23

4.0. ENVIRONMENTAL CONSEQUENCES OF THE PROPOSED ACTION 24
4.1. Biological Impacts 24
4.1.a. Threatened and/or Endangered Species Impacts 24
4.2. Physical Impacts 24
4.2.a. Air Quality 25
4.2.b. Water Quality 26
4.3. Socioeconomic Conditions 26
4.3.a. Social Impacts 26
4.3.b. Induced Socioeconomic Impacts 26
4.3.c. Compatible Land Use 27
4.3.d. Surface Transportation/Ground Access 27
4.3.e. Noise 27
4.3.f. Solid Waste Impacts 28
4.4. Cultural Resource Impacts 28
4.5. Solid Waste and Hazardous Impacts 28
4.6. Contruction Impacts 28

5.0. MITIGATION MEASURES OF PROPOSED ACTION
30
5.1. Biological Measures 30
5.2. Physical Measures 31
5.3. Threatened and/or Endangered Species 31
5.4. Socioeconomic Measures 32
5.5. Archaeological Resources 32
5.6. Contruction Measures 32
5.7. Other Mitigation Measures 33

6.0. CONCLUSIONS REGARDING SIGNIFICANCE 34

7.0. CONSULTATION AND COORDINATION 35
7.1. Personnel and Qualifications 35
7.2. Consultation/Coordination 35
7.3. Bibliography 36

8.0. DOCUMENT PREPARER'S SIGNATURE 37
9.0. APPENDICES/SUPPORTING DOCUMENTS 38

LIST OF TABLES

		PAGE
TABLE I:	Preliminary SVR Analysis Statistics by Season	11
TABLE II:	Precipitation and Temperature Values	12
TABLE III:	Wildlife Species Indigenous to the Project Area	13
TABLE IV:	Vegetative Species Indigenous to the Project Area	15
TABLE V:	Income Distribution, 1990 Census	17
TABLE VI:	Navajo Income Characteristics	17
TABLE VII:	Age Distribution - 1990 Census	18
TABLE VIII:	Characteristics 1990 Census	18
TABLE IX:	Sound Level by U.S.Environmental Protection Agency	23

1.0. DESCRIPTION OF THE PROPOSED ACTION

1.1. Project Description:

Hoosh Doh Dii To' Development, Incorporated (A Non-profit Community Development Corporation chartered under the Navajo Nation Code) with the assistance of the Navajo Nation, United States Department of Housing and Urban Development and Arizona State and other Federal Agencies proposes to construct Senior Citizen Housing units, a Youth Recreation Facility, a Police Substation, Convenience Store and/or Trading Post, Satellite School facility, and perhaps an Industrial development in an area set aside for such purpose by the Whippoorwill Springs Chapter.

Approximately 81 ha. (200 acres) has been withdrawn by Whippoorwill Springs Chapter and approximately 28 ha. (72 acres) has already been developed to accommodate thirty-four (34) family rental units operated and maintained by the Navajo Housing Authority and related infrastructure development.

This Environmental Assessment will cover the 51.8 ha. (128 acres) which is projected as part of the continuing development of infrastructure and facilities indicated above. The project will be accessed by way of turnout from Indian Service Navajo Route N-67. Utility corridors to support the development will be covered by documents supplied by the appropriate individual agencies.

1.2. Purpose and Need for Action:

The withdrawal of Navajo Nation trust land for community and economic development was initiated in response to the request by the land users as well as other community members through their involvement in the decision-making process. The purpose of the land withdrawal is to development and provide safe and modern dwelling units for the elderly, a recreation facility for area youth, a police substation, satellite school, an area convenience store and various other facilities. The need for such facilities are obvious as the community residents have been tolerant in traveling long distance for necessary goods and services.

A concerted efforts were established when the community residents responded loud and clear to questionnaires and community forums addressing issues deemed important for community development. Chapter members have shown their support for the developments by petition and chapter resolutions.

The Whippoorwill Springs Chapter is increasing and is in extreme need of development which will provide assistance and employment. Because of twenty (20) years of construction freeze mandated under Former Joint-Use Area by the Federal Government, the socioeconomic situation had become intolerable and the local residents have experienced years of social and economic injustice.

This environmental Assessment (EA) is submitted for the proposed construction of facilities consisting of dwelling units for the elderly, a recreation facility for area youth,

a police substation, satellite school, an area convenience store and related improvements. It is an accompanying document to the Master Plan for development that was financed in part through the construction of 34 family rental units as provided under the local empowerment initiatives.

The Environmental Assessment has been prepared according to the guidelines and requirements of National Environmental Policy Act (NEPA) of 1968. In conformance with the Act, the purpose of the EA is:

1. To understand the problem and identify reasonable alternative solutions, including the Proposed Action.

2. To determine whether any potential impacts are significant which would require an Environmental Impact Statement (EIS).

3. To provide the basis for the proposed facilities development's finding of no significant impact (FONSI) if the Proposed Action has no significant impacts.

4. To identify and satisfy special purposes Federal laws, Navajo Nation laws, regulations and executive orders.

5. To identify clearances (biotic, cultural. etc.) , resolutions, authorization, land users relinquishment of grazing area, permits, and other entitlements required by the Proposed Action.

The Navajo Nation laws classifies the land projected for development as federal trust land and subject to federal and tribal laws in the withdrawal, clearances and leasing process. The Navajo Nation laws has delegated certain authority to the Navajo Nation Chapters for determining the use of its land in a form of resolutions adopted by community-at-large. In essence, the Whippoorwill Chapter has determined that there is a real need for proposed facility development to serve the area residents.

The need for this Environmental Assessment was created by the proposed future development of new community facilities to bring needed services to the area. The existing conditions requiring local residents to travel long distance for goods and services has to change for the better and developing such facilities closer to home is viable.

1.3. Location:

The project site lies entirely on Navajo Partitioned Lands (former Executive Order Joint-Use Area) in District 4 of the Navajo Indian Reservation and Navajo County, Arizona in the Whippoorwill Springs Chapter, Chinle Agency, Navajo County, Arizona. The project site specifically lies between the Whippoorwill and Balakai mesas. The project site has been plotted on USGS 7.5-minute map Whippoorwill Springs Quadrangle. Whippoorwill Springs Community is located about 12 miles east of Pinon, Arizona and about 67 miles west of Chinle, Arizona. The project site is bordered on the east side by a graded road known as Indian Service Navajo Route N-67 and on the other three sides by

unimproved dirt roads. The project site is east of Polacca Wash and approximately five kilometers (3 miles) south of Navajo Route N-4.

1.4. Vicinity Maps:

The approximate (and projected) township and range are: T31 North, Range 17 East Whippoorwill Springs Quadrangle. The vicinity of the project site is Whippoorwill Springs, Apache County, Arizona, USGS 7.5-minute quadrangle map, UTM coordinates and legal description is T31 North, R17 East, Point A 3988060, 585770E Zone 12, B 3987840N, 586388E Zone 12, C 3986780N, 586040E Zone 12, and D 3986970N 585400E Zone 12.

Appendices 9.1 and 9.2 exhibits the project location, tract description, Navajo Nation map points of interest. The maps also exhibits a fragment of the USGS 7.5 minute quadrangle map for Whippoorwill Springs, Arizona.

2.0. ALTERNATIVES:

2.1 Reasonable Alternatives:

Alternatives of the Proposed Action were considered that could provide safe, adequate, decent service and location for Whippoorwill community. Alternative considered are to: 1) develop the project site as planned; 2) relocate the proposed project; or 3) No Action which will deny the development.

2.1.a. Alternative One: Preferred Alternative

The need for socioeconomic facilities to provide direct services to area residents of Whippoorwill community is most needed. The needs affects the standard of living, welfare and future socioeconomic needs of the community people. The preferred alternative is to develop the various facilities on the 51.8 Ha (128 Ac.) tract of land identified and withdrawn by chapter resolution. The selected development site is adjacent to an existing road, BIA maintained Route N-67. Chapter members have indicated that development of several facilities would be beneficial to the community (Appendix 9.6).

2.1.b. Alternative Two: Relocate the Proposed Action

Developing the project at another location would be difficult and time consuming in terms of identification, clearance and acquisition of an alternative site. The selection of the site was based on evaluations which determined that none of the other sites met all of the necessary criteria to provide for the project.

2.1.c. Alternative Three: No Action

The environmentally preferred alternative is one of no action. Under this alternative the development would not be undertaken and the land would remain as it is. Without the development, elderly residents of the Whippoorwill Chapter will remain in substandard housing, area youth will have no facilities for meeting and recreation, Navajo Police will continue to be based in Piñon, Arizona. The community will not have the potential for commercial development and there will be no community access to a convenience store for residents without vehicles.

3.0. DESCRIPTION OF THE AFFECTED ENVIRONMENT:

3.1. Land Resources

3.1.a. Topography

The project site is located in the northeast section of Navajo County in the State of Arizona. The proposed development site is located on a sensibly flat to gently sloping Bajada east of Polacca Wash. The project site is also located in a narrow valley divided by Polacca Wash, bordered on the east by Balakai Mesa and on the west by Whippoorwill Springs Mesa. Elevations at the project site range from 1,899 m (6,230 feet) to 1951 m (6,400 feet) above mean sea level. The terrain slopes gently to the west at three to five (%) percent.

3.1.b. Soil

Soils are primarily unconsolidated loose sandy loams, generally poor in quality with low production potential. Soils in the area are classified as Haplargids, Torrents and, in Polacca Wash, Torrifluvents. A slightly differentiated strata layer was observed in a minor drainage at an approximate depth of 1.3 m (4.27 feet). Soil deposition mechanisms are both aeolian and diluvial. The most cultivable soils may be found near Polacca Wash. The diluvial soils are derived from outcroppings of Mancos shale, Dakota sandstone and Toreva sandstone and mudstone occurring in the immediate area (Appendix 9.9).

3.1.c. Geologic Setting and Mineral Resources

The project area is located in the south-central portion of the Colorado Plateau physiographic province. The project area is also part of the southern slope of the Black Mesa Basin. Sedimentary rocks in the area are primarily of the Mesa Verde group. The Low Mountain Anticline passes within one (1) km (.6 mi.) south of the proposed development site (Appendix 9.9).

The Quaternary alluvial deposits are valley fill material of recent age, composed of interbedded silts and sands that have not yet been subjected to compaction and, in duration, lithification processes. The Triassic Age Sonsela Member of the Black Mesa formation is predominately a sandstone, brown to dark in color.

No mineral resources in terms of oil, timber, uranium and coal has been found in the project area. Although, coal mining activities do occur in the region to the north on Black Mesa Mountain, no other sighting or occurrence of mine activities have been reported in the project area.

3.2. Water Resources

3.2.a. Surface Water

There are no permanent rivers or streams throughout the project area. The surface is ephemeral, existing mostly in large washes, such as the Polacca Wash during periods of run off and flooding. The project area drains westward *via* three minor drainage into Polacca Wash approximately 1,280 m (4,200 feet) from the center of the area (nearest perpendicular distance). Polacca Wash is an ephermeral stream and represents the nearest, naturally occurring surface water in the area. A waste water impoundment is located approximately 975 m (3,200 feet) from the center of the project area.

3.2.b. Groundwater

U.S. Public Health Services' Indian Health Services (IHS) project NA-92-689 utilizes existing community water wells 4T-522, 4T-578 and 4T-579 in conjunction with 1,981 m (6,500 feet) of 15.24 cm (6 inches) water mainline to serve thirty-four public rental homes owned and maintained by Navajo Housing Authority adjacent to the project area. It is anticipated that the water distribution system will be extended to serve the developments within the present project area.

3.2.c. Floodplain and Wetlands

There are no wetlands in the area according to to Executive Order 11990, Protection of Wetlands. The Federal Emergency Management Agency (FEMA) has indicated that the Navajo Nation was not studied or mapped, therefore cannot determine if the proposed project site is in a special flood hazard area. The project site does not intersect any main water courses. The Polacca Wash flows downstream to the southwest and eventually south. The proposed project site location is estimated to be above the 100-year flow depths based on bottom elevation of peak flows.

3.3. Air Resources

3.3.a. Air Quality

An Air Monitoring Station located at Nazlini, Arizona indicates that most concentration recorded were below the threshold of detection of the monitoring instruments and all levels were at or below the applicable Arizona and federal ambient air quality. Total suspended particulate are high during the months of May, June and July when dust storms are most prevalent, these high particulate values were probably caused by windblown dusts.

During the seasonal changes, the area has several emission factors contributing to inversions and haze in the valleys and mountains. The contributing sources being the wood and coal burning, slash burning, fugitive dust emission from

vehicular travel on unimproved roadways and some open burning within the community.

3.3.b. Visibility

Nazlini Station also conducts visibility monitoring. Processed data collections, including capture percentage by seasons, are as follows:

Winter	90%	Summer	87%
Spring	87%	Fall	98%

Preliminary data analysis and a standard visual range analysis summary is presented in the following tables:

Table I

Preliminary SVR* Analysis Statistics by Season (SVR in Kilometers)

Statistic	Winter	Spring	Summer	Fall
Minimum SVR	65	65	73	65
Maximum SVR	391	364	340	313
Arithmetic Mean	226	165	148	135
Geometric Mean	206	156	142	126
Cumulative Frequency Analysis:				
10%	115	104	99	75
50%	211	157	144	124
90%	386	235	209	207

* SVR = Surface Visibility Range

Cumulative frequency values can be interpreted as 10% of the time the visual range was less or equal to the 10% value; 50% of the time the visual range was less than or equal to the 50% value (median SVR); 90% of the time the visual range was less than or equal to the 90% value.

Visibility and TSP (Total Suspended Particulate) are affected by blowing dust and sand during the spring months. Minor sources of air Pollution arise from wood and coal burning.

3.3.c. Climate

The climate in the project area may be characterized as "Arid Continental" with low humidity and high aridity. Annual precipitation ranges from 20.32 cm to

25.4 cm (8 to 10 inches) with 50% of the precipitation concentrated in the months of July through October. Annual snowfall is in the range of 20.32 cm to 76.2 cm (8 to 30 inches).

The area experiences well-defined seasons. The average maximum Summer temperature is 35° C (95° F). The average minimum Winter temperature is -12.2° C (10° F). The average daily ranges of temperature are relatively large. Frost free days are in the range from 120 days to 170 days. Table II exhibits temperature and precipitation data from a weather station at Piñon, Arizona.

South to southwest prevailing winds are the norm, with wind speeds in the range of 41.7 kph to 50 kph (25 to 30 mph). Winds ranging between 100 kph and 134 kph (60 to 80 mph) are not uncommon. As a result of these winds, sandstorms are a major weather feature of the area, especially in the spring.

TABLE II

Month	Average Daily Max. °C (°F)	Average Daily Min. °C (°F)	Average Temperature °C (°F)	Average Monthly Precipitation	Wettest Year cm (in)	Greatest Precipitation 24 hr m(in)
JAN	5.05 (41.1)	-11.2 (11.8)	-3.2 (26.2)	1.65 (.65)	4.24 (1.67)	2.16 (.85)
FEB	8.5 (47.3)	-7.1 (19.2)	.72 (33.3)	1.73 (.68)	4.5 (1.76)	1.27 (.50)
MAR	12.2 (54.0)	-5.7 (21.7)	3.28 (37.9)	1.37 (.54)	4.17 (1.64)	1.52 (.60)
APR	16.9 (62.4)	-3.0 (26.6)	6.9 (44.5)	1.4 (.55)	3.81 (1.5)	1.91 (.75)
MAY	23.4 (74.2)	1.8 (35.3)	12.7 (54.8)	.33 (.13)	1.37 (.54)	.61(.24)
JUN	28.6 (83.5)	5.9 (42.7)	17.28 (63.1)	.58 (.23)	2.9 (1.14)	1.35(.53)
JUL	32.3 (90.2)	14.1 (57.3)	23.2 (73.8)	2.9 (1.14)	7.2 (2.82)	5.1 (2.0)
SEP	26.7 (80.0)	7.1 (44.8)	16.9 (62.4)	2.72 (1.07)	7.21 (2.84)	5.1 (2.0)
OCT	0.2 (68.4)	1.56 (34.8)	10.9 (51.6)	3.56 (1.40)	16.03 (6.31)	3.2 (1.25)
NOV	12.1 (53.8)	-4.39 (24.1)	3.9 (39.0)	1.37 (.54)	3.9 (1.54)	1.73 (.68)
DEC	6.1 (42.9)	-9.1 (15.6)	-1.5 (29.3)	2.64 (1.04)	7.1 (2.79)	3.58(1.41)
TOTAL				22.9(9.0)		

These data were abstracted from precipitation, temperature and soil water balance tables and graph obtained from Dr. Robert Becker, Navajo Nation Climatologist. The data is from a weather station located near Piñon, Arizona at an elevation of 1,936.4 m (6,353 feet) above mean sea level. The location of the weather station is Latitude 36° 06' North longitude 110° 14' East, in Navajo County, Arizona. The data represent partial results arising from an 11-year data collection period: the raw data are appended (Appendix 9.11).

3.4. Biotic Resources

The project area is within the upper Sonoran vegetation zone. Ground cover is sparse with only 20-30% cover. The immediate area is in a transition zone, with both scrub and grassland vegetative associations. During a pedestrian survey conducted on March 4, 1996, a partial inventory of biotic resources was made.

3.4.a. Wildlife

3.4.a. (1). Terrestrial wildlife

Table III exhibits wildlife indigenous to the project site or environs:

TABLE III

COMMON NAME	SCIENTIFIC NAME
Raven	(*Corvus corax*)
Prairie Dog	(*Cynomys gunnisonii*)
Blacktail Jackrabbit	(*Lepus californicus*)
Desert Cottontail	(*Sylvilagus audoboni*)
Spotted Ground Squirrel	(*Sylvilagus spilosoma*)
Coyote	(*Canis latrans*)
Sparrow	(*Passer domesticus*)
Finch	(*Carpodacusu Mexicanus*)
Mourning Dove	(*Zenaida macroura*)
Turkey Vulture	(*Cathartes auraj*)
Redtail Hawk	(*Buteo jamaicensis*)
Horned Lark	(*Cremophila alpestris*)
Burrowing Owl	(*Athene cunicularia*)
Long-Billed Curlew	(*Numenius americanus*)
Mountain Plover	(*Charadrius montanus*)

Van Ommeren (1991, Appendix 9.5) also recorded seeing a coyote, American Kestrel, great horned owl, loggerhead shrike, western kingbird, lark sparrow, horned lark, rock wrens, mourning dove, cottontail rabbits, golden mantled squirrels and antelope ground squirrels within a 1.67 km (1 mile) radius of the project site.

3.4.a. (2). Riparian/Aquatic wildlife:

Due to the aridity of the project area and the minor drainage traversing it, little or no potential for aquatic wildlife exists. Polacca Wash, the major drainage of the Whippoorwill Springs Valley, also possesses little or no potential for aquatic wildlife, due, in part, to its ephemeral nature.

3.4.a. (3). Threatened and Endangered Species:

As a part of this project, information on threatened and/or endangered species was requested from the Navajo Natural Heritage Program. No species are known to occur on the project site. Species known to occur within an 8.3 km (5 mile) radius of the site are:

1. *Aquila chrysaetos* (Golden Eagle); Navajo endangered species list (NESL) group 3; Migratory Bird Treaty Act (MBTA); Eagle Protection Act (EPA)

2. *Lanius ludovicianus* (Loggerhead Shrike); ESA (Endangered Species Act) category 2 candidate; MBTA

Additional species with potential to occur within the 7.5-minute Whippoorwill Springs quadrangle containing the project include:

3. *Buteo regulis* (Ferruginous Hawk); NESL group 3; ESA Category 2 candidate; MBTA

4. *Charadrius montanus* (Mountain plover); NESL group 4; ESA Category 1 candidate; MBTA

5. *Falco peregrinus* (Peregrine Falcon); NESL group 3; ESA Endangered; MBTA

6. *Mustela nigripes* (Black-footed Ferret); NESL group 2; ESA endangered. Potential should be evaluated if Prairie Dog towns of sufficient size (Per Navajo Fish and Wildlife Department (NFWD) Guidelines) occur in the project area.

The letter from the Natural Heritage Program of the Navajo Fish and Wildlife Department concerning an official listing of threatened and endangered species is appended (Appendix 9.4).

3.4.b. Vegetation:

During the pedestrian survey, the following species were noted (Table IV):

TABLE IV

COMMON NAME	SCIENTIFIC NAME
Cheatgrass	(*bromus tectorum*)
Blue Grama	(*bouteloua sp.*)
Prickly Pear	(*opuntia sp.*)
Narrowleaf Yucca	(*yucca angustissima*)
Salt Bush	(*atriplex canescens*)
Shadscale	(*atriplex confertifolia*)
Sage	(*artemisia sp.*)
Cholla Cactus	(*opunitia sp.*)
Wolfberry	(*lycium pallidum*)
Bunchgrass	(*sporobolus sp.*)
Russian Thistle	(*salsola kali*)
Indian Ricegrass	(*oryzopsis hymenoides*)
Snake Weed	(*gutierrezia sarothrae*)
Wild Onion	(*allium sp.*)
Vetch	(*astragalus sp.*)
Paintbrush (Rabbittbrush)	(*castelleja sp.*)
Spiny Cactus	(*opuntia macrorhiza*)
Threadleaf Groundsel	(*senecio douglasii*)

3.4.b. (1). Threatened and Endangered (Vegetative) species: None

3.4.c. Agriculture:

During the pedestrian survey, several instances of evidence of livestock presence were noted: sheep, goats and horses graze in the project area. The area is severely overgrazed and presently offers little opportunity for grazing. Owing primarily to the poor quality of the soil, no evidence of farming was observed.

3.5. Cultural Resources:

The project area was inventoried for Archaeological/Historic Resources as part of the 81 Ha (200 Ac) area the chapter has set aside for community development (Begay et al 1987, Appendix 9.3). The report is referenced through the Navajo Nation Archaeology Department as NNCRMP-87-179.2. The clearance was issued through Bureau of Indian Affairs Branch of Partitioned Land as file number A87(9) 115.

A total of 15 isolated occurrences were recorded during field investigation. No significant sites or sacred/respected loci were identified. The Whippoorwill Chapter is located in the southeastern portion of the Black Mesa Basin. The area around Whippoorwill Springs has been researched for archaeological information. Analyses from excavations at sites in this area have determined the peak prehistoric occupation to date to the Anasazi period (AD 1100-1250). The Whippoorwill Springs location is near the edge of an area with a dense prehistoric occupation (.36 to 11.52 archaeological sites per square kilometer (4 to 32 per square mile)). A number of these sites are known to residents of the chapter and none are located within or near the project site.

3.6. Socioeconomic Conditions:

3.6.a. Employment and Income:

Whippoorwill Springs Chapter is, in general, a rural, and fairly isolated community. Residences in the area are widely dispersed, with the only clustering of structures occurring near the chapter house compound. The only available convenience stores are located in Piñon, and Blue Gap, Arizona. Most services are available at Chinle, Arizona, 67 km (40 mi.) East of the community. Many chapter residents are self-employed with livestock raising and cottage industry. Cash work is found within the school system, chapter work programs and Tribal and Federal government.

Personal incomes are generated through employment with Federal, Tribal agencies, some retail and service businesses and construction work on and off the Navajo Nation. Others resort to livestock marketing , farming, art and crafts, and off-reservation labor. Retail and service businesses are scarce in the area, as the majority of the people rely on businesses in Chinle and bordertowns to do the bulk of their shopping.

The following tables illustrate Income Distribution, Characteristics and Poverty Status for Whippoorwill Springs Chapter:

Table V

Income Distribution - 1990	
Income Group	Number of Persons
$9,999	50%
$10,000 to 14,999	14%
$15,000 to 24,999	17%
$25,000 to 34,999	14%
$35,000 to 49,999	4%
$50,000 to 74,999	2%
$75,000 +	1%

Table VI

Navajo Income Characteristics - 1990	
Per Capita Income	$ 3,335
Median Family Income	$10,695
Median Household Income	$11,625
Below Poverty	59.9%

3.6.b. Demographics and Trends:

During a household survey (Comprehensive Land Use Study and Development Plans, 1989), a total of 376 residents were interviewed and another 170 were not surveyed because they were either working off-reservation or employed elsewhere. Between 1980 and 1990, the population of Whippoorwill Springs Chapter grew at an annual rate of 2.93% (Chapter Images, 1992, Appendix 9.12). The 1993 estimate for the population of the chapter is 887 persons. Assuming a conservative 2% annual population growth, the early 1996 population obtains as 940 persons. If the higher population growth rate of 2.93% is selected, a greater result obtains as 965 persons.

Using the 1990 census population figure of 852 persons, the number of persons per household obtains as 2.39. The latter quantity is considered low in relation to the Navajo Nation/Chinle Agency statistic of 4.07 persons per household (1990 Census, Population and Housing Characteristics of the Navajo Nation, pg. 81, Appendix 9.13). The reason for this disparity may be the newly constructed Navajo Housing Authority (NHA) housing units in the community.

The following table illustrates the age distribution and their percentage of total population for Whippoorwill Springs based on the 1990 estimate:

Table VII

Age Distribution - 1990 Census	
0-10	19%
11-20	29%
21-30	17%
31-40	9%
41-50	11%
52-60	12%
61-70	3%
71 +	1%

The following characteristics also apply to the market area population, more commonly referred to as "Other Population characteristics":

Table VIII

Characteristics 1990 Census	
Population	852
Households	230
Families	170
Average Family Size	4.07
Average Age	25.9
Median Age	21.9
Race Distribution:	
Non-Indians	15
Native American	940

These socioeconomic characteristics indicate that the area population is very young. Approximately 41% of this population is 16 years old or younger, only about 5% of the population is over 65 years old. The median and average age of this area population is significantly lower than those of both Arizona and the United States. In addition, income for this population continues to lag both Arizona and the national average. The growth rates for the various income categories are, however, at a comparable level with that of both Arizona and the United States.

3.6.c. Lifestyles, Cultural Values, etc.:

Traditionally, Navajo people have enjoyed much "Elbow Room". Scattered hogans (residences) are often great distances apart. Older, traditional residents maintained winter hogans in the valleys and summer sheep camps in the higher elevations. Chapter residents are not particularly in favor of clustered housing units. However, because of the availability of Federal (DHUD) funds for improved housing, the major trend, within the chapter, has been toward clustered housing as an expedient.

3.6.d. Community Infrastructure:

The Whippoorwill Springs chapter was certified in 1979 by the Navajo Nation Council. Prior to the 1979, the residents of the general area were members of the Piñon chapter. Residents participate in chapter meetings and elect two delegates to represent Whippoorwill and Piñon Chapters on the Navajo Nation Council.

1) Electricity:

The Whippoorwill Chapter area is supplied with electrical energy by Navajo Tribal Utility Authority. Most of the homes and public facilities located in the community have this service. The Chapter government portion of the Whippoorwill community is well serviced, although as one moves further and further from the central location, this service, as with other utilities, is less evident. The project site is currently receiving power, water and sewer disposal system from NTUA. Power can be extended to accommodate the proposed project.

2) Water:

There are currently potable water systems in use within the community. NTUA maintains the water system for general use of the public which will also serve the project site. The water system is normally extended to accommodate developing projects.

3) Sewage:

NTUA operates and maintains the sewage system and EPA -certified sewage lagoons are located to the south of the project site. The project site is currently being served by an existing sewage system which can be extended to accommodate the proposed project.

4) Heating and Cooking Fuels:

Many community residents still use wood and coal for heating, cooking and ceremonial purposes. Wood and coal are collected from the mountain regions in the area. The other source of heating and cooking

fuel is propane/butane gas supplied by out-of-town and/or bordertown gas suppliers.

5) Transportation:

Private vehicle is by far the most common means of transportation in this area. The Navajo Transit Bus system is available to the community and other distant communities. A van is used to transport senior citizen to places of destinations and congregate meal meal centers.

Navajo Route N-4 serves as a main artery through the community east and west. Indian Service Route N-67 junctions with Navajo Route N-4 and runs east to Arizona State Highway 191. The project site will have an improved access turnout to the project site, and as such, there should be no unforeseen problem in access to the project site.

6) Communications:

Telephone service is provided by Citizens Telcom's Navajo Communications Company and some residents have phones as does the public facilities. As to commercial forms of communication, such as television and radio, the area does not have cable television and people resort to antennas to pick up broadcasts. Radio stations are received from Window Rock, Gallup, Flagstaff, Chinle and, of course, from other cities during the evenings.

7) Housing:

Navajo Housing Authority owns and operates 34 family rental units on the 200 acre tract. No other public dwellings exist in the community and all the rest of the homes are private and scattered throughout the community. A lot of the private home units were built by community members with public funds. Other dwellings in the outlying areas of the community are one-room hogans and one or two room houses with no electricity, running water or plumbing.

8) Public Safety

Public Safety is administered by the Navajo Police. Two Navajo Police Officers, based in Piñon, Arizona have the responsibility of patrolling the Whippoorwill Springs community as well as several other neighboring communities. Emergency Medical Services are provided from Piñon, Arizona, by the Indian Health Service.

3.7. Resource/Land Use Patterns

3.7.a. Hunting, Fishing, Gathering:

There is no fishing or big game hunting on or near the project site. The area is used for public and private developments, as well as grazing of livestock. Navajo Tribal hunting units are designated at higher elevations to the north and south, but some small game are hunted using small caliber rifles, such game are: rabbits, prairie dogs, etc.

3.7.b. Timber Harvesting:

No timber harvesting activity occur on or near the project site. Wood for fuel and for structural uses are harvested and hauled to individuals, such uses are: hogan, fence, ramada, hitching posts, etc..

3.7.c. Agriculture:

The development of facilities at the project site would require the use of 200 acres of land that was used for grazing area. The land when designated for open grazing, it did not contain any existing or planned farmlands beyond the current use. The climate and geological characteristics of the land exclude it as designated prime farmland, unique farmland or farmland of state or local importance as defined by the National Environmental Protection Policy Act. Furthermore, land surrounding the project site offers limited grazing because of its overgrazed conditions and less public interest on raising livestock. Dry farming activities can be seen in patches during the summer months, but less people farm anymore as the community relies more on retail food and goods. None of the grazing and farming exists on or near the proposed project site as the area is designated for social and economic users.

3.7.d. Mining:

The nearest mining area is on Black Mesa Mountain, 64 km (40 mi.) Northwest of the project site.

3.7.e. Outdoor recreation:

No recreational activities occur on the project site. Whippoorwill community chapter, located 4.02 km (2.4 mi.) west and southwest of the project site, entertains variety of recreational activities, such as: family fun nights, dancing, traditional song and games, dance and powwow, etc. Otherwise, all outdoor recreational activities, including rodeos, water sports, hunting, and athletic activities are available elsewhere or away from the community.

3.7.f. Transportation Use Networks:

Navajo Route N-65 serves Whippoorwill Chapter compound from the junction with Navajo Route N-4 and continues on to Low Mountain and Keams Canyon area. Indian Service Route N-67 is a bladed, sloped, moderately maintained, hard-packed dirt surface road leading from N-4 to Smoke Signals Trading Post. N-4 is an all-weather road with moderate usage, which runs east and west and is located approximately 5 km (3 mi.) north of the project site. Navajo Route N-4 serves the communities of Piñon, Whippoorwill Springs, Blue Gap, Cottonwood and Tselani. An access road which extends west from N-67 to the wastewater impoundment, traverses the project site.

3.7.g. Land Use Plans:

A comprehensive land use plan for short and long range goals has been devised and available to guide the Whippoorwill Springs Chapter in the necessary planning and development of its trust land (Comprehensive Land Use Study and Development Plans, 1989, Development Strategies Consultant).

3.7.h. Solid Waste Sites:

A solid waste transfer station is located within the chapter house compound, approximately 3 km (1.9 mi.) west of the project site. Additional refuse disposal facilities are located within the Navajo Housing Authority's housing compound which is adjacent (southeast) of the project site. Solid waste handling is provided by private contractors, who transport refuse to EPA-approved landfills elsewhere.

3.7.I. Hazardous Waste Sites:

An old sheep dipping vat is located approximately 960 m (3,143 ft.) South Southwest of the project site. The vat has been inactive for a long period of time and is enclosed by barbed-wire fence.

3.8. Other Values:

3.8.a. Wilderness, Wetlands, Floodplain

There are no wetlands in the area as defined in Executive Order 11990, Protection of Wetlands. No wilderness has been declared or designated on or near the project site. The Federal Emergency Management Agency (FEMA) has indicated that the Navajo Nation was not studied or mapped, therefore cannot determine if the proposed project site is in a special flood hazard area. However, the study of the hydrology was undertaken to identify and conceptually dispose of stormwater which may hinder activities necessary for the safe and efficient operation of the facilities. The project site does not intersect any main water courses. The Polacca Wash flows downstream to the southwest and eventually

south. The proposed project site location is estimated to be above the 100-year flow depths based on bottom elevation of peak flows.

3.8.b. Noise

Ambient noise near the proposed site is caused primarily by traveling automobiles on the Routes N-67, N-65 and N-4. The following table presents some typical values of day-night sound levels (decibels) associated with various land uses. Noise levels were not measured at the proposed site. However, considering the population and development pattern in the vicinity of the proposed site, the noise levels are probably in the range of 40 to 55 decibels on the A-weighted sound measurement scale (dBA).

The following table is a U.S. Environmental Protection Agency description of environmental sound. It is the average of daytime and nighttime A-weighted energy-equivalent sound levels with nighttime sound given a penalty of 10 decibels (dBA).

Table IX

Land Use	Population Density (people per sq. mile)	Decibels
Rural, undeveloped	20	35
Rural, partially developed	60	40
Quiet suburban	200	45
Normal suburban	600	50
Urban	2000	55
Noisy urban	6000	60
Very noisy urban	20,0000	65

3.8.c. Public Health and Safety

The Proposed Action will coordinate all of its health and safety programs with the U.S. Public Health Service's Office of Environmental Health (USPHS-OEH), Navajo Environmental Protection Agency (NEPA), Navajo Office of Safety and Health Administration (OSHA) and other regulatory agencies and/or departments on the Navajo Nation.

4.0. ENVIRONMENTAL CONSEQUENCES OF THE PROPOSED ACTION

4.1. Biological Impacts:

The overall impact of the proposed development and construction of several facilities will permanently remove 51.8 Ha (128 ac.) of vegetation and brush habitats. The surrounding area of the site currently has limited wildlife movement and forage areas, none exist directly on the project site. Primary impacts will take place as a result of site preparation. Soil will be overturned and displaced causing vegetation within the development tract to be irretrievably lost and replaced with infrastructure, buildings and other man-made improvements. Acreage associated with facilities may or may not be re-seeded after construction.

The loss of invertebrates and other animals that will occur due to earth moving activities will be minimal. Wildlife indigenous to the project site and immediate vicinity will most likely migrate to surrounding undisturbed areas which would support habitat/refuge. Wildlife population from the site may be lost, assuming their populations are at subsistence capacity. Adjacent areas will also be affected by the concentration of human activities and with occupation of the various facilities.

4.1.a. Threatened and/or Endangered Species Impacts

Potential impacts exist to the Burrowing owl roosting and feeding sites which were documented 200 feet south of the tract and from the secondary impacts of occupation and human activities around the development site. No other species of concern are expected to be impacted. On-site and off-site investigation was conducted by SWCA, Inc. and they report (see attached Biological Evaluation Report) that the threatened and/or endangered species known to occur on or adjacent to the project site will not be impacted by the Proposed Action. There have been no sightings reported directly on the project site.

4.2. Physical Impacts:

The proposed facility development project will not alter or affect the geology of the project area. Impacts to the physical environment resulting from this project would be limited to the project site and occur primarily during construction. The local topography will be affected to some extent by backfilling the three minor drainage and contouring/leveling the surface of the project site of the area. The proposed development will encompass, by phases, about 128 acres plus egress and ingress from the Indian Service Route N-67 to the project site. Hence, all activities of the project site will be limited to the boundaries of the project site. The impacts to the physical environment resulting from this project would be limited and occur primarily during construction. Temporary erosion, scarring of land surfaces in areas excavated or disturbed will occur in order to carry out the Proposed Action. Soil structure would be lost and mixing would occur in areas constantly traversed by heavy equipment.

The construction of a convenience store or trading post may include the capability for dispensing gasoline from underground or aboveground storage tank(s). Rules and regulations for such facilities are promulgated in 40 CFR 279 and 40 CFR 280. It is the responsibilities of the developer to refer to rules and regulations governing the installation, specifications, recovery and disposal of petroleum. The developer shall contact Navajo Nation Environmental Protection Agency's Underground Storage Tank (UST) and Aboveground Storage Tank for all mandates connected with the development, monitoring and inspections.

It is anticipated that a job site trailer will be parked within the project area and portable sanitary facilities will be provided for the construction workers. Construction materials will be stored in an enclosure on site.

Vegetation and rubbish will completely stripped and removed from proposed project site and improvement areas. Earth filling and/or cutting operations will be initiated for all controlled earth-work. The contractor will use heavy equipment to remove topsoil and existing vegetation. Leveling and grading/excavation will be done to establish foundations. Construction debris will be generated in association with the clearing and building activities.

Moderately significant impacts to the Whippoorwill Springs community utility systems are anticipated. Water, electrical power and sewerage systems will be impacted, requiring extensions, upgrading and expanded capabilities.

Development plans, as outlined, will not create a hazardous environment for local residents, but on the contrary, it will present somewhat of a positive impact for the community residents..

4.2.a. Air Quality

Impacts on air quality due to construction activities will be noticeable and short-term as the result of the Proposed Action. Fugitive dust will raise the ambient TSP levels, but this is not expected to exceed federal standards. Construction activities may raise short-term ambient dust and gaseous air as a result of construction activities and by vehicle emissions from equipment and worker's automobiles. However, it is recommended that steps be taken to minimize the amount of particulate matter (dust) generated, including incidental emissions caused by strong winds and tracking of dirt off-site by machinery and trucks.

Construction activities may raise short-term ambient dust and particle levels. Contractors would be required to water-down construction areas or to take all other feasible means to reduce such air quality pollution. The distance of the site from the nearby residential area would most certainly require adequate control of the dust and particulate matters.

4.2.b. Water Quality

The project site area is located away from any known aquifers, wells or other water sources; therefore, ground water Hydrology should not be affected. Minor impacts are anticipated for surface water drainage patterns due to the removal of the three minor drainage detailed in 3.1.b. and 3.4.b.(2). The proposed project would not affect the quality of water, goundwater, aquifer or impoundment. No division, controlling, modifying, dumping, polluting, dredging of potable water will occur. The Polacca Wash is normally dry and water flows usually occur only after rainfall. Drainage and runoffs from the results of rain and melting snow to surrounding area will occur, however, adequate drainage provisions will mitigate the flow of runoff so that impacts, or any, would be minimal.

4.3. Socioeconomic Impacts

It is anticipated that socioeconomic impacts resulting from the project will be noticeable and the area residents may experience a positive economic impact. Development of the project will create infrastructure and facilities development for the area residents, including jobs for the community. It appears logical to assume that the development will be a welcome growth to Whippoorwill Springs Community. The project will cause no long-term changes in land use as the project site has been designated for infrastructure and facilities development. Direct benefits will be derived by the community people for many years to come. These benefits would be in the form of regular jobs, improved services and other development.

4.3 - Social Impacts

The principal social impacts to be considered in the Environmental Assessment are those associated with relocation or other community disruption which may be caused by the Proposed Action. The land to be used for the development would not require the relocation of any residences or businesses. There would be no division of established communities as a result of the Proposed Action.

4.3.b. Induced Socioeconomic Impacts

The Proposed Action is not expected to alter the population growth of Whippoorwill, Navajo County or the Navajo Nation. The communities are capable of supporting the service demands associated with the development of the Proposed Action. No major inducement or secondary socioeconomic impacts are anticipated from the Proposed Action. The major economic impact that would result from the proposed improvements would be an increase in the availability of community services associated with the developments.

Whippoorwill Springs Chapter, including resident petitioners have requested and adopted resolutions supporting the withdrawal of land for Proposed Action. The Chapter also established a nonprofit development corporation of its own to

facilitate the orderly development of Proposed Action, including a future business site lease.

4.3.c. Compatible Land Use

A Land Use Plan is required to ensure that land uses in the vicinity of the project site would be compatible with facility development activities and would be free of major constraints. Land use plans are needed to reserve adequate space within the project site to meet future proposed development as well as to minimize the potential for future incompatible uses of off-site land. The safety and welfare of people and animals are not threatened by the proposed developments.

All land surrounding the project area is currently used for dwellings, public facilities and agriculture. The type of land use is compatible with proposed development activities as they rely on each other to survive. To ensure the future compatibility of land uses in the vicinity of project area, it is recommended that land use compatibility guidelines be developed by the Whippoorwill Springs Chapter in conjunction with the proposed developments. The guidelines could be in the form of a local ordinance plan developed to assist in the protection of the interests of the Whippoorwill community, residential community and the local government of Whippoorwill Springs Chapter.

A Comprehensive Land Use Plan has been developed by the Chapter and it serves as a required planning document to ensure that land uses in the vicinity of the project site is compatible with the overall plans. The Chapter Land use plan is considered an essential element to meet future proposed development as well as to minimize the potential for future incompatible uses of land. The land in the vicinity of the project site is currently designated for multi-purpose facility development.

4.3.d. Surface Transportation and Ground Access

The Proposed Action would not alter the surface transportation patterns nor the major thoroughfares in the community. The development project would have a proper access leading into the project area from Indian Service Route N-67, including provisions for ingress, egress and circulation roads.

4.3.e. Noise

No significant noise disturbance will occur during operation of the proposed facilities however, some noise disturbance will occur during construction activity which may be more audible , but will be for only a short time period. Automobile traffic noise on Routes N-67, N65 and N-4 is not expected to increase which would cause significant impact upon the existing transportation noise in the area.

4.3.f. Solid Waste Impacts

Solid wastes will be generated by the Proposed Action at the project site during business operations. The collected solid waste will be disposed of at EPA-certified sanitary landfills. The sponsor, in coordination with the Navajo Nation and the Bureau of Indian Affairs, would assure that no landfills would be established on or near the project site and no open burning about the area.

The construction contract specifications would require strict control of solid waste material generated during construction. A control plan for waste collection and disposal would be implemented upon commencement of construction to preclude or minimize debris from being scattered outside the boundaries.

4.4. Cultural Resource Impacts

Historic, Architectural, Archaeological, and Cultural Resources are not anticipated to be impacted from the proposed action. An archaeological investigation was conducted by Navajo Nation Cultural Resource Management Program (now the Navajo Nation Archaeology Department) on the proposed project site by the NNAD Staff Archaeologist, report #NTM-87-179.2.

4.5. Solid Waste Disposal and Hazardous Waste:

The proposed project will generate solid waste materials. The waste materials shall be disposed of at sites (transfer stations) allotted for such waste and transported to EPA-approved landfills.

The unused sheep dip vat identified by Navajo Superfund Office is not expected to affect or be affected by construction and occupation of the facilities project. No contamination to soils or groundwater with respect to the proposed facilities development is anticipated.

No hazardous materials and/or waste is anticipated due to the Proposed Action; however, should hazardous materials waste be generated by the project execution, the materials must be regulated by Environmental Protection Agency (EPA) and Resource Conservation and Recovery Act (RCRA) 40 CFR 260-299 or more specifically 40 CFR 262 Standards Applicable to Generators of Hazardous Waste.

4.6 Construction Impacts

Construction operations would cause specific impacts resulting solely from the limited construction period. Construction impacts are distinct in that they are temporary in nature and their degree of adversity steadily decreases as work concludes. The following construction impacts would be expected from the proposed construction of the facilities:

a. A slight increase in particulate and gaseous air pollution levels as a result of dust generated by construction activity and by vehicle emissions from equipment and worker's automobiles.

b. Increases in solid and sanitary wastes from workers at the site.

c. Traffic volume would increase in the vicinity of the project site due to worker activities.

d. Increased noise levels during the operation of heavy equipment.

e. Temporary erosion, scarring of land surfaces and losses of vegetation in areas excavated or otherwise disturbed to carry out future developments.

5.0. MITIGATION MEASURES

5.1. Physical Resources:

All disturbed areas during the construction phases should be cleaned up and graded to conform with the existing landscape. Erosion control structures should be installed where applicable in accordance with the standards. Disturbed soils may or may not be reseeded as deemed necessary in accordance with the requirements of the lessor and lessee.

To minimize and control the impact of noise and air pollution created during the construction period, the developers should be restricted to the project boundaries. All vehicular traffic will be confined to existing roadways and right-of-ways as much as possible.

Construction measures to mitigate temporary impacts for the proposed action would include: Minimize land disturbance; use watering trucks to minimize dust; limit vehicular paths and stabilize temporary roads; grade to prevent soil from washing onto paved roadways or other areas; use dust suppressants on traveled paths which are not paved; minimize unnecessary vehicular and machinery activities; remove unused material; and remove dirt and other debris piles.

All vehicular traffic, especially during construction, should be confined to existing roadways or within the right-of-way as much as possible.

To minimize and control the impact of noise and air pollution created by construction, all construction activities will be restricted to the project boundaries.

All construction generated waste materials i.e. equipment, parts, spent lubricating oils and fluids and accumulated solid waste materials shall be removed from the construction area and disposed of by the contractor(s) in authorized disposal areas.

Under the terms of the construction contract(s), contractor(s) are responsible for giving all notices and complying with applicable laws, ordinances, codes, rules and regulations as well as securing and paying for all permits, fees and licenses necessary for the proper execution and completion of the projects.

To contain solid waste, suitable trash containers are to be supplied to each facility. Additionally, for each of the community facilities planned, a suitable, large volume solid waste receptacle will be supplied. The containers will be monitored by a commercial trash collector. No contract exists at the time of preparation of this document, nor have contract negotiations been held.

The general contractor should provide an access road to the wastewater impoundment area for maintenance purposes.

5.2. Biological Resources:

The project site will be cleared of existing vegetation and no mitigating measures are necessary. Effects on local wildlife through habitat displacement are not considered sufficient in scope to warrant special management or enhancement of other natural resources to compensate for this loss. Some wildlife within the proposed multi-use development project area will be affected. Wildlife presently living on the site may remove to nearby undisturbed areas for refuge and/or habitat. Other wildlife that have existed have migrated to undisturbed areas for refuge and/or habitat.

Revegetation of the disturbed area is highly desirable, in order to mitigate against wind and water erosion of the soil. Facilities owners may elect to seed lawns and the Whippoorwill Springs Chapter may initiate a revegetation project. Other projects in the area are presently working to establish a comprehensive plan for landscaping at all project locations. The plan will be implemented as funding becomes available.

5.3. Threatened and Endangered Species:

The following mitigation measures were formulated in consultation with Ron Van Ommeren, SWCA, Inc. Environmental Consultants, based on the results of the biological evaluation for the project area.

a. Limit construction to September through February to avoid impacts to nesting or fledging Golden eagles. Heavy equipment will only be needed during first month to six weeks of construction. Remaining construction activities are not expected to be as disruptive.

b. Construct a permanent chain-link fence around the development area. This will serve to avoid accidental disturbances by construction machinery or personnel to nearby burrowing owl roosting/feeding sites.

c. Limit access to the project area to two direct connections with Indian Service Route N-67. This will effectively be accomplished with the fencing of the site perimeter and construction of the project as may be planned. Access will be by turnout to the adjacent road.

d. Maintain the perimeter fence around the project area to avoid inadvertent roads and two-tracks from forming within and surrounding area.

e. Enforce leash/animal control laws to avoid impacts to both the prairie dog town north and northeast of the tract and the Burrowing owl roosting/feeding sites. Navajo Nation's Animal Control Department regulates and enforces animal control laws on the Navajo Nation. The Chapter government will need to establish and implement animal control laws for the community based on the reservation-wide law.

5.4 Socioeconomic Measures:

Effects on local people, especially those within the Navajo Housing Authority compound, currently using the area for access to various social and economic pursuits, who would be inconvenienced during the development period, would be mitigated by providing a safe pass through.

To mitigate any future disputes and/or conflicts with the local land users, the developer has acquired necessary consent from Whippoorwill Springs Chapter and the Proposed Action will be ready for facilities development as funds become available. The commercial development will require Economic Development Committee of the Navajo Council action in consideration of business site lease.

In order to accommodate the proposed facilities, plans should be initiated to upgrade water, electrical power and sewerage systems within the project area.

The unused sheep dip vat has been placed on a priority list for cleanup by Navajo Superfund and United States Environmental Protection Agency. In fact, clean up has been started by Navajo Nation Environmental Protection Agency and that the toxaphene levels are below 30 ppm.

5.5 Archeological Resource Measures:

The cultural resources inventory conducted for this area did not locate any resources. Mitigating measures are not necessary. In the event of an discovery ("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 and traditional beliefs or practices), all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified.

In cases of such "discovery" situations in the area, a qualified archaeologist will monitor all initial ground disturbances for construction. Each monitoring activity is to be followed by a brief document describing the ground disturbance and its results. Standard discovery procedures are to be followed.

5.6. Construction Measures

Construction measures to mitigate temporary impacts for the proposed facilities development would include the following:

- **a.** Construction techniques would be implemented to control potential runoff from the construction site.
- **b.** Minimize land disturbance and unnecessary vehicular and machinery activities..
- **c.** Use dust suppressants on traveled paths to minimize dust.
- **d.** Cover trucks when hauling dirt or transferring materials.
- **e.** Stabilize the surface of dirt piles if not removed immediately.

f. Use windbreakers to prevent any accidental dust pollution.
g. Limit vehicular paths and stabilize these temporary roads.
h. Grade to prevent soil from washing onto paved areas.
i. Revegetate, if need to, any disturbed land not used.
j. Remove unused material.
k. Remove dirt piles.

5.7 Other Mitigation Measures:

The Proposed Action will be required to identify any and all types and classification of chemicals to be used during operation and maintenance of the facility. Any and all storage chemicals, applications and waste generated will conform with CFR 40 Protection of Environment Parts 260 through 299, Standards Applicable to Generators of Hazardous Waste.

6.0 CONCLUSIONS REGARDING SIGNIFICANCE:

No known or anticipated conflicts exist between the Proposed Action and the objectives of the Whippoorwill Chapter Government, the Navajo Nation, Federal, regional and/or local land use plans, policies or controls for the project area. There is no anticipated inconsistency with any approved Federal, tribal or chapter plan and laws.

The Proposed Action has not been opposed by any Federal, Navajo Nation government, Whippoorwill Chapter and land users in the past, nor is such opposition present now. There is no known organized or concerted effort by public or private entities to oppose the action.

The undertaking has been evaluated with respect to how development at this site will affect the environment. The quality of the human environment will be improved by construction of the facilities, such as: Senior Citizen Homes, Satellite School, Public Safety Program, Youth Services and others. Furthermore, the withdrawal of land for development conforms with the Comprehensive Land Use Plans the Whippoorwill Chapter has adopted. Hence, the development of the various facilities will enhance the quality of life for the residents, in general, of Whippoorwill Springs Community.

We conclude that any and all adverse impacts can be minimized if the construction of the business facility conforms with the applicable standards of construction and installation practices and proper monitoring applications are followed.

7.0. CONSULTATION AND COORDINATION

7.1. Personnel and Qualification

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Patrick Molloy, Environmental Scientist
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7.2. Consultation and Coordination

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U.S. Code of Federal Regulations, Title 40, Protection of the Environment.

Western Birds, Roger Tory Peterson, Third Edition, Houghton Mifflin Company, 215 Park Avenue South, New York, New York 10003.

8.0. DOCUMENT PREPARER'S SIGNATURE

I hereby certify that, to the bet of my knowledge and based on the best information available, the contents of this document are true and accurate.

3-29-96

Howard Bitsui, EA Consultant
Bitsui Environmental Consultant
P.O. Box 2250
Window Rock, Arizona 86515

Date

9.0 APPENDICES AND SUPPORTING DOCUMENTS

9.1. Topographic/Quadrangle maps showing the location of the project site

9.2. Tract Description of parcel of land situated within Land Management District No. 4 of the Navajo Nation Reservation in the vicinity of Whippoorwill Navajo County, Arizona.

9.3. An Archaeological Investigation and Report for 170 acres development tract, Whippoorwill, Arizona. NNCRMP-86-179; BIA-NPL1 A87(9)115.

9.4. Description of Threatened and Endangered Species known to occur on or adjacent to the project site from the Natural Heritage Program of Navajo Fish and Wildlife Department.

9.5. Biological Evaluation for the 200 acres withdrawn land for development, initially performed for Navajo Housing Authority proposed site AZ12-130 and 132, at Whippoorwill Springs, Arizona.

9.6. Resolution of the Whippoorwill Springs Chapter, Approving the Withdrawal of Land (200 acres) for Project Developments and Requesting the Navajo Nation for Financial and Technical Assistance to Initiate the Development of These Projects.

9.7. Consent to use land and Petition of the Whippoorwill Springs Community to Withdraw Land for Mutual Help Housing, Satellite School under Pinon Public School, PHS Clinic, Senior Citizen Center and Other Developments.

9.8. Resolution of Whippoorwill Springs Chapter Approving and Establishing Hoosh Doh Dii' To' Development, Incorporated, as a Non-Profit Making Organization and Appointing (5) Five Member Board

9.9. Geological data for Whippoorwill Mesa and Balakai Mesa, Navajo County, Arizona; Department of the Interior - Geological Survey, Reston, Virginia - 1968 - Reprinted 1977 - W7703.

9.10. Water Well Data for Well 4T-522.

9.11. Precipitation, temperature and soil water balance data for a weather station located near Pinon, Arizona.

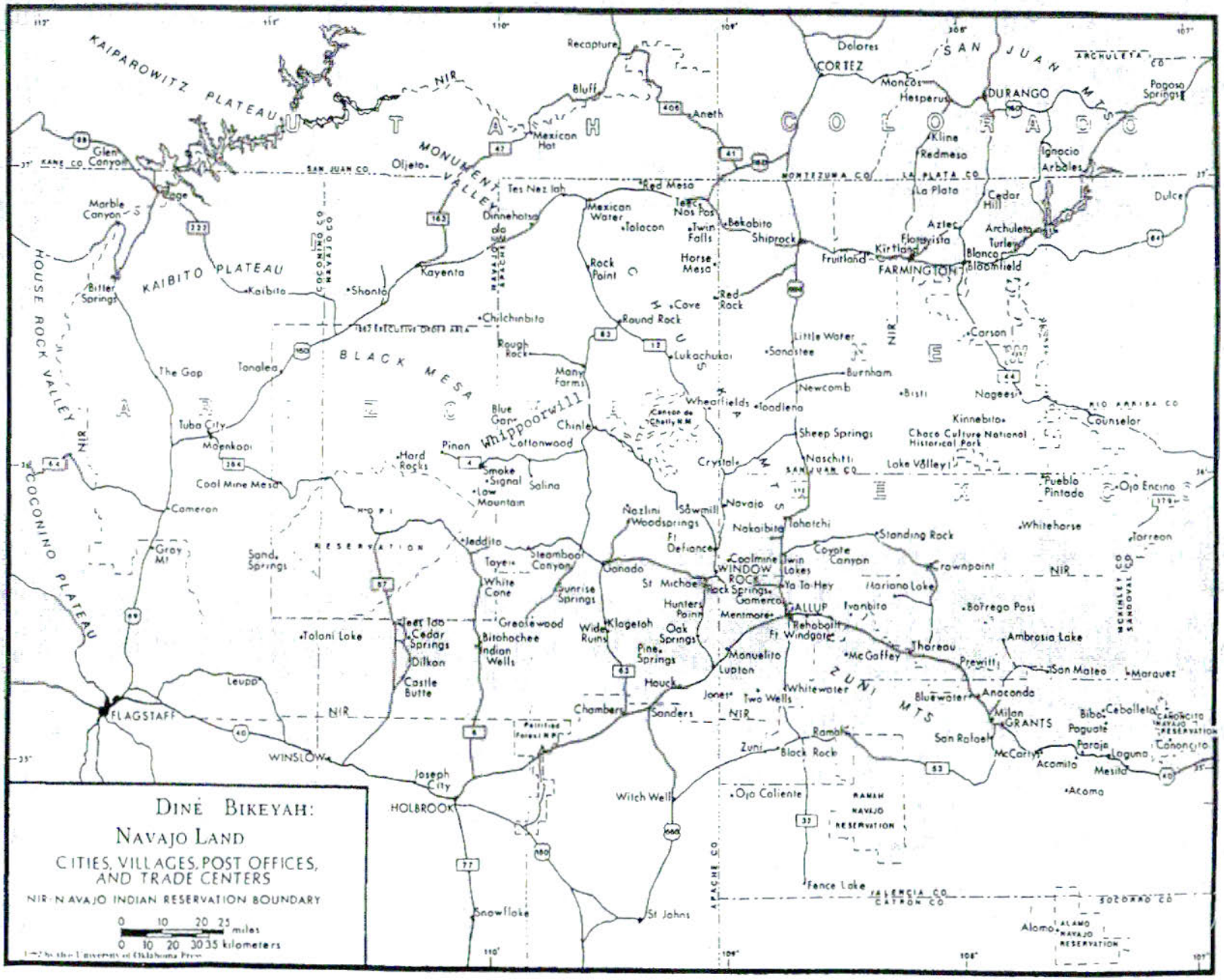
9.12. Excerpt from Chapter Images, 1992

9.13. Excerpt from 1990 Census, Population and Housing Characteristics of the Navajo Nation.

9.14. Identification of hazardous waste: 40 CFR 261.2 Definition of Solid Waste and 40 CFR 261.3 Definition of Hazardous Waste.

APPENDIX 9.1.

TOPOGRAPHIC/QUADRANGLE MAPS SHOWING THE LOCATION OF THE PROJECT SITE


DINÉ BIKEYAH:
NAVAJO LAND
CITIES, VILLAGES, POST OFFICES, AND TRADE CENTERS
NIR-NAVAJO INDIAN RESERVATION BOUNDARY
0 10 20 25 miles
0 10 20 30 35 kilometers
KAIPAROWITZ PLATEAU
UTAH
COLORADO
SAN JUAN MTS
MONUMENT VALLEY
KAIBITO PLATEAU
HOUSE ROCK VALLEY
COCONINO PLATEAU
BLACK MESA
ZUNI MTS
CORTEZ
DURANGO
FARMINGTON
GALLUP
GRANTS
FLAGSTAFF
WINSLOW
HOLBROOK
WINDOW ROCK
Chinle
Ganado
St Michael
Tuba City
Kayenta
Shiprock
Bluff
Aneth
Dolores
Mancos
Hesperus
Kline
Redmesa
Ignacio
Arboles
Dulce
Pagosa Springs
Aztec
Bloomfield
Kirtland
Fruitland
Blanco
Carson
Nageezi
Counselor
Kinnebito
Chaco Culture National Historical Park
Lake Valley
Pueblo Pintado
Ojo Encino
Torreon
Whitehorse
Crownpoint
Mariano Lake
Borrego Pass
Ambrosia Lake
San Mateo
Marquez
Ceboletta
Cabezon
Paguate
Paraje
Laguna
Mesita
Acoma
Acomita
Cañoncito
Milan
Anaconda
Bluewater
San Rafael
McCartys
Prewitt
Thoreau
Ft Wingate
Rehoboth
Ft Defiance
Window Rock
Ya-Ta-Hey
Gamerco
Mentmore
Coyote Canyon
Standing Rock
Tohatchi
Nakaibito
Navajo
Sawmill
Nazlini
Woodsprings
Sheep Springs
Naschitti
Crystal
Wheatfields
Toadlena
Newcomb
Burnham
Bisti
Sanostee
Little Water
Lukachukai
Round Rock
Cove
Rock Point
Red Rock
Horse Mesa
Tsaile
Nos Pos
Twin Falls
Bekabito
Tolacon
Mexican Water
Red Mesa
Tes Nez Iah
Dinnehotso
Oljeto
Mexican Hat
Bluff
Recapture
Glen Canyon
Marble Canyon
Bitter Springs
Kaibito
Shonto
Chilchinbito
Rough Rock
Many Farms
Blue Gap
Whippoorwill
Cottonwood
Pinon
Hard Rocks
Smoke Signal
Low Mountain
Salina
Coal Mine Mesa
Cameron
Gray Mt
Sand Springs
Tonalea
The Gap
Moenkopi
Jeddito
Steamboat Canyon
Tuba
White Cone
Sunrise Springs
Greasewood
Bitahochee
Indian Wells
Teec Tao
Cedar Springs
Dilkon
Castle Butte
Tolani Lake
Leupp
Klagetoh
Wide Ruins
Oak Springs
Pine Springs
Houck
Chambers
Sanders
Manuelito
Lupton
Jones
Two Wells
Whitewater
Zuni
Black Rock
Witch Wells
Joseph City
Ojo Caliente
Fence Lake
Snowflake
St Johns
Alamo
Coolmine
Twin Lakes
Rock Springs
Ivanbito
Thoreau
Prewitt
Ramah
Zuni
Acoma
Laguna
Cañoncito
Paraje
Mesita
Acomita
McCartys
San Rafael
Milan
Anaconda
Bluewater
Prewitt
Thoreau
Ft Wingate
Rehoboth
Gallup
Ft Defiance
Window Rock
Ya-Ta-Hey
Gamerco
Mentmore
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Navajo
Sawmill
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Naschitti
Crystal
Wheatfields
Toadlena
Newcomb
Burnham
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Little Water
Lukachukai
Round Rock
Cove
Rock Point
Red Rock
Horse Mesa
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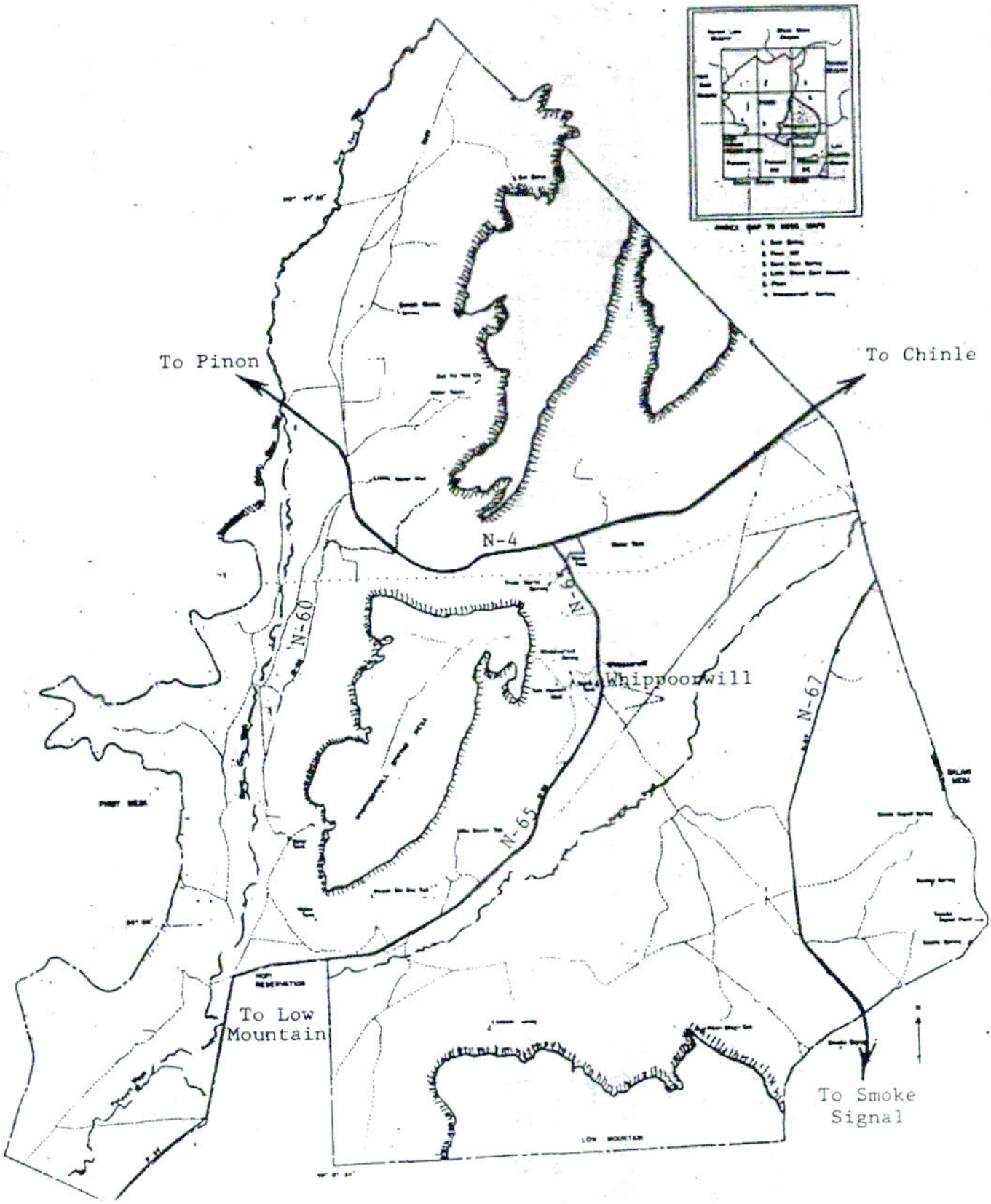
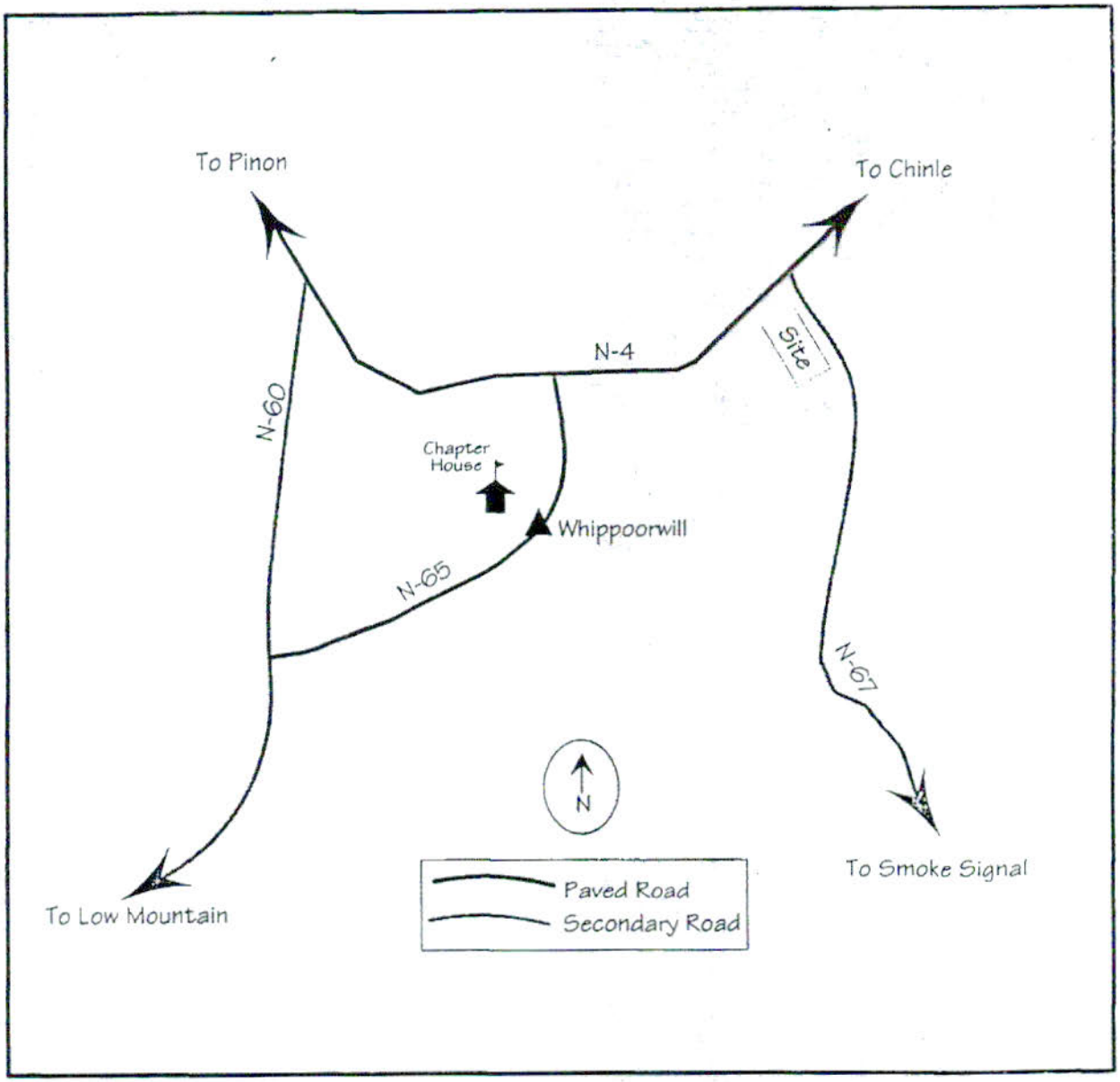
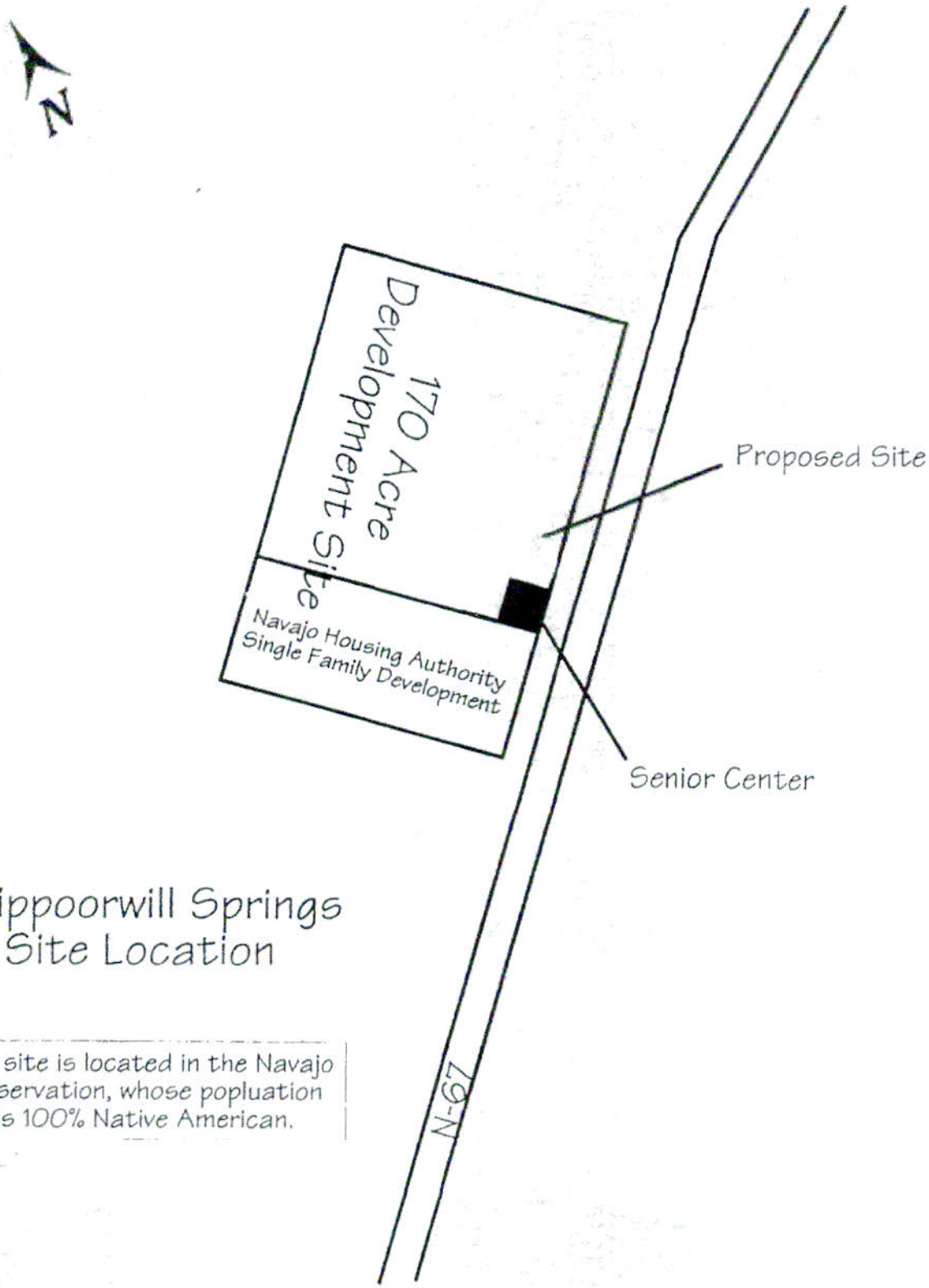
Nos Pos
Twin Falls
Bekabito
Tolacon
Mexican Water
Red Mesa
Tes Nez Iah
Dinnehotso
Oljeto
Mexican Hat
Bluff
Recapture
Aneth

WHIPPOORWILL SPRING CHAPTER




To Pinon
To Chinle
N-4
Site
N-60
Chapter House
Whippoorwill
N-65
N-67
N
To Low Mountain
To Smoke Signal
Paved Road
Secondary Road

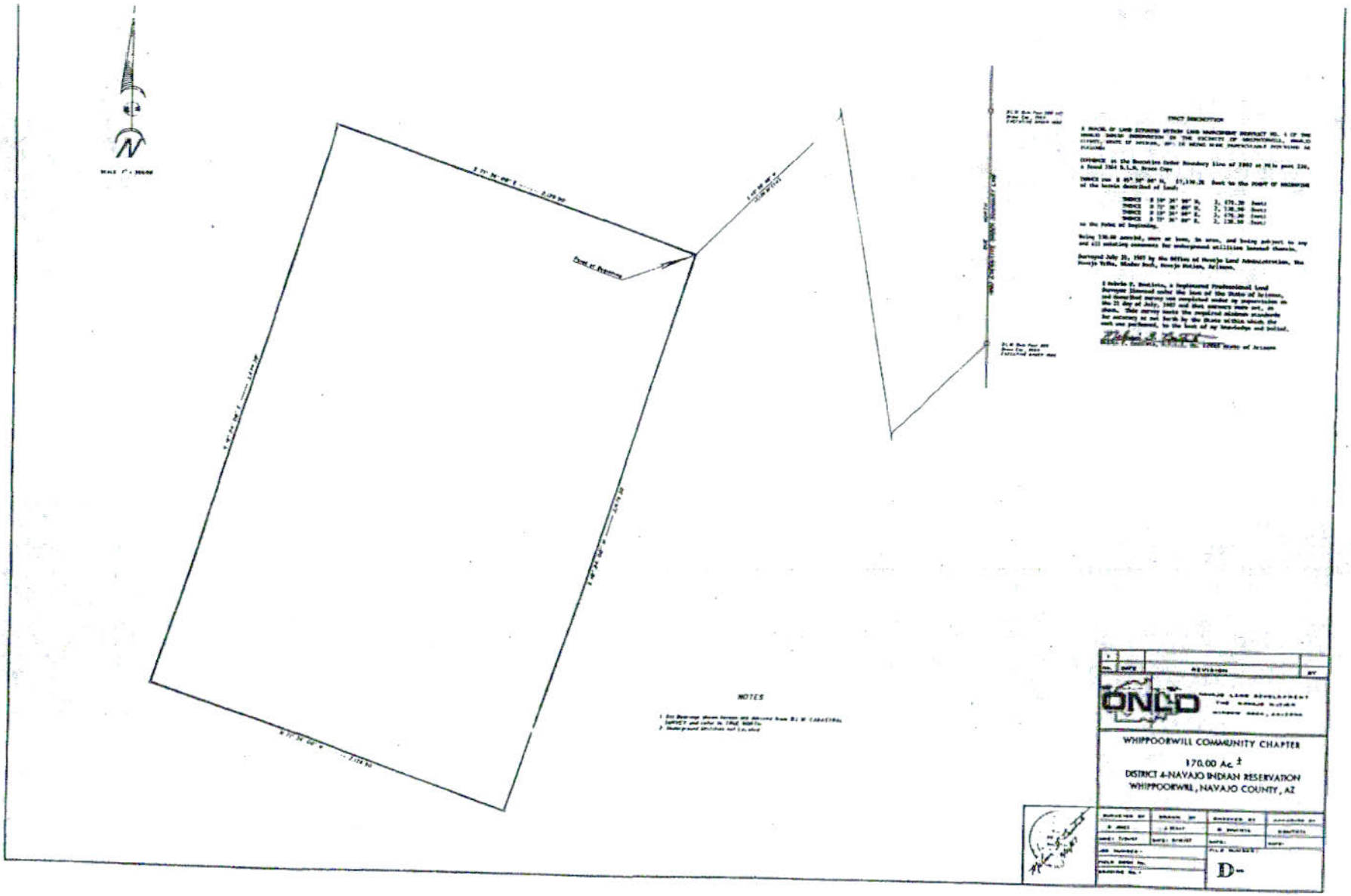


Whippoorwill Springs Site Location

The site is located in the Navajo Reservation, whose popluation is 100% Native American.

APPENDIX 9.2.

TRACT DESCRIPTION OF PARCEL OF LAND SITUATED WITHIN LAND MANAGEMENT DISTRICT NO. 4 OF THE NAVAJO NATION RESERVATION IN THE VICINITY OF WHIPPOORWILL NAVAJO COUNTY, ARIZONA


Point of Beginning
NOTES
WHIPPOORWILL COMMUNITY CHAPTER
170.00 Ac. ±
DISTRICT 4-NAVAJO INDIAN RESERVATION
WHIPPOORWILL, NAVAJO COUNTY, AZ
D-

APPENDIX 9.3.

AN ARCHAEOLOGICAL INVESTIGATION AND REPORT FOR 170 ACRES DEVELOPMENT TRACT, WHIPPOORWILL, ARIZONA. NNCRMP-86-179; BIA-NPLL A87(9)115.

THE
NAVAJO
NATION

ALBERT A. HALE
PRESIDENT

THOMAS E. ATCITTY
VICE PRESIDENT

December 28, 1995

Clark Etsitty, Executive Director
Hoosh Doh Dii To
P.O. Box 980
Pinon, Arizona 86510

RE: "Archaeological Clearance" for the Whippoorwill Springs Development Tract, Navajo County, Arizona (NTM-87-179.2).

Dear Mr. Etsitty:

The Cultural Resource Compliance Section (CRCS) of the Navajo Nation Historic Preservation Department (NNHPD) has reviewed your request for an "archaeological clearance" for the Whippoorwill Springs development tract, Navajo County, Arizona [Attachment A]. The area was previously surveyed by the Navajo Nation Cultural Resource Management Program (now the Navajo Nation Archaeology Department) in a report entitled, An Archaeological Survey of a 170 Acre Development Tract, Whippoorwill, Arizona. (NNCRMP-87-179). We have reviewed the appropriate documentation and we find that there are no historic properties eligible to the National Register located within the previously surveyed area, however, as a condition of clearance, a qualified archaeologist shall be present to monitor all initial ground disturbances [Attachment B]. Accordingly, we recommend that the proposed project be authorized to proceed within the area originally surveyed [Attachment C].

Should any previously unidentified or incorrectly identified cultural resources including but not limited to archaeological deposits, human remains, or locations reportedly associated with Native American religious/traditional beliefs or practices be discovered, all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified. If you have any questions regarding this matter, please call Rolf J. Nabahe or Peter T. Noyes at (520) 871-7132.

Sincerely,

for Alan S. Downer, Director
Navajo Nation Historic Preservation Department
P.O. Box 4950
Window Rock, Arizona 86515

Attachments

xc: AZSHPO
file
desk

rec. 10/15
CNR

CULTURAL RESOURCES CLEARANCE FORM
DOI BUREAU OF INDIAN AFFAIRS
BRANCH OF NAVAJO PARTITIONED LAND
P.O. BOX 1837
FLAGSTAFF, ARIZONA 86002

NOV 1987 RECEIVED Navajo Partitioned Land

ROUTING: COPIES TO
1 S.H.P.O.
(1) NAVAJO NATION
CULTURAL RESOURCE MANAGEMENT PROGRAM
(1) Whippoorwill Chapter House
1 File No. EVP 4-1(4-1)

NPL PROJECT NO. A87(9)115
OTHER PROJECT NO.:
NNCRMP-~~86~~-179
-87-

ENVIRONMENTAL DATA
SOIL SYMBOL SEE
RANGE SYMBOL REPORT

PROJECT NAME: An archeological survey of a 170 acre Development Tract, Whippoorwill, Arizona.
FIELD SUB-UNIT: Pinon
FORM PREPARED BY: Kathleen E. Gratz/A. LoRetta Romero
PROJECT ARCHEOLOGISTS: Richard Begay/LaVerne Seeley/Rolf Nabahe/Terri Hall

AGENCY INSTITUTION: Navajo Nation Archeology Department for the Whippoorwill Chapter

DATE INSPECTED: July 30, 1987
DATE OF REPORT: September, 1987
TOTAL ACREAGE INSPECTED: 170 acres
METHOD OF INVESTIGATION: Parallel pedestrian transect spaced about 15 M. apart, aided with flagged pins.
PROJECT LOCATION (LEGAL and UTM): SEE REPORT

PROJECT DESCRIPTION: The Chapter expects to construct a housing development, health clinic, senior citizen center, and a public school on this withdrawn land. Disturbance will be extensive over the entire surface and major areas of intensive subsurface disturbance are expected.

NO. OF CULTURAL RESOURCES FOUND: 15 Isolated occurrences
FEDERAL ANTIQUITIES PERMIT NO.:
NAVAJO TRIBAL ANTIQUITIES PERMIT NO.:

CONDITIONS OF CLEARANCE: 1) Because of past "discovery" situations in this area, a qualified archeologist will monitor all initial ground disturbance for construction; 2) each monitoring activity is to be followed by a brief document describing the ground disturbance and its results; 3) Standard discovery procedures will be followed.

CONDITIONAL
Clearance Approved: Yes X No ____ Kathleen E. Gratz — Kathleen E. Gratz, Archeologist — 9/28/87 Date

Yes X No ____ Acting Natural Res. Manager — 9/29/87 Date

Concurred: Yes X No ____ Shereen Lerner, S.H.P. Officer — 11/3/87 Date

RECEIVED MAR 31 1988 NAVAJO ARCHAEOLOGY DEPARTMENT

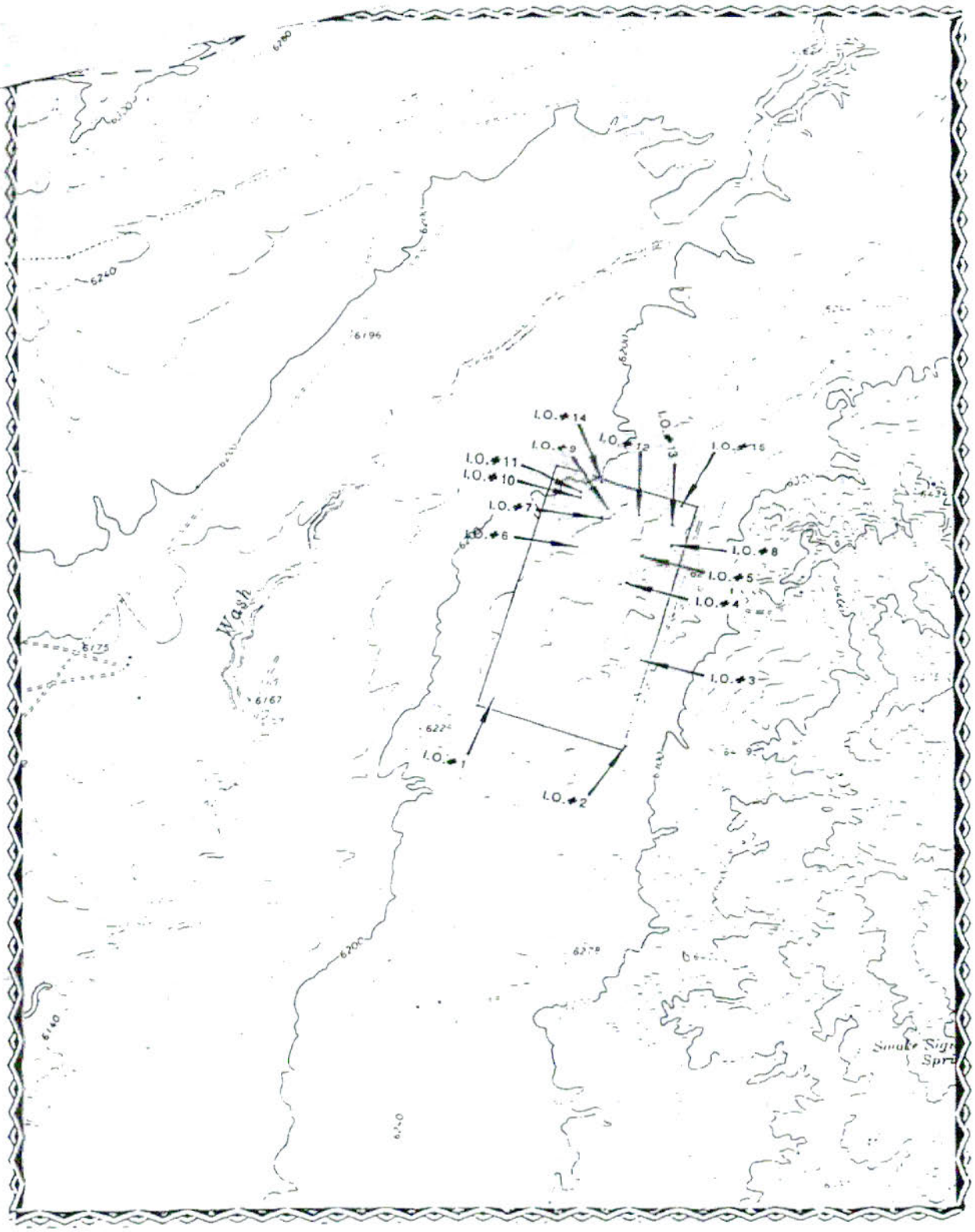


Figure 2. Locations of Identified Isolated Occurances (NNCRMP-87-179). USGS Map: Whipporwill Springs, Ariz., 1967, photorevised 1982, 7.5 min., T31N, R17E, projected.

Rec. 12/15
CNE

NOV 1987
RECEIVED
Navajo Partitioned Land

CULTURAL RESOURCES CLEARANCE FORM
DOI BUREAU OF INDIAN AFFAIRS
BRANCH OF NAVAJO PARTITIONED LAND
P.O. BOX 1837
FLAGSTAFF, ARIZONA 86002

ROUTING: COPIES TO
1 S.H.P.O.
1 NAVAJO NATION
CULTURAL RESOURCE MANAGEMENT PROGRAM

1 File No. EVP 4-1(4-1)

NPL PROJECT NO. A87(9)115
OTHER PROJECT NO.:
NNCRMP-86-179

ENVIRONMENTAL DATA
SOIL SYMBOL SEE
RANGE SYMBOL REPORT

PROJECT NAME: An archeological survey of a 170 acre Development Tract, Whippoorwill, Arizona.
FIELD SUB-UNIT: Pinon
FORM PREPARED BY: Kathleen E. Gratz/A. LoRetta Romero
PROJECT ARCHEOLOGISTS: Richard Begay/LaVerne Seeley/Rolf Nabahe/Terri Hall

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PROJECT DESCRIPTION: The Chapter expects to construct a housing develop-ent, health clinic, senior citizen center, and a public school on this withdrawn land. Disturbance will be extensive over the entire surface and major areas of intensive subsurface disturbance are expected.

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NAVAJO TRIBAL ANTIQUITIES PERMIT NO.:

CONDITIONS OF CLEARANCE: 1) Because of past "discovery" situations in this area, a qualified archeologist will monitor all initial ground disturbance for construction; 2) each monitoring activity is to be followed by a brief document describing the ground disturbance and its results; 3) Standard discovery procedures will be followed.

CONDITIONAL
Clearance Approved: Yes X No ____

Kathleen E. Gratz
Kathleen E. Gratz
Archeologist
9/28/87
Date

Yes X No ____

Blake T. Smith
Acting
Natural Res. Manager
9/29/87
Date

Concurred: Yes X No ____

for Shereen Lerner
S.H.P.Officer
11/3/87
Date

An Archaeological Survey of a 170-Acre Development Tract, Whippoorwill, Arizona

NNCRMP-87-179

Prepared by
Richard Begay
and
Rolf Nabahe

Submitted by
Anthony L. Klesert, Ph.D., Director
Navajo Nation Archaeology Department
P.O. Box 689
Window Rock, Arizona 86515

Submitted to
Kathleen Gratz, Archaeologist
Bureau of Indian Affairs
Branch of Navajo Partitioned Land
P.O. Box 1837
Flagstaff, Arizona 86002

Prepared for
Tom Bahe, Councilman
Whippoorwill Chapter
Pinon, Arizona

Conducted under the Authority of the Navajo Tribal Code

September, 1987

Abstract

Between July 30, 1987 and August 5, 1987, archaeologists with with Navajo Nation Archaeology Department (NNAD) conducted an archaeological survey of a proposed 170-acre development tract for the Whippoorwill Chapter, Arizona.

Fifteen isolated occurrences were found and recorded. The isolated occurrences lack sufficient significance to be nominated to the National Register of Historic Places and do not merit protection under the American Indian Religious Freedom Act (AIRFA). Archaeological clearance is hereby recommended.

Introduction

At the request of the Whippoorwill Chapter, archaeologists Richard Begay, LaVerne Seeley, Rolf Nabahe, and Terry Hall of the Navajo Nation Archaeology Department conducted an intensive archaeological inventory of a proposed development tract in the Polacca Wash Valley. Fifteen isolated occurrences were recorded.

The 170-acre tract was surveyed on July 30 and August 3, 4, and 5, 1987. Rain hindered our survey on July 30 and August 3. The tract of land is to be used for housing, school, and other developments. Whippoorwill Chapter is requesting financial and technical assistance from the Navajo Nation.

Description of Undertaking

The Whippoorwill Chapter voted unanimously on May 13, 1987, to withdraw 200 acres of grazing land for future development. Preliminary plans are to utilize the withdrawn land for a housing development, Indian Health Service clinic, senior citizen center, and a public school. The chapter requested a survey of only 170 acres. The additional detached 30 acres are to be surveyed later for a sewer lagoon and a landfill. The 170-acre (68.8 ha) area measures 1060m (3478 ft.) by 649m (2128 ft.).

Location

The project area lies entirely on Navajo Partitioned Lands in Navajo County, Arizona. It is in the Whippoorwill Chapter, Chinle Agency. The project area specifically lies between the Whippoorwill and Balakai mesas, east of Polacca Wash. The project area has been plotted on the 7.5-minute Whippoorwill Springs Quadrangle (Figure 1). Table 1 gives the UTM coordinates and legal descriptions of boundary points shown on Figure 1.

Area Environmental and Cultural Setting

The project area is surrounded by high mesas. The proposed project area is currently being used as a grazing area for cows and horses. Sheep may also be grazed there, but none were sighted there during the fieldwork. The project area is bordered on the east side by a graded road (Indian Service Road 67) and on the other three sides by unimproved dirt roads.

Two large drainages begin within the project area and empty into Polacca Wash half a mile west. Smaller drainages empty into the large ones. Vegetation is sparse and limited to a few species. These include cheatgrass, yucca, saltbush, shadscale, prickly pear, cholla, wolfberry, and bunch grass.

Contemporary Navajo homesites can be seen in the distance to

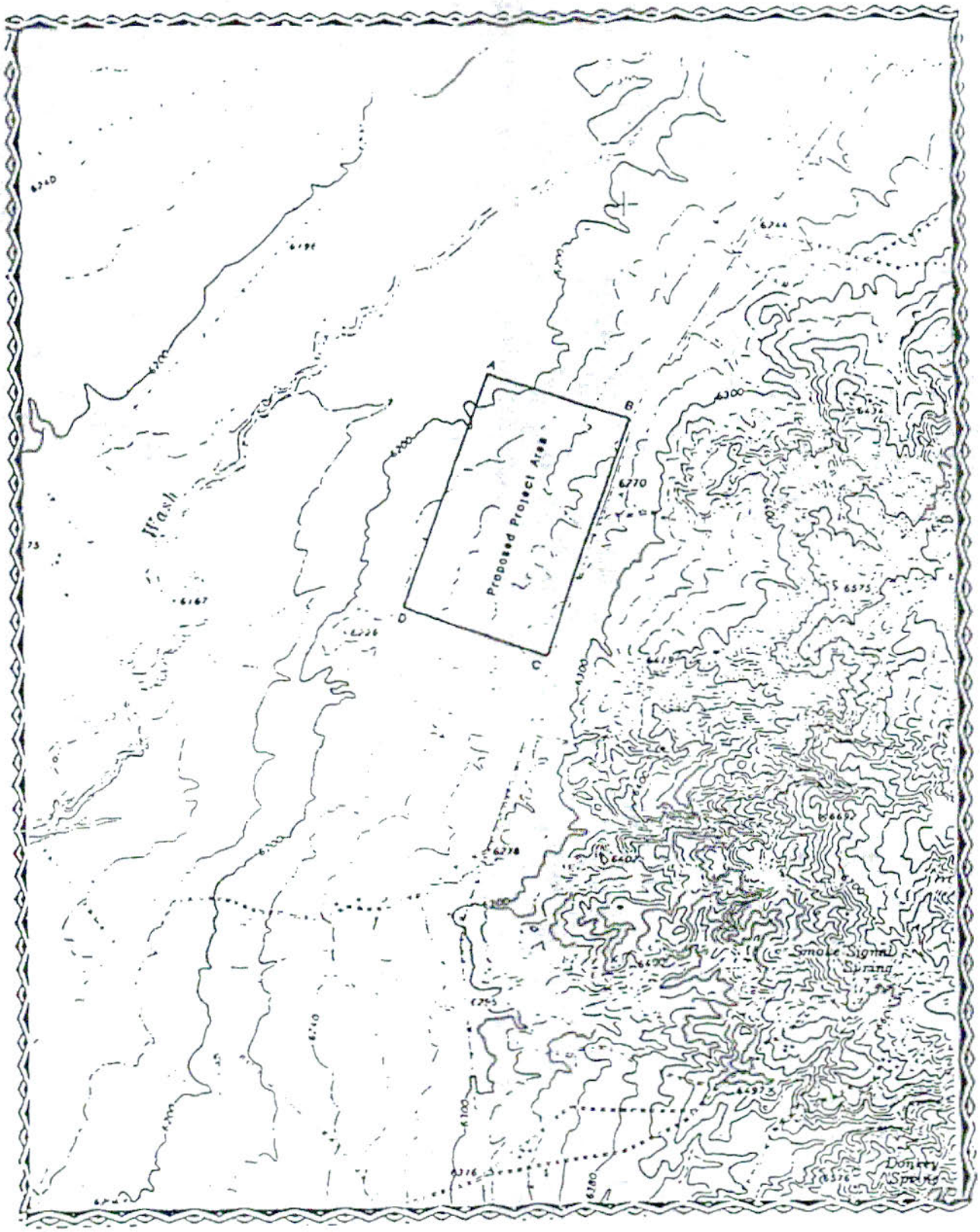


Figure 1. Locational Map of NNCRTP-87-179. Map: Whipporwill Springs, Ariz., 1967, photorevised 1982, 7.5 min., T31N, R17E, projected.

west, north and south. The project area is approximately 3 miles south of Indian Service Route 4.

Existing Data Review

The Western Anasazi area, save the magnificent cliff dwellings, has basically been ignored in archaeological studies in the past century. Only recently has there been a concerted effort to document the area more thoroughly. Contract archaeology has played a major role in the effort.

Benallie (NNCRMP-86-219) recorded 98 historic and prehistoric archaeological sites in his survey of 67.7 miles of Indian Health Service water lines. Three are Anasazi Basketmaker III-Pueblo I sites, thirty-six are Anasazi Pueblo I-II sites, ten are multi-component Navajo/Anasazi sites, and forty-nine are Navajo sites. Benallie surveyed around the Whippoorwill Spring Mesa and on the eastern slopes of First Mesa. Only site AZ-J-57-22 is within 1 km of the proposed project area.

Other than Benallie's survey, the only other project within 1 km of the proposed chapter-development tract is project BIA NAO 80-367 east of the proposed chapter development tract. A light sherd scatter was recorded. Kayenta Anasazi Archaeology on Central Black Mesa, Navajo Nation: The Pinon Project, edited by Laurance D. Linford (Navajo Nation Papers in Anthropology 10, Navajo Nation Cultural Resource Management Program, Window Rock, Arizona, 1982) provides an overview of the region's prehistory, while The Navajo History and Archaeology of East-Central Black Mesa, Arizona, by Scott Russell (Navajo Nation Papers in Anthropology 21, Navajo Nation Cultural Resource Management Program, Window Rock, Arizona, 1983) provides an overview of the region's history.

Field Methods

On Thursday, July 30, 1987, a Community Service Employment worker of the Whippoorwill Chapter showed the archaeologists the location of the project area. After the corner stakes were located, three archaeologists covered the 170-acre project area described above (see "Description of Undertaking") on foot with parallel transects spaced 15m apart. The archaeologist walking on the end used pin flags to mark the area surveyed. Once the trio reached the opposite boundary, they turned around and repeated the procedure. The survey was delayed by rain on July 30 and August 3. All resources discovered were recorded in enough detail to fill out the appropriate forms back in the office. A thorough inspection of the area around each cultural resource encountered was made before recording was done.

Cultural Resource Findings

No archaeological sites, occupied or in-use resources, or

sacrad places were observed within the proposed project area. However, fifteen isolated occurrences (IOs) were observed and recorded. Table 2 lists the IOs. Figure 2 shows the location of these IOs. Formal IO forms can be found in Appendix A. The absence of archaeological sites may be explained by the nature and location of the project area. The alluviated plain would be subject to periodic flooding without major landscaping. Flooding would make the area undesirable for most uses and would destroy evidence of other uses. At present there are no Navajo homesteads or other currently used sites located within the immediate vicinity of the project area.

Evaluation of Significance

None of the isolated occurrences has sufficient information potential to be eligible for the National Register of Historic Places under any criterion. The IOs are all types of resources normally not eligible for protection under AIRFA.

Recommendations

Archaeological clearance is recommended for the proposed Whippoorwill 170-acre development tract.

APPENDIX 9.4.

DESCRIPTION OF THREATENED AND ENDANGERED SPECIES KNOWN TO OCCUR ON OR ADJACENT TO THE PROJECT SITE FROM THE NATURAL HERITAGE PROGRAM OF NAVAJO FISH AND WILDLIFE DEPARTMENT.

THE
NAVAJO
NATION

ALBERT A. HALE
PRESIDENT

THOMAS E. ATCITTY
VICE PRESIDENT

22 February 1996

Howard Bitsui, Owner/Consultant
Bitsui Environmental Consultant
P.O. Box 2250
Window Rock, AZ 86515

SUBJECT: WHIPPOORWILL CHAPTER'S 128-ACRE DEVELOPMENT TRACT

Mr. Bitsui;

The following information on species of concern is provided in response to your 21 February 1996 request concerning the subject project, which is located about three miles south of N4 and 1.5 miles northeast of the Whippoorwill Chapter House. "Species of concern" include protected, rare, and certain native species, as well as species of economic or cultural significance.

For each species, the following tribal and federal statuses are indicated: Navajo Endangered Species List (NESL), federal Endangered Species Act (ESA), federal Migratory Bird Treaty Act (MBTA), and federal Eagle Protection Act (EPA). Information is not provided on state status. No legal protection is afforded species with only ESA candidate or NESL group 4 status. (ESA candidate 2 and NESL group 4 species are only included in responses on an irregular basis at this time). Please be aware of these lower-priority species during surveys and inform the Navajo Fish and Wildlife Department (NFWD) of observations. Documentation that these species are more numerous or widespread than currently known contributes to ensuring that they will not be uplisted in the future. Please refer to the NESL for a list of group 4 species; contact me if you need a copy.

No species are **known** to occur on the project site. Species **known** to occur within a five-mile radius of the site include:

1. Aquila chrysaetos (golden eagle); NESL group 3; MBTA; EPA. For more information contact David Mikesic, NFWD Zoologist, at (520) 871-7638.
2. Lanius ludovicianus (loggerhead shrike); ESA category 2 candidate; MBTA.

Additional species with **potential** to occur on the 7.5-minute quadrangle (Whippoorwill Spring) containing the project boundaries include:

3. Buteo regalis (ferruginous hawk); NESL group 3; ESA category 2 candidate; MBTA.

4. Charadrius montanus (mountain plover); NESL group 4; ESA category 1 candidate; MBTA.
5. Falco peregrinus (peregrine falcon); NESL group 3; ESA endangered; MBTA.
6. Mustela nigripes (black-footed ferret); NESL group 2; ESA endangered. Potential should be evaluated if prairie-dog towns of sufficient size (per NFWD guidelines) occur in the project area.

Your project biologist should have the expertise to determine which of the species listed above have the potential to occur at the project site.

Also of concern are impacts to any wetland or riparian habitats and their associated species, such as those of Polacca Wash.

The U.S. Fish & Wildlife Service's National Wetlands Inventory (NWI) maps must be examined to determine whether areas classified as wetlands are present on or near the project site. 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 NFWD's Natural Heritage Program office, or may be purchased through the U.S. Geological Survey (order forms are available through the Natural Heritage Program). The Natural Heritage Program 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.

Surveys should be conducted during the appropriate season for the species listed above. Surveyors on the Navajo Nation must be permitted by the Director, NFWD. Contact Jeff Cole at (520) 871-7068 for permitting procedures. Questions pertaining to surveys should be directed to the NFWD Botanist for plants at 871-7061, and Zoologist (David Mikesic) for animals at 871-7638.

The information in this report was identified by the NFWD's biologists and computerized database, and is based on current data. It should not be regarded as the final statement on the occurrence of any species of concern, nor should it substitute for on-site surveys for these species. Also, because the NFWD's information is continually updated, any given information response is only wholly appropriate for its respective request.

An invoice for this information is forthcoming from the Navajo Division of Finance.

If you have any questions I may be reached at (520) 871-7603.

Annette Nystedt

Annette Nystedt, Data Manager
Natural Heritage Program
Navajo Fish and Wildlife Department
P.O. Box 1480
Window Rock, Navajo Nation 86515

CONCURRENCE

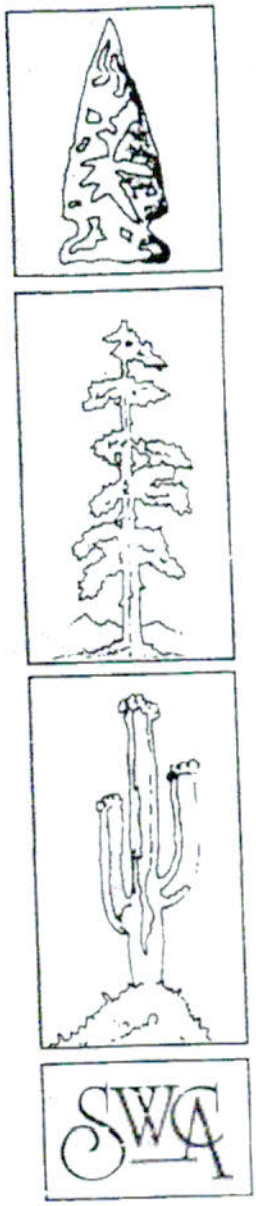
Larry Benallie, Sr., Director
Navajo Fish and Wildlife Department

xc: file/chrono

APPENDIX 9.5.

BIOLOGICAL EVALUATION FOR THE 200 ACRES WITHDRAWN LAND FOR DEVELOPMENT, INITIALLY PERFORMED FOR NAVAJO HOUSING AUTHORITY PROPOSED SITE AZ12-130/132, AT WHIPPOORWILL, ARIZONA.

BIOLOGICAL EVALUATION
FOR
NHA PROPOSED HOUSING SITE AZ12-130/132
AT WHIPPOORWILL, ARIZONA



Prepared for

Navajo Housing Authority

Prepared by

SWCA, Inc.
Environmental Consultants

July 1991

1. PROJECT NAME/CODE: NHA Proposed Housing Site at Whippoorwill, Arizona (AZ12-130/132)

2. PROJECT LOCATION: Polacca Wash Valley, Navajo County, Arizona

3. GEOGRAPHICAL AREA: 3.7 miles south of Navajo Route 4, along BIA Road # 67. USGS Quad map name: Whippoorwill Springs

4. SPECIES OF CONCERN NEAR PROJECT AREA:

   COMMON NAME: Golden Eagle
   SCIENTIFIC NAME: *Aquila chrysaetos*

   FEDERAL STATUS: NONE
   STATE STATUS: NONE
   NAVAJO FISH AND WILDLIFE STATUS: GROUP 3: Species likely to become endangered within the immediate future.

5. BACKGROUND INFORMATION: This study was done to determine impacts of a 40 acre proposed housing development on a pair of nesting Golden Eagles (*Aquila chrysaetos*). The eagles nest along cliff sites in the Polacca Wash area and are known to use the Polacca Wash Valley as foraging habitat. Surveys for other species of concern to the Navajo Natural Heritage Program (listed below) were conducted on the housing tract, within a one-mile radius of the housing tract, and in the Polacca Wash Valley south of Navajo Route 4 and north of Low Mountain.

6. SURVEY METHODS: Transects were run across the proposed housing tract at a distance of 50 meters apart. Transects were run in a one mile radius north, south, and west of the housing site at a distance of 100 meters apart. Two transects were run east of BIA Road # 67 to a maximum distance of 200 meters to avoid potential disturbance to nesting eagles. The presence or absence of Prairie Dog towns (*Cynomys gunnisoni*), their size, and their locations were plotted on a 7.5 minute topographic map. Navajo Fish and Wildlife protocol and guidelines were followed to determine whether Black-footed Ferret (*Mustela nigripes*) surveys would be required. Surveys were conducted for the following avian species of concern to the Navajo Natural Heritage Program: Burrowing Owl (*Athene cunicularia*), Ferruginous Hawk (*Buteo regalis*), Long-billed Curlew (*Numenius americanus*), and Mountain Plover (*Charadrius montanus*). The Polacca Wash Valley north of Low Mountain and south of Navajo Route 4 was surveyed both by walking said transects and by driving existing roadways to determine the approximate number of acres of sagebrush habitat available to the eagles in this area. The percentage of habitat taken up by the proposed housing site, including a 0.5 mile zone of influence, was calculated. Also noted was the proximity of the housing site to existing roadways and buildings. The Navajo Natural Heritage Program did not disclose exact nest locations due to concerns of harassment to these birds if this information was made public.

Therefore the proximity of the housing site to eagle nest sites could not be directly determined, but is thought to be more than 0.5 miles.

7. SURVEY RESULTS:

A. **HOUSING TRACT (40 acres): Five isolated Prairie Dog burrows were found on** the proposed housing tract. All five burrows were inactive and showed no sign of use by Burrowing Owls. Some old rabbit scat was found on the tract, but no live mammals were encountered. Three Loggerhead Shrikes (*Lanius ludovicanius)* were seen in the small drainage just north of the tract. A flock of Horned Larks (*Eremophila alpestris)* crossed the tract, stopping briefly. A male American Kestrel (*Falco sparverius)* hovered briefly over the tract, but was not observed foraging. This parcel has been heavily overgrazed, the only vegetation remaining are two species of cactus (*Opuntia* spp.) and closely cropped grasses. This 40 acre tract is unsuitable foraging habitat for Golden Eagles because of the lack of prey species, and the lack of cover and forage to support prey species.

B. ONE-MILE RADIUS: A large active Prairie Dog town (200 acres) was located 0.7 miles north of the tract, extending to 2.2 miles north of the tract and partially crossing over to the east side of BIA Road # 67 (see Figures 1 & 2). Eight different Burrowing Owls were sighted on this 200 acre Prairie Dog town (see Figure 1). Four inactive Prairie Dog burrows with extensive whitewash and pellets were located 200 feet south of the tract. Three separate sightings of Burrowing Owls in this area indicate that these burrows are currently being used by the owls as roosting/feeding sites (see Figure 1). On July 16, a pair of Golden Eagles was seen soaring approximately 0.5 miles south of the tract, but no foraging behavior was observed. A Coyote (*Canis latrans)* was encountered 0.8 miles north/northwest of the tract.

The area east of BIA Road # 67 was surveyed to a maximum distance of 200 feet to avoid disturbance to nesting eagles. Birds seen were Great Horned Owl (*Bubo virginianus)*, Western Kingbird *(Tyrannus verticalis)*, Lark Sparrow *(Chondestes grammacus)*, and Mourning Dove *(Zenaida macroura)*. Mammals seen were Cottontail Rabbit *(Sylvilagus auduboni)* and Antelope Ground Squirrel *(Ammospermophilus leucurus)*.

The area west of Polacca Wash contained no Prairie Dog towns, burrows, or sign. Birds seen were a female American Kestrel and a Western Kingbird. No mammals were observed. This area has been heavily overgrazed and can be considered unsuitable foraging habitat for eagles due to the lack of prey species, the lack of cover and forage to support prey species, and due to the proximity of existing buildings and a paved roadway (Navajo Route 65).

Within Polacca Wash Canyon, the only birds seen were Rock Wrens (*Salpinctes obsoletus)*. Mammals encountered were Antelope Ground Squirrels and Golden-mantled Squirrels *(Citellus lateralis)*.

C. POLACCA WASH VALLEY (North of Low Mountain and South of Navajo Route 4)

A single adult Golden Eagle was seen flying above Polacca Wash, approximately 0.7 miles north of Low Mountain, on July 15. The eagle gained altitude directly over Whippoorwill and then continued to soar north along Whippoorwill Spring Mesa. A pair of adult Golden Eagles was seen on July 23 soaring approximately 1.2 miles south of Navajo Route 4 and just east of BIA Road # 67. No foraging behavior was observed (see Figure 2 for eagle sightings and approximate flight path).

8. PROJECT EFFECTS/IMPACTS:

Total acres within the Polacca Wash Valley available to the eagles for foraging was calculated to be approximately 5200 acres. This takes into account a 0.5 mile buffer zone around existing developments and roads within which the eagles are not expected to forage. The NHA housing tract plus a 0.5 mile zone of influence will take up approximately one square mile (640 acres). This represents approximately 12% of the available habitat. A zone of influence with a radius of 0.5 miles north, south, and west of the tract is deemed sufficient since a number of residences already exist within a one-mile radius of the proposed housing tract. Due to severe overgrazing, the quality of the above-mentioned 5200 acres as foraging habitat is poor. The only significant prey base available to Golden Eagles is the 200 acre Prairie Dog town located from 0.7 miles to 2.2 miles north and northeast of the proposed housing tract. At this distance from the housing tract, human disturbance factors to this prey base will be minimal if mitigation measures listed below are followed. Impacts to Burrowing Owl roosting and feeding sites located 200 feet south of the tract can also be minimized by following mitigation measures listed below.

Other bird species of concern to the Navajo Natural Heritage Program, namely Ferruginous Hawks, Long-billed Curlews, and Mountain Plovers, were not encountered in the areas surveyed, although historic records exist for nesting Mountain Plovers within the Polacca Wash Valley (John Nystedt, pers.comm.).

9. MITIGATION MEASURES: The following mitigation measures were formulated from conversations with Laurie Reiser of the Navajo Housing Authority.

A. **Limit construction to the non-breeding season for Golden Eagles (September to** February) to avoid impacts to nesting or fledging birds.

B. Construct a permanent chain-link fence around development area. This will serve to avoid accidental disturbances by construction machinery and/or personnel to nearby Burrowing Owl roosting/feeding sites.

C. Limit access into and out of the housing tract to one road that connects directly to BIA Road # 67.

D. Maintain fence around housing development to avoid inadvertent roads and two-tracks from forming around the housing development.

E. Enforce leash/animal control laws to avoid impacts to both the Prairie Dog town north and northeast of the tract, and the Burrowing Owl roosting/feeding sites just south of the tract. Maintenance of the fence around the housing tract will also serve this purpose.

10. REFERENCES:

Palmer, R.S. 1988. Handbook of North American Birds. Yale University Press. p.204

11. PERSONS/AGENCIES CONTACTED:

A. John Nystedt, Navajo Natural Heritage Program

B. Patrick Ryan, Navajo Natural Heritage Program

C. Laurie Reiser, Navajo Housing Authority

91684-be.1

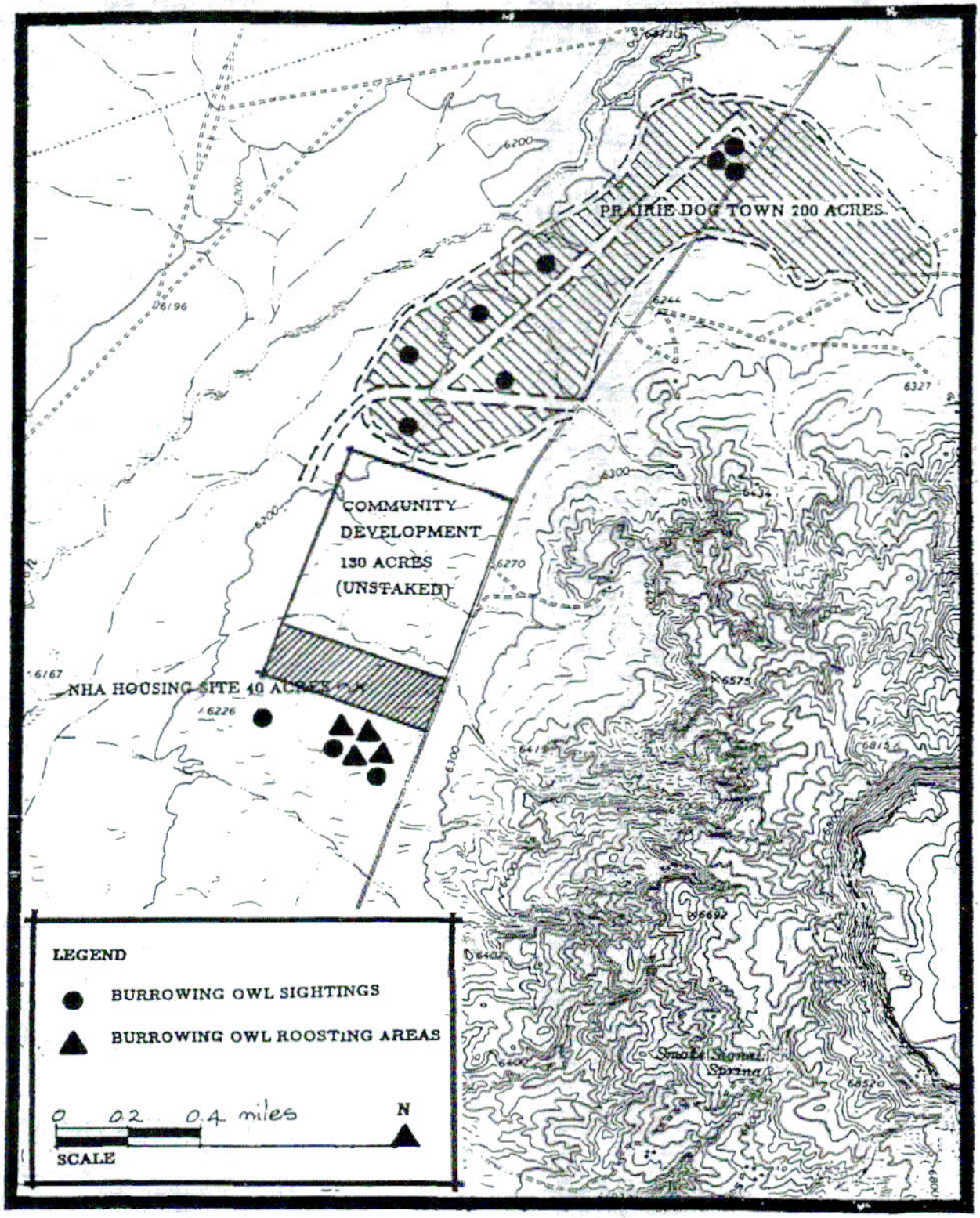
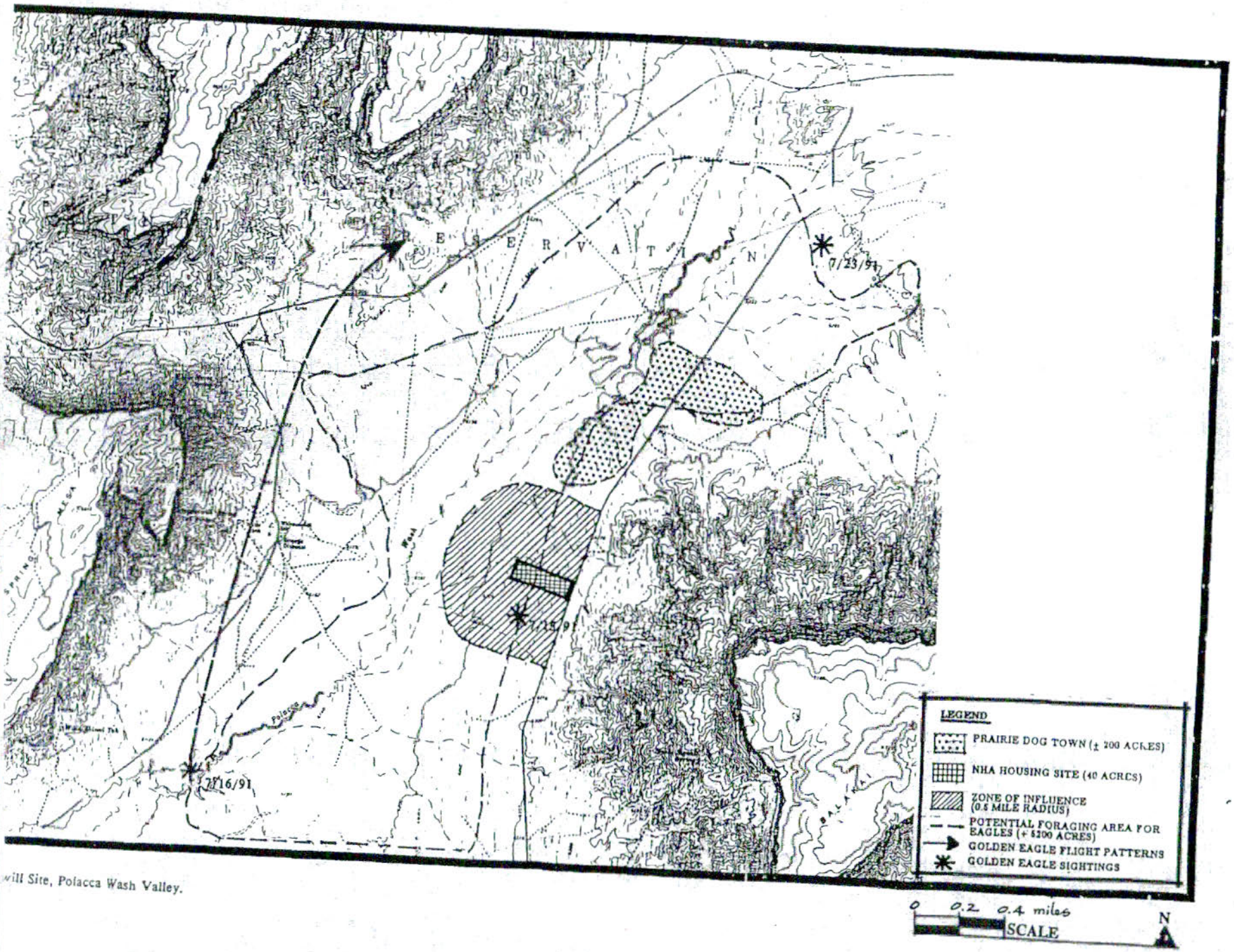


Figure 1. Location of Prairie Dog Town and Burrowing Owls: Whippoorwill Site.



will Site, Polacca Wash Valley.

APPENDIX 9.6.

RESOLUTION OF THE WHIPPOORWILL SPRINGS CHAPTER, APPROVING THE WITHDRAWAL OF LAND (200 ACRES) FOR PROJECT DEVELOPMENTS AND REQUESTING THE NAVAJO NATION FOR FINANCIAL AND TECHNICAL ASSISTANCE TO INITIATE THE DEVELOPMENT OF THESE PROJECTS.

RESOLUTION OF THE
WHIPPOORWILL CHAPTER
OF THE NAVAJO NATION

Approving the Withdrawal of Land for Project Developments and Requesting the Navajo Nation for Financial and Technical Assistances to Initiate the Development of these Projects

WHEREAS:

1. The Whippoorwill Chapter is a certified chapter of the Navajo Nation by the Navajo Tribal Council CAU-36-79; and

2. The Whippoorwill Chapter is increasing its population and is in extreme need of developments which will provide assistance and employment; and

3. The majority of the people from the Whippoorwill Chapter supported such an endeavor recognizing that the development of such projects as housing, school, clinic, senior citizen center, store with an auto service station will be beneficial to the local residents in term of time and cost; and

4. The Whippoorwill Chapter identified a parcel of land consisting of two hundred (200) acres more or less, located on the western side of Indian Services Road No. 67 approximately three miles north of the Smoke Signal Trading Post and approximately two miles east of the Whippoorwill Chapter house; and

5. Further, the Whippoorwill Chapter needs the technical and financial assistance to conduct the intricate studies needed to determine the feasibilities of developing the projects.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Whippoorwill Chapter hereby approves the withdrawal of two hundred (200) acres, more or less, of land located on the western side of Indian Services Road No. 67, approximately three miles north of Smoke Signal Trading Post and approximately two miles east of the Whippoorwill Chapter House for the development of projects.

2. The Whippoorwill Chapter hereby requests the Navajo Nation for technical and financial assistance to initiate the development of the projects.

3. The Whippoorwill Chapter recommends that the Navajo Nation expedite these requests since it is in line with Chairman Peter McDonald's priority of economic self-sufficiency.

4. Further, Whippoorwill Chapter has consent of four (4) grazing permit holders. EXHIBIT "A". Attached is a petition signed by other land users. EXHIBIT "B".

CERTIFICATION

We hereby certify that the foregoing resolution was duly considered by the Whippoorwill Chapter at a duly called meeting at Whippoorwill, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 41 in favor and 0 opposed, this 13 day of May, 1987.

Clarence Bahe, Chapter President

Robert Ben, Vice-President

Mary C. James, Secretary

Tom Y. Bahe, Coucil Delegate

Larry Beck, Council Delegate

THE NAVAJO NATION

WINDOW ROCK, NAVAJO NATION (ARIZONA)

PETER MacDONALD, Sr.

JOHNNY R. THOMP

Project Review Section Checklist
Land Resources Administration

Date: July 17, 1987

Dear Applicant:

Your request for: LAND WITHDRAWAL of 200 Acres for the Community Development for the Whppoorwill Chapter

* The Project Review Section has completed the field clearance, obtained the affected land users in the proposed site. In order for the land withdrawal, our office still need some other information to complete the project.

Needs the following document(s) to process the application:

- YY Archaeological Survey report
- YY Archaeological Clearance
- YY Environmental Assessment
- YY Survey plat with legal description within the proposed area
- ___ Follow up request on ___
- YY Other: If you need any assistance, please call us or come to our office pertaining the needed information.

If you should have any questions please call us at (602) 871-6694 or 6695, please do the follow-up no longer than _____, 1987.

Thank you,

Lena M. Begie

Land Resources Administration
Project Review Section
P.O. Box 308
Window Rock, AZ 86515

cc: Project File # 87-1205

APPENDIX 9.7.

CONSENT TO USE LAND AND PETITION OF THE WHIPPOORWILL SPRINGS COMMUNITY TO WITHDRAW LAND FOR MUTUAL HELP HOUSING, SATELLITE SCHOOL UNDER PINON PUBLIC SCHOOL, PHS CLINIC, SENIOR CITIZEN CENTER AND OTHER COMMERCIAL DEVELOPMENTS.

EXHIBIT "A"

CONSENT TO USE

NAVAJO TRIBAL LANDS

TO WHOM IT MAY CONCERN:

1. Jim Tom C# 000,525 / Sadie Tom Census # 003,485

2. Stella Phillips C# 084,547 / John Ben Census # 000,104

3. Joe Nelson Census # 003,487

4. Tully Wartz Census # 003,486

hereby grant consent to the Navajo Tribe, the Bureau of Indian Affairs, Window Rock, Arizona to permit.

of _____ to use a portion of my (our) authorized Customary Use Area, as drawn on the back, for the following purpose (s):

Housing Development, School, [redacted] Citizen Center, Satelite Clinic, Commercial Developments and [redacted] Facilities.

Date: 5/13/87 1. Jim Tom / RTP: Sadie Tom #284 unit 6
Permittee, Grazing Permit # Unit

Date: 5/13/87 2. [redacted] John Ben / RTP: Stella Phillips #5712 unit 6
Permittee, Grazing Permit # Unit

Date: 5/13/87 3. Joe Nelson / Fred Mitchell #467 unit 6
Permittee, Grazing Permit # Unit

Date: 5/13/87 4. X Tully Wartz #32 unit 6
Permittee, Grazing Permit # Unit

Date: _____ 5. _____ _____
Branch of Land Operation Agency

Date: 5/13/87 6. George Natlonis 04
Grazing Committee Member District #

PETITION OF THE WHIPPOORWILL SPRING COMMUNITY TO WITHDRAW LAND FOR MUTUAL HELP HOUSING, SATELITE SCHOOL UNDER PINON PUBLIC SCHOOL, PHS CLINIC, SENIOR CITIZEN CENTER AND OTHER COMMERCIAL DEVELOPMENTS

We, the under signed members of the Whippoorwill Spring Community hereby relinquish 200 acres of our grazing area for the much needed Mutual Help Housing Development, Satelite School under Pinon Public School, PHS Clinic, Senior Citizen Center, and other Commercial Developments.

1. Rt Print. 9 Lodie Tom C# 3,495
2. Rt. Print 9 Stella Phillips C# 84547
3. Rt Print 9 Mary Zahe
4. Marilyn Phillips 109,897
5. Nicholas Lewis C# 83573
6. [illegible]
7. Wanda Pete
8. Johnny L Lee
9. Ray Jackson 13 32639
10. Rt Print 9 Lorraine Yazzie C# 3226
11. Tillie [illegible] C# 2492
12. [illegible] Watty 24 [illegible]
13. Sally Watty 24 [illegible]
14. Robert Watty
15. Jackson Watty
16. [illegible]
17. Nelson James
18. [illegible]
19. Dan Bahe
20. Lucy H. Bahe
21. Ella R Cook
22. [illegible]
23. Sylvia Bloom
24. Christine Cook
25. Amos K Sloan Jr
26. [illegible]
27. Shirley [illegible]
28. Keff Paul
29. [illegible]
30. John [illegible]
31. Lena B. Jimmy
32. Jimmy Todd Jr
33. [illegible]
34. [illegible]
35. Jefferson Bee
36. Julia Bade
37. [illegible]
38. Susie Bee
39. Violet Nez
40. Virginia Cyr

EXHIBIT "B"

41. Mary Buckingham
42. Ella Connelly
43. Mary Ann Tsosie
44. Irene Yazzy
45. Ray Tsosie
46. Cathy L. Baker
47. Cecilia L. Bahe
48. Lee J. Chee
49.
50.

C E R T I F I C A T I O N

We, hereby certify that the foregoing petition was duly considered by the Whippoorwill Chapter at a duly called meeting at Whippoorwill, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 41 in favor and 0 opposed, this 13th day of May, 1987

Clarence Bahe
Chapter President

Ruth Bahe
Chapter Vice-President

Chapter Secretary/Treasurer

George Nutlomi
Grazing Committee Member

CONCURRANCE:

Tommy Begay
Finon/Whippoorwill Councilman

Finon/Whippoorwill Councilman

APPENDIX 9.8.

RESOLUTION OF WHIPPOORWILL SPRINGS CHAPTER APPROVING AND ESTABLISHING HOOSH DOH DII' TO' DEVELOPMENT, INCORPORATED, AS A NON-PROFIT MAKING ORGANIZATION AND APPOINTING (5) FIVE MEMBER BOARD.

RESOLUTION OF WHIPPOORWILL SPRINGS CHAPTER

Approving and Establishing Hoosh Doh Dii' To' Development Inc., as a Non-Profit Making Organization and Appointing (5) Five Member Board

WHEREAS:

1. Whippoorwill Springs Chapter is a duly certified chapter pursuant to N.T.C. Resolution CAU-36-79; and

2. Hoosh Doh Dii' To' is interpreted to mean Whippoorwill Springs in Dine' language; and

3. Whippoorwill Springs Chapter is seeking various avenues to solicit funds to implement community development projects; and

4. Whippoorwill Springs Chapter through its leadership has consulted with Division of Community Development staff persons and Navajo Nation Justice Department to formulate Articles of Incorporation for a non-profit making organization; and

5. Whippoorwill Springs Chapter wants to address concerns in areas of; Health, Education, Water & Soil Conservation, Roads, Housing, and Economic Development; and

6. Whippoorwill Springs Chapter has also designated individuals with leadership capabilities, education and knowledge of community needs, to be agent and board members of Hoosh Doh Dii' To' Development, Inc.; and

7. Whippoorwill Springs Chapter deems necessary to file with Navajo Nation Incorporation Commission and Internal Revenue Service to attain Tax ID Number to officially operate as a non-profit making organization; and

8. Whippoorwill Springs Chapter requests the Board Members and their agent to immediately begin the necessary process to activate this organization.

NOW THEREFORE BE IT RESOLVED THAT:

1. Whippoorwill Springs Chapter hereby approves and establishes Hoosh Doh Dii' To' Development Inc., as a non-profit making organization.

2. Whippoorwill Springs Chapter further appoints the following individuals to serve on the board:

a. Albert Wartz
b. Clarence Bahe
c. Juan Begay
d. Robert Ben
e. Tom Y. Bahe

3. Furthermore, Whippoorwill Springs Chapter authorizes the Board Members and their agent to immediately activate the organization by process all necessary documentation.

C E R T I F I C A T I O N

We hereby certify that the foregoing resolution was duly considered by the Whippoorwill Springs Chapter at a duly called meeting at Whippoorwill Springs, Navajo Nation (Arizona) at which a quorum was present and that same was passed by a vote of 16 in favor and 0 opposed, this 24, day of June, 1993.
10 Abstained

Council Delegate

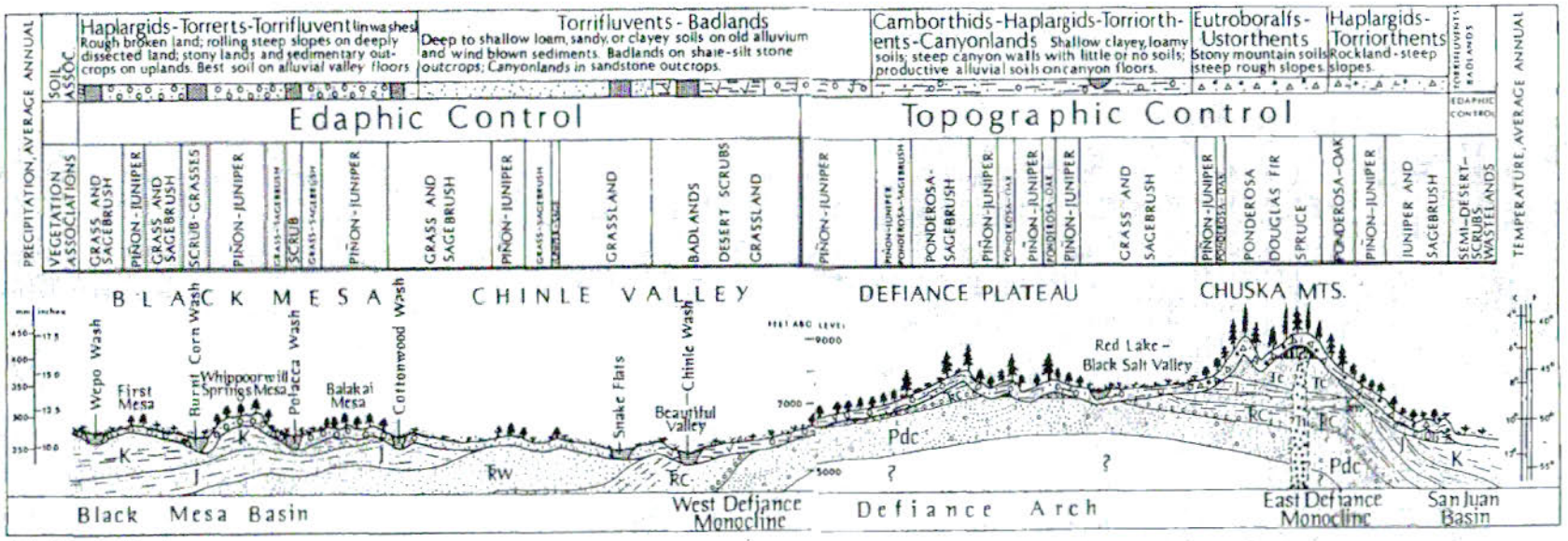
Chapter President

Chapter Vice President

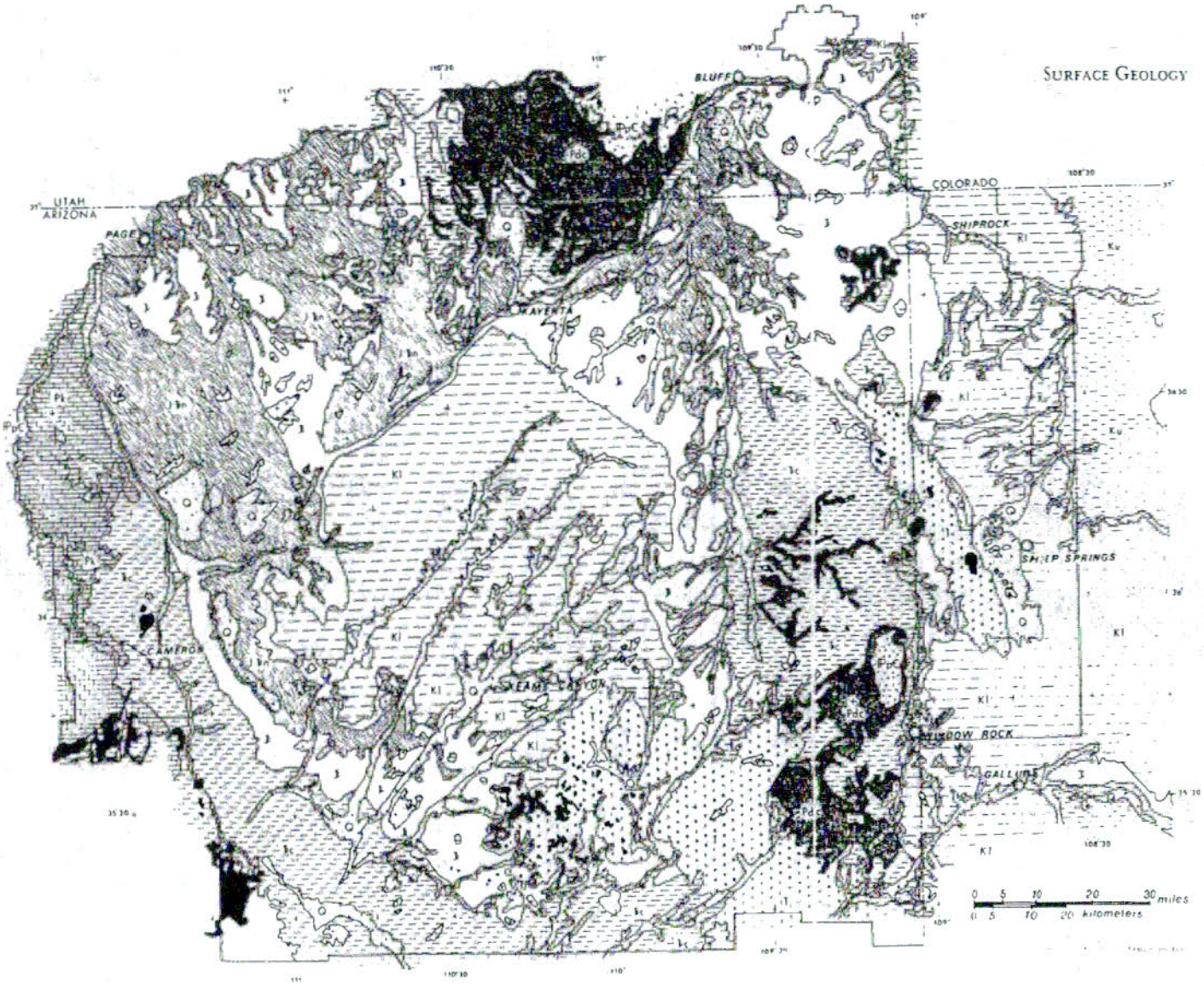
Chapter Secretary

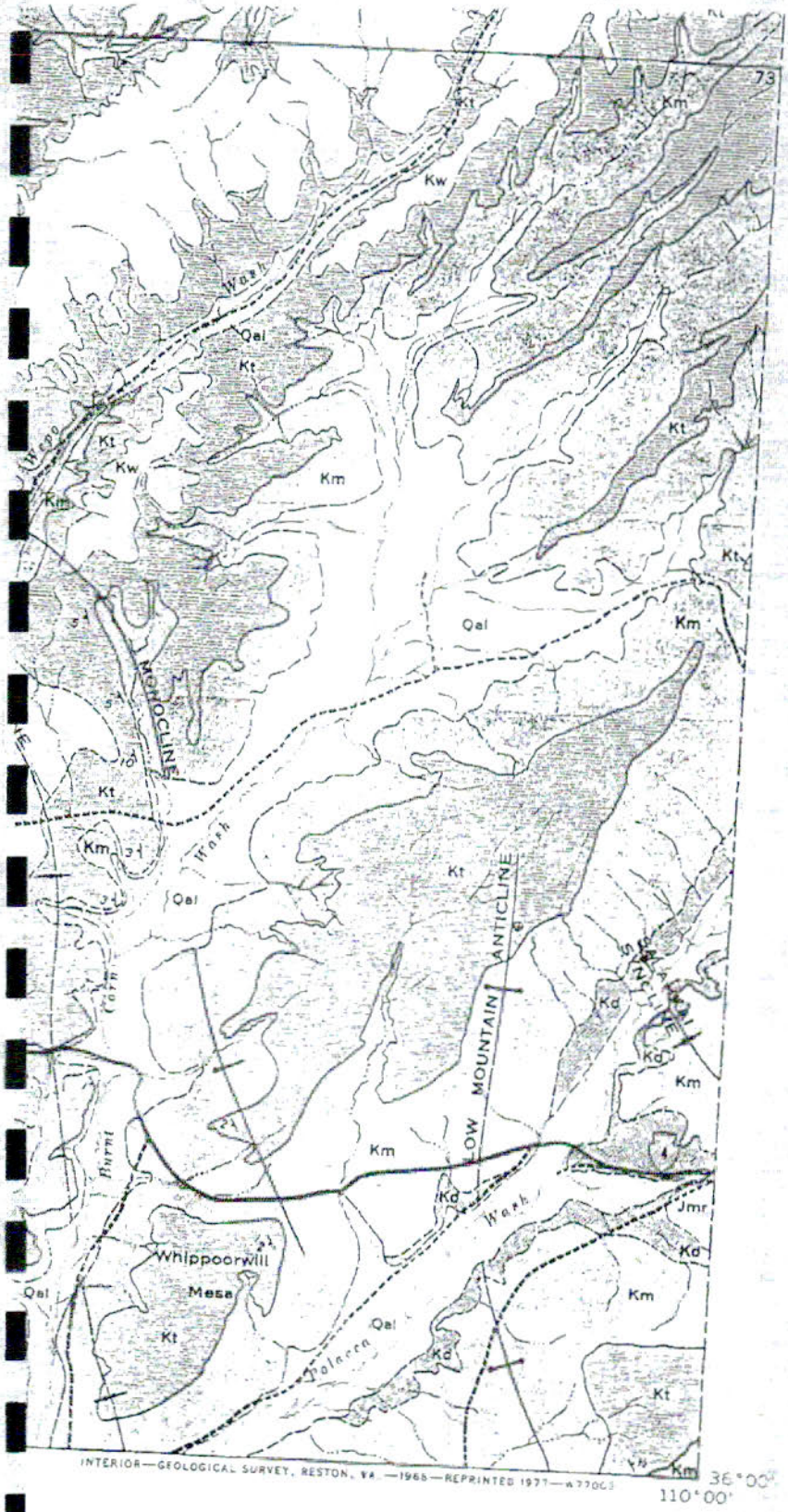
APPENDIX 9.9.

GEOLOGICAL DATA FOR WHIPPOORWILL MESA AND BALAKAI MESA, NAVAJO COUNTY, ARIZONA; DEPARTMENT OF THE INTERIOR - GEOLOGICAL SURVEY, RESTON, VIRGINIA - 1968 - REPRINTED 1977 - W7703.



Topographic Profile: Black Mesa to the San Juan Basin


SURFACE GEOLOGY
UTAH
ARIZONA
PAGE
BLUFF
COLORADO
SHIPROCK
WAVENTA
CAMERON
SHEEP SPRINGS
WINDOW ROCK
GALLUP
0 5 10 20 30 miles
0 5 10 20 kilometers
QUATERNARY
Q
Alluvium (sediments deposited by streams), dune sand, playas (lake bed deposits), landside deposit
TERTIARY
T
Sandstones, gravels, siltstones, shales and some volcanic materials
CRETACEOUS (Upper Younger)
Ku
Shales, siltstones, sandstone and coal. Located in San Juan Basin of New Mexico and Colorado
CRETACEOUS (Lower Older)
Kl
Sandstone, shales, siltstone and coal. Located chiefly in uplands of Black Mesa and the outer margins of San Juan Basin
JURASSIC — TRIASSIC
J
Sandstones, siltstones, intermixed with shales and some limestones, all younger than Navajo
J
Sandstones distinctly crossbedded, forms prominent cliffs
J
Sandstones and siltstones older than Navajo
TRIASSIC
Tc
Chinle formation, chiefly shales with siltstones and sandstone. Associated with "painted deserts" and petrified log fragments
PERMIAN
Pk
Kaibab limestone (the rim rock of the Grand Canyon) and underlying sandstones and siltstones
Pdc
DeChelly sandstone and related shales, siltstones of the Defiance Plateau and Monument Valley
PENNSYLVANIAN, MISSISSIPPIAN, CAMBRIAN, PRECAMBRIAN
PpC
Shales, siltstones, limestone, sandstones and metamorphosed rocks
IGNEOUS ROCKS
Lavas, tuffs, brecciated rocks of both intrusive and extrusive structures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73
Kt
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LOW MOUNTAIN ANTICLINE
Kd
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Kd
Wash
Jmr
Kd
Whippoorwill
Mesa
Qal
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Qal
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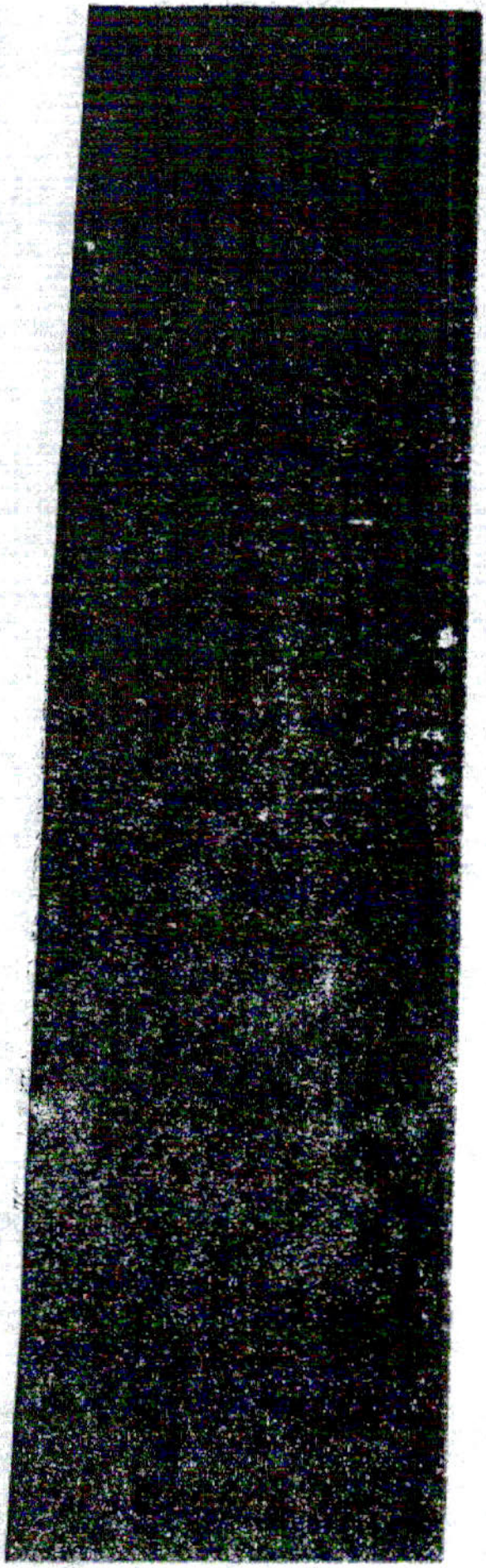
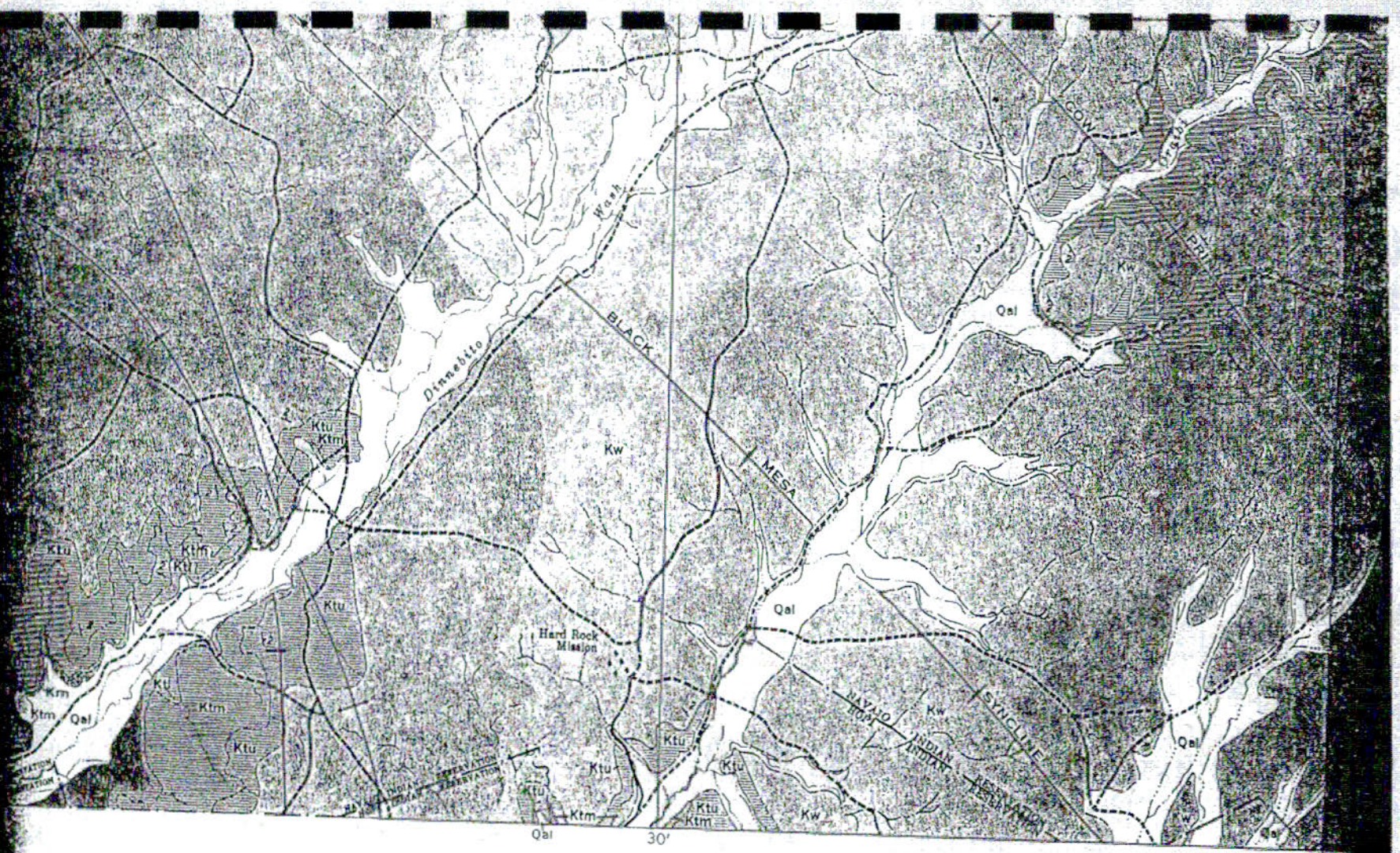
110°00'





VAJO AND HOPI INDIAN RESERVATIONS, ARIZONA

See sheet 9 for explanation

SCALE 1:125,000

2 0 2 4 6 8 10 MILES

2 0 2 4 6 8 10 KILOMETERS

Upper Cretaceous

Mesaverde Group

Menefee
Kmtc, *Cleary Coal Member. Intertongues with upper part of Crevasse Canyon Formation*

BLACK MESA BASIN

Ky

Yale Point Sandstone
Tan and brown sandstone

Kw

Wepo Formation
Alternating beds of olive-gray siltstone, coal, and yellowish-gray sandstone

Ktu
Kt
Ktm
Ktl

Toreva Formation
Ktu, *upper sandstone member, yellowish-gray to grayish-orange-pink, fine to very coarse grained*
Ktm, *middle carbonaceous mudstone member, varicolored*
Ktl, *lower sandstone member, light-brown to pale-yellowish-gray, fine- to medium-grained*

Kmt
Km
Ktt

Toreva Formation and Mancos Shale
Km, *Mancos Shale, predominantly light- to dark-gray claystone and siltstone containing lesser amounts of tan fine-grained sandstone and siltstone, bedded limestone, and concretionary limestone*
Kmt, *upper tongue of the Mancos Shale*
Ktt, *tongue of the Toreva Formation in the Padilla Mesa area, where it separates the upper tongue of the Mancos Shale from the upper part of the Mancos Shale*

Dakota Sandstone
Tan, brown, and gray sandstone, conglomeratic sandstone, and conglomerate; frequently contains partings of brown carbonaceous siltstone and lenses of coal

UNCONFORMITY

Lower Cretaceous

SAN JUAN BASIN

Kpl
Kpth

Point Lookout Sandstone[1]
Tan and brown sandstone containing lesser amounts of gray siltstone
Kpth, *Hosta Tongue; in southern part of area separated from main body of Point Lookout by Satan Tongue of Mancos Shale*

Kcg
Kcb
Kcda
Kcbd
Kcs
Kcd

Crevasse Canyon Formation[1]
Alternating beds of tan irregularly bedded and lenticular sandstone, drab siltstone and claystone, and coal
Kcg, *Gibson Coal Member*
Kcb, *Bartlett Barren Member*
Kcbd, *Bartlett Barren Member and Dilco Coal Member; along the Arizona State line in the Manuelito-Window Rock Coal Mine area*
Kcda, *Dalton Sandstone Member*
Kcd, *Dilco Coal Member*
Kcs, *"stray" sandstone, field designation of Sears, Hunt, and Hendricks (1941); in Shiprock area, mapped with the Dilco Coal Member*

Kg

Gallup Sandstone[1]
Tan, brown, and pinkish-gray thin- to massive-bedded sandstone containing lesser amounts of brown carbonaceous siltstone, gray siltstone, and lenses of coal. Along southern part of Mesa de los Lobos, the Dilco Coal Member of the Crevasse Canyon Formation is mapped with it

Kmt
Km
Kmu
Kmm
Kml

Mancos Shale[1]
Light- to dark-gray claystone and siltstone containing lesser amounts of tan fine-grained sandstone, limestone, and concretionary limestone
Kmu, *upper part*
Kms, *Satan Tongue*
Kmm, *Malotte Tongue*
Kml, *lower part, present only in southern part*

Dakota Sandstone
Tan, brown, and gray sandstone, conglomeratic sandstone, and conglomerate; frequently contains partings of brown carbonaceous siltstone and lenses of coal. Age of the Dakota is Early and Late Cretaceous where the Burro Canyon is not differentiated

UNCONFORMITY

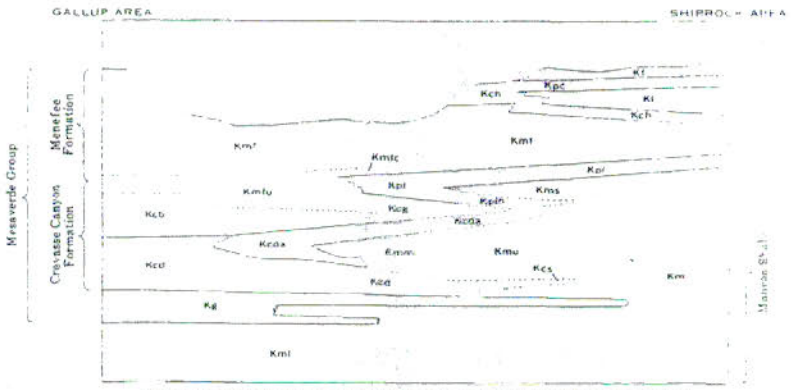
Kbc

Burro Canyon Formation
Greenish-gray to brown siltstone and sandstone. Present north of the San Juan River in Utah

Kmtu

Cleary Coal Member of Menefee Formation and Gibson Coal Member of Crevasse Canyon Formation
Mapped only where Point Lookout Sandstone is absent

[1] See schematic diagram below
[2] Allen and Balk (1954)



SCHEMATIC DIAGRAM SHOWING INTERTONGUING RELATIONS OF MESAVERDE GROUP EQUIVALENT FORMATIONS AND THE MANCOS SHALE

GEOLOGIC MAP

APPENDIX 9.10.

WATER WELL DATA FOR WELL 4T-522.

WELL SUMMARY

RECEIVED
SEP 9, 1991
WATER RIGHTS

Pinon Well No 4T-522 (Formerly Pinon No.1

Location: One mile east of Pinon, Arizona

Completed: November 1979

Capacity: 85 GPM on 10/20/82 with pumping fluid level at 833'. SWL=758'. D.D.=75'. Pump depth=1,393'. One note states, "Estimated capacity is 200 GPM, there is a slight sanding problem, but this is being dealt with by use of a sand separator." This note was in a report dated April 1980 called "Project Facilities Summary". Presently producing 60 GPM (before lightning hit).

Another pump test on 10/20/82 was recorded. No mention of sand is in that report.

Completion Details:

8 5/8" casing to 2,090'. Cemented from 1,860' to surface. Perfed 2,090-1,860' with 1/8" X 2½" machine cut slots. 7 7/8" open hole 2,350'-2,090'.

One report says quit reaming (at 2,090+') Navajo S.S. because, "Reaming became very slow, so operation was suspended."

8 5/8" casing won't run in 7 7/8" hole. That's why open hole is present below 2,090'.

Markers:

Navajo S.S.	1,847'
Kayenta S.S.	2,206'
Moenave	2,313'
T.D.	2,~~5~~350'

Hank Pohlmann

10/27/90
Date

APPENDIX 9.11.

PRECIPITATION, TEMPERATURE AND SOIL WATER BALANCE DATA FOR A WEATHER STATION LOCATED NEAR PINON, ARIZONA.

WEATHER STATION: PINON

Precipitation (inches): Length of record = 11 year

	Avg. Monthly Precip.	Wettest Year	Greatest Precip. 24 hr.	Avg. # Day GE .01	Avg. # Day GE .25	Avg. Monthly Snow	Snowiest Month	Greatest Snow 24 hr.
JAN	0.65	1.67	0.85	3	1	2.92	10.5	10
FEB	0.68	1.76	0.5	3	1	5.61	18	18
MAR	0.54	1.64	0.6	4	1	3.6	22.7	10
APR	0.55	1.5	0.75	3	1	1.72	7	5
MAY	0.13	0.54	0.24	1				
JUNE	0.23	1.14	0.53	2				
JULY	1.14	2.82	1.05	4	2			
AUG	1.04	2.92	2	4	1			
SEPT	1.07	2.84	2	4	1			
OCT	1.4	6.31	1.25	4	2	0.07	0.7	0.5
NOV	0.54	1.54	0.68	3	1	2.64	14	6
DEC	1.04	2.79	1.41	3	2	6.91	30	9

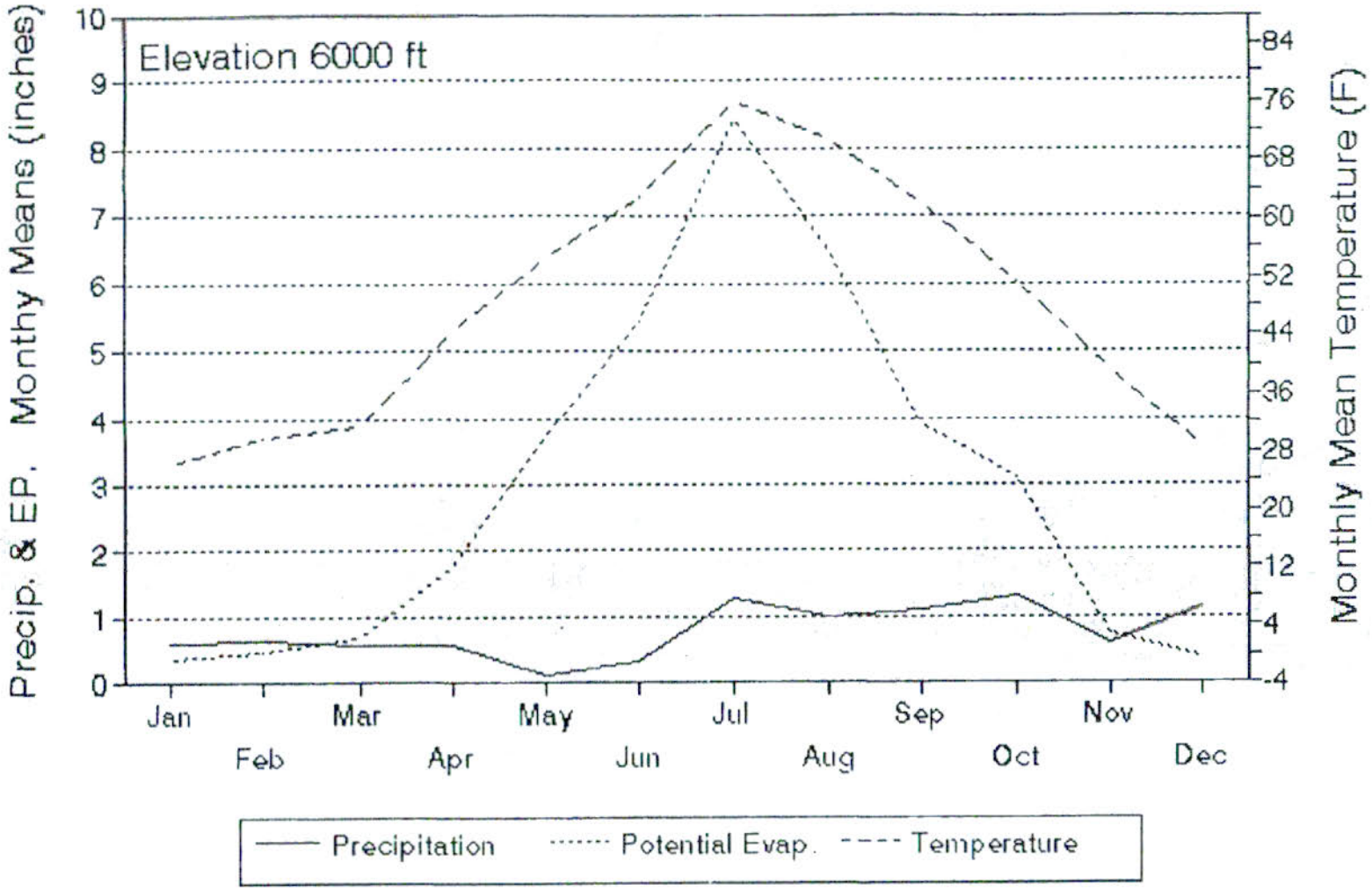
WEATHER STATION: PINON

Temperature (Fahrenheit): Length of record = 11 year

	Avg. Daily Max.	Avg. Daily Min.	Avg. Temp.	Avg. Temp Warmest Month	Avg. Temp Coldest Month	Highest Recorded Temp.	Lowest Recorded Temp.	Avg. # Day 32 F
JAN	41.1	11.8	26.2	32.8	22.5	60	-20	30
FEB	47.3	19.2	33.3	38.7	23.8	68	-12	28
MAR	54	21.7	37.9	44.6	30.6	76	-2	29
APR	62.4	26.6	44.5	49.8	38.2	79	3	23
MAY	74.2	35.3	54.8	57.5	51.7	89	14	9
JUNE	83.5	42.7	63.1	68.4	59.4	102	31	1
JULY	90.2	57.3	73.8	8.56	65.9	99	40	
AUG	87	53.6	70.3	73.1	67.4	100	42	
SEPT	80	44.8	62.4	66.7	60.1	93	32	
OCT	68.4	34.8	51.6	57.6	47.3	85	11	12
NOV	53.8	24.1	39	42.8	34	88	1	27
DEC	42.9	15.6	29.3	43.2	23.3	63	-19	30

Pinon Climatic Data 1961-1973

Soil Water Balance

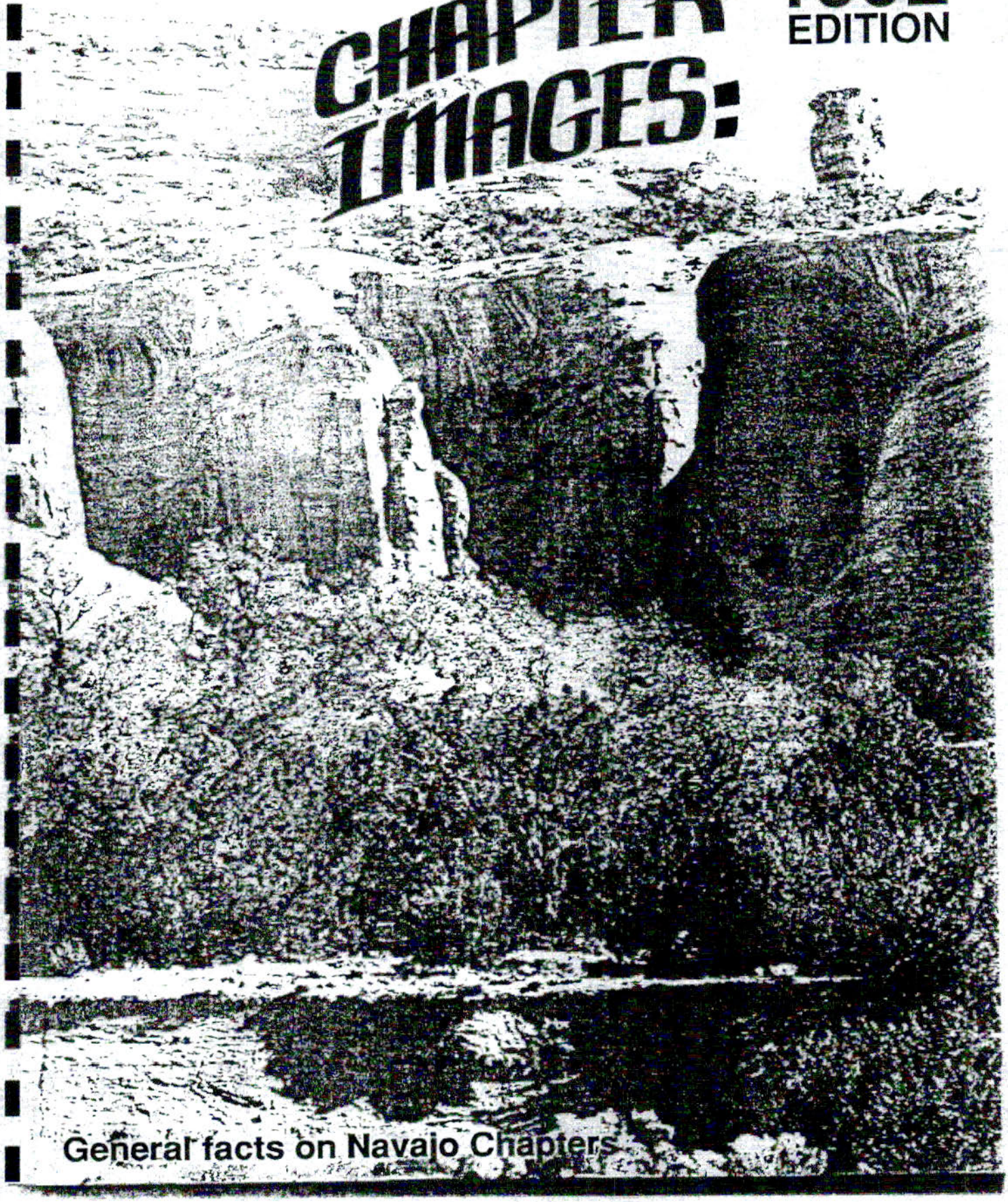


APPENDIX 9.12.

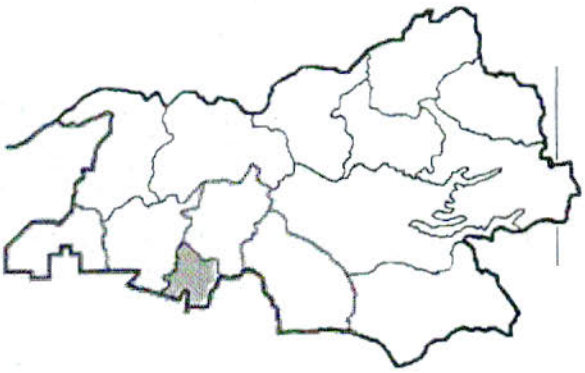
EXCERPT FROM CHAPTER IMAGES, 1992

CHAPTER IMAGES:

1992 EDITION



General facts on Navajo Chapters



WHIPPOORWILL SPRING CHAPTER

Navajo name: Hooshdódii tó
Interpretation: Whippoorwill springs
Population:

1980 Census:	659
1990 Census:	852
1993 Estimate:	887

Estimated land size: 32,605.00 Acres
Land Management District: 4

GOVERNMENT

Number of Chapter NNC delegate(s): 2
Delegate(s) shared with:
Piñon Chapter
Navajo Police district office covering Chapter:
Piñon Sub-Station; Chinle District
Tribal offices that provide services within Chapter:
Community Services
Dept of Employment and Training

MEDICAL

Hospital(s) and clinic(s) where most Chapter people go:

Hospital	Town
Chinle Indian Hospital	Chinle, AZ

EDUCATION

Total enrollment by school (Fall 91):

School	Enrolled
Whippoorwill Spring Pre-School	20

Elementary and high school students attend Piñon schools.

COMMUNICATIONS

Regular TV reception; stations received:

Call Letters	Town
KNAZ	Flagstaff, AZ

Clear AM radio stations received:

Call Letters	Town
KTNN	Window Rock, AZ

Clear FM radio stations received:

Call Letters	Town
KAFF	Flagstaff, AZ

Newspaper received within the Chapter:

Name of Paper	Town
The Independent	Gallup, NM
Navajo Times	Window Rock, AZ

CIVIC

Churches:

Name of Church	Est'd Membership
The Lord's Church	150

Indigenous:

Traditional Navajo Religion	
Native American Church	800

COMMERCIAL

None

TRANSPORTATION

Paved roads through the chapter area:
Navajo Route 65
Navajo Route 4

Distances to:

Agency: Chinle	31 miles
Window Rock	88 miles
Gallup, NM	111 miles

MAJOR EMPLOYERS

Navajo Nation	5
State of Arizona	12

LOCAL NATURAL RESOURCES

None reported.

COMMUNITY/COOPERATIVE FARMING

None.
Estimated number of family farms: 150

BRIEF OVERVIEW OF CHAPTER

The current Whippoorwill Spring Chapter land used to be under the Piñon Chapter; it became a separate chapter and was certified in 1979. In the early years, the chapter had only a pre-school and a meeting hall. A new chapter house was built in 1984 and a new pre-school was built in 1987. A paved road was constructed in 1988. Ninety-five percent (95%) of the community housing units have electricity and 85% have inside plumbing (running water).

Approximately 200 acres have been withdrawn for community development to include a school, more housing, a senior citizens center and other community benefit projects. The Senior Citizen Center building will soon be constructed. Several mutual help housing and rental units under the Navajo Housing Authority will also be under construction soon.

This Chapter information was updated by:

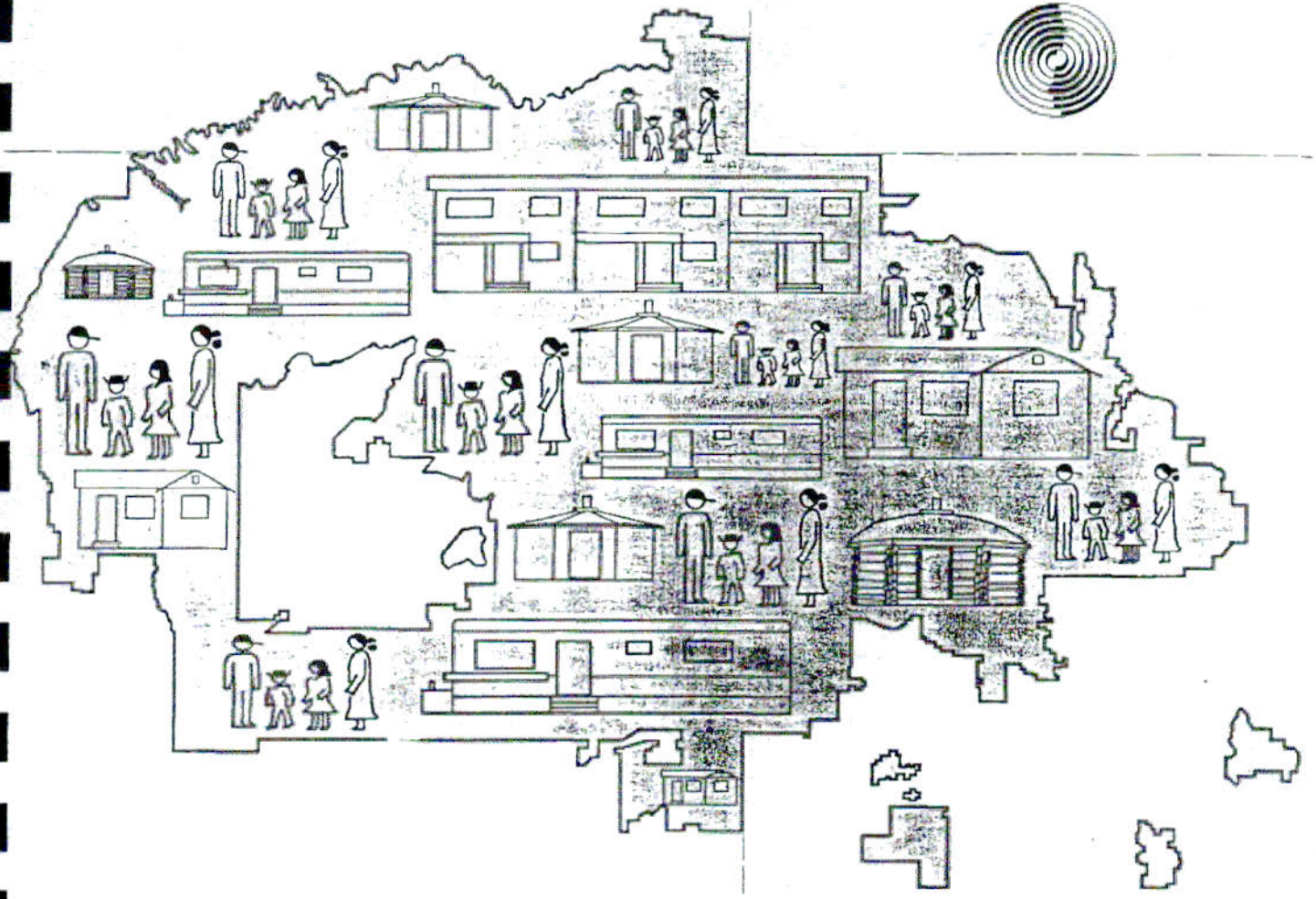
Name	Telephone No.
Alta M. Begay, CSC	602/725-3373
Ella M. Lee, Clerk Typist	

APPENDIX 9.13.

EXCERPT FROM 1990 CENSUS, POPULATION AND HOUSING CHARACTERISTICS OF THE NAVAJO NATION.

1990 CENSUS

CENSUS '90



POPULATION and HOUSING CHARACTERISTICS of the NAVAJO NATION

Table CH07. SUMMARY OF FAMILIES, HOUSEHOLDS, AND RACE

CHAPTER	Total Persons	Total Families	Total House-holds	Total Persons in Families	Persons per Family	RACE White	Black	Amer Ind Eskimo or Aleut	Asian or Pacific Islander	Other Race
Coppermine	425	97	117	401	4.13	1	0	423	0	1
Kaibeto	1,546	319	357	1,471	4.61	14	3	1,529	0	0
LeChee	1,581	306	359	1,498	4.90	18	1	1,561	0	1
Tonalea	2,077	414	484	1,944	4.70	6	2	2,066	2	1
WNA DIST 1	**5,629**	**1,136**	**1,317**	**5,314**	**4.68**	**39**	**6**	**5,579**	**2**	**3**
Inscription House	1,030	228	271	965	4.23	17	3	1,010	0	0
Navajo Mountain	607	133	156	573	4.31	19	0	587	0	1
Shonto	2,401	506	605	2,256	4.46	63	1	2,330	0	7
WNA DIST 2	**4,038**	**867**	**1,032**	**3,794**	**4.38**	**99**	**4**	**3,927**	**0**	**8**
Bodaway	1,655	322	380	1,565	4.86	5	1	1,649	0	0
Cameron	1,035	205	237	983	4.80	12	1	1,011	2	9
Coalmine Mesa	258	59	72	238	4.03	2	0	256	0	0
Tuba City	7,983	1,586	1,926	7,290	4.60	593	19	7,305	36	30
WNA DIST 3	**10,931**	**2,172**	**2,615**	**10,076**	**4.64**	**612**	**21**	**10,221**	**38**	**39**
Black Mesa	462	99	133	420	4.24	6	1	455	0	0
Forest Lake	377	85	108	345	4.06	4	0	373	0	0
Hard Rock	1,103	220	304	992	4.51	36	0	1,065	0	2
Pinon	2,080	419	503	1,948	4.65	25	1	2,049	2	3
Tachee	1,071	225	280	1,003	4.46	11	2	1,058	0	0
Whippoorwill Spring	855	166	187	822	4.95	1	2	852	0	0
CLA DIST 4	**5,948**	**1,214**	**1,515**	**5,530**	**4.56**	**83**	**6**	**5,852**	**2**	**5**
Birdspring	645	120	142	616	5.13	5	0	640	0	0
Leupp	1,520	313	364	1,444	4.61	12	3	1,503	0	2
Tolani Lake	651	136	160	617	4.54	0	0	651	0	0
WNA DIST 5	**2,816**	**569**	**666**	**2,677**	**4.70**	**17**	**3**	**2,794**	**0**	**2**
Dilkon	1,766	351	399	1,691	4.82	21	1	1,744	0	0
Indian Wells	1,177	240	285	1,113	4.64	6	0	1,171	0	0
Jeddito	1,073	241	292	1,002	4.16	18	3	1,051	1	0
Low Mountain	677	144	173	636	4.42	10	2	664	1	0
Teestoh	890	169	189	866	5.12	6	0	881	0	3
White Cone	866	165	191	823	4.99	0	0	866	0	0
FDA DIST 7	**6,449**	**1,310**	**1,529**	**6,131**	**4.68**	**61**	**6**	**6,377**	**2**	**3**
Chilchinbeto	1,190	239	283	1,135	4.75	12	0	1,177	1	0
Dennehotso	1,574	323	389	1,489	4.61	24	2	1,548	0	0
Kayenta	5,437	1,129	1,343	5,074	4.49	493	7	4,902	19	16
Oljato	2,041	415	477	1,941	4.68	119	1	1,913	7	1
WNA DIST 8	**10,242**	**2,106**	**2,492**	**9,639**	**4.58**	**648**	**10**	**9,540**	**27**	**17**
Mexican Water	502	107	121	475	4.44	6	0	496	0	0
Red Mesa	1,208	247	300	1,120	4.53	60	2	1,146	0	0
Rock Point	1,016	186	223	966	5.19	32	0	981	2	1
Sweetwater	1,182	248	290	1,119	4.51	32	1	1,149	0	0
Teecnospos	1,190	236	290	1,093	4.63	16	0	1,171	0	3
SRA DIST 9	**5,098**	**1,024**	**1,224**	**4,773**	**4.66**	**146**	**3**	**4,943**	**2**	**4**
Chinle	7,361	1,420	1,706	6,623	4.66	310	16	7,000	3	32
Many Farms	2,247	451	578	2,085	4.62	102	8	2,133	2	2
Nazlini	1,079	229	298	981	4.28	9	0	1,070	0	0
Rough Rock	1,031	165	205	868	5.26	17	5	1,009	0	0
Tselani	1,448	307	403	1,329	4.33	21	2	1,422	0	3
CLA 10	**13,166**	**2,572**	**3,190**	**11,886**	**4.62**	**459**	**31**	**12,634**	**5**	**37**
Lukachukai	2,072	408	474	1,969	4.83	14	0	2,055	0	3
Round Rock	785	158	190	742	4.70	4	0	774	7	0
Tsaile/Wheatfields	1,754	324	396	1,486	4.59	73	1	1,678	2	0
CLA DIST 11	**4,611**	**890**	**1,060**	**4,197**	**4.72**	**91**	**1**	**4,507**	**9**	**3**
Aneth	2,040	436	510	1,911	4.38	74	0	1,949	15	2
Beclabeto	388	85	107	364	4.28	2	0	385	0	1
Red Valley/Cove	1,424	294	377	1,293	4.40	14	0	1,410	0	0
Sanostee	2,081	431	513	1,962	4.55	10	1	2,070	0	0
Sheep Springs	660	142	176	600	4.23	0	1	658	1	0
Shiprock/Cudeii/Hogback	9,651	2,053	2,351	8,882	4.33	200	18	9,394	11	28
Two Grey Hills/Newcomb	1,534	350	420	1,429	4.08	83	1	1,444	0	6
SRA DIST 12	**17,778**	**3,791**	**4,454**	**16,441**	**4.34**	**383**	**21**	**17,310**	**27**	**37**
Burnham	246	58	75	219	3.78	0	0	245	0	1
Fruitland, Upper	2,288	464	514	2,166	4.67	14	3	2,268	2	1
Nenahnezad/San Juan	1,477	292	340	1,400	4.79	11	2	1,464	0	0
SRA DIST 13	**4,011**	**814**	**929**	**3,785**	**4.65**	**25**	**5**	**3,977**	**2**	**2**

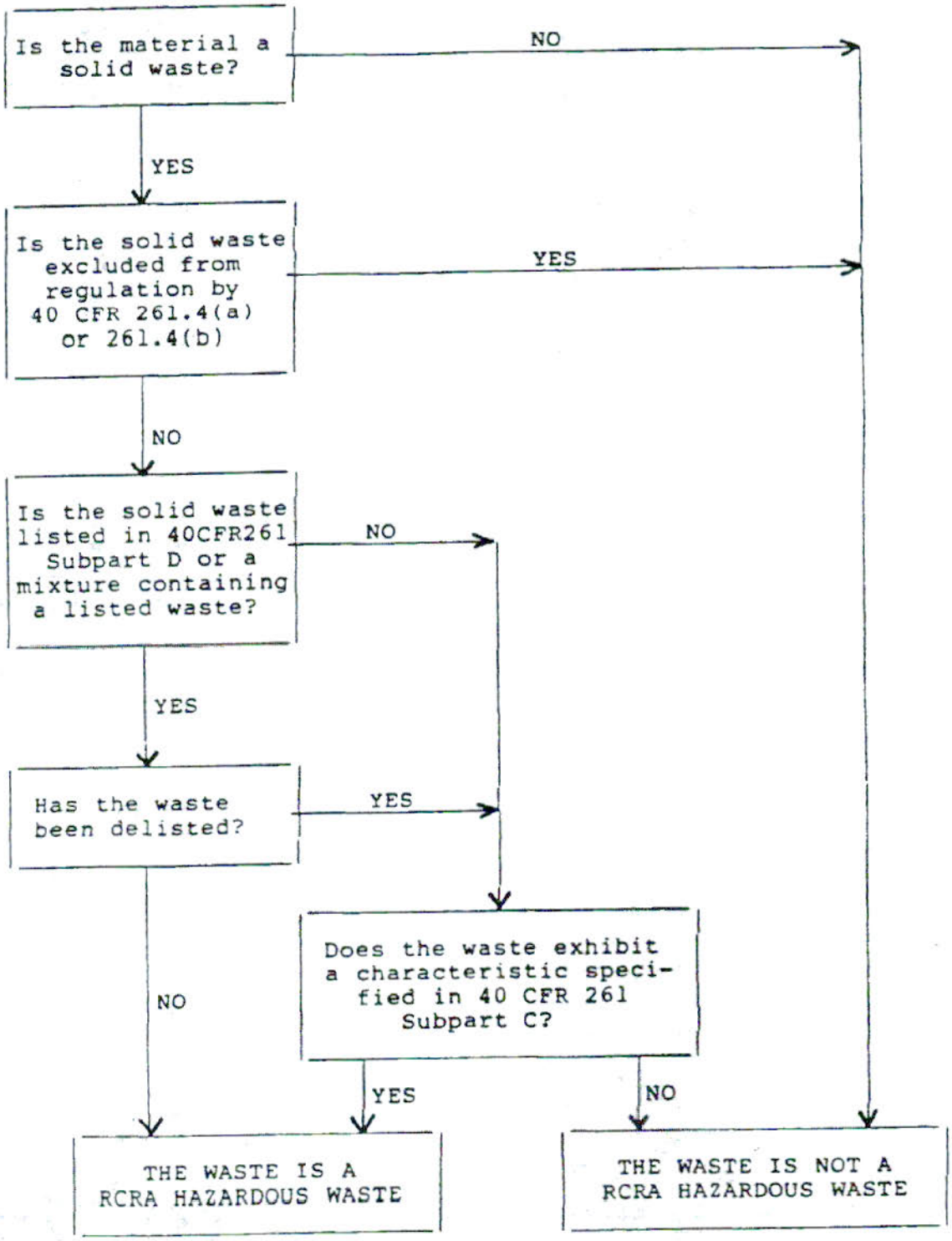
APPENDIX 9.14.

IDENTIFICATION OF HAZARDOUS WASTE: 40 CFR 261.2 DEFINITION OF SOLID WASTE AND 40 CFR 261.3 DEFINITION OF HAZARDOUS WASTE.

IDENTIFICATION OF HAZARDOUS WASTE

IDENTIFICATION OF HAZARDOUS WASTE

WHAT IS A HAZARDOUS WASTE?



RCRA SOLID WASTE DEFINITION

Solid Waste = Discarded Material Not Specifically Excluded or Granted A Variance

Discarded Material:

- Abandoned (disposed of, burned or incinerated, accumulated before or in lieu of being disposed of, burned, or incinerated)
- Recycled:
  - Used in a manner constituting disposal (applied to land or made into product applied to land)
  - Burned or incinerated (burned to recover energy, used to produce a fuel, or contained in fuels)
  - Reclaimed
  - Accumulated speculatively
- Inherently waste-like materials (dioxin-bearing wastes)

Specifically Excluded From Solid Waste Definition [40 CFR 261.4(a)]:

- Domestic sewage and mixtures of sewage and other wastes passing through a sewage system to a publicly-owned sewage treatment works.
- NPDES discharges
- Irrigation return flows
- Radioactive materials regulated under Atomic Energy Act
- Material from in-situ mining
- Pulping liquors (black liquor) reclaimed in pulping liquor recovery furnaces and reused in pulping process
- Spent sulfuric acid used to produce virgin sulfuric acid

RCRA HAZARDOUS WASTE DEFINITION

Hazardous Waste = Solid Waste Which:

- Is listed in 40 CFR 261.31, 261.32, or 261.33
- Is a mixture containing a listed waste
- Meets one of the characteristic tests

Specifically excluded from Hazardous Waste Definition
[40 CFR 261.4(b)]

- Household waste, including resource recovery residues from household and non-hazardous waste
- Agricultural residues used as fertilizer
- Mining overburden returned to the site
- Fly ash waste, bottom ash waste, slag waste, flue gas emission control waste from fossil fuel combustion
- Drilling fluids, produced water and other wastes associated with exploration, development or production of crude oil, natural gas, or geothermal energy
- Wastes which are hazardous only because of chromium content if the chromium is trivalent and managed in a non-oxidizing environment
- Waste from the extraction, beneficiation and processing of ores and minerals
- Cement kiln dust waste
- Waste arsenical-treated wood

TABLE III-1 IDENTIFICATION OF HAZARDOUS WASTE

Identification of Hazardous Waste

§261.2 Definition of Solid Waste

(a)(1) A solid waste is any discarded material that is not excluded.

(2) Discarded is abandoned (disposed of, burned, stored or treated prior to disposal), recycled, or inherently waste-like.

(c)(1) Recycled materials are solid wastes if they are used in a manner constituting disposal, such as applied on land or used in products applied on the land if that is not their ordinary manner of use.

(c)(2) Recycled materials are solid waste if they are burned to recover energy or used to produce a fuel.

(c)(3) The following materials are solid wastes when reclaimed: spent materials, listed sludges and by-products, and scrap metal.

(c)(4) Recycled materials are solid wastes if they are accumulated speculatively except for listed commercial chemical products.

(d) Inherently waste-like materials are solid wastes when recycled in any manner.

(e)(1) Recycled materials are not solid waste when they are used as ingredients in an industrial process or as effective substitutes for products, provided no reclamation is involved.

(f) Respondents in actions to enforce RCRA Subtitle C regulations must document claims that materials are not solid waste or are conditionally exempt.

§261.3 Definition of Hazardous Waste

(a)(1,2) A solid waste is a hazardous waste if it is not excluded and it meets any of the following criteria:

- (i) Exhibits a characteristic(s) of hazardous waste identified in Part 261, Subpart C;
- (ii) Is listed in Part 261, Subpart D;
- (iii) Is a mixture of a solid waste and a listed hazardous waste that is listed solely because it exhibits a characteristic unless the mixture no longer exhibits the characteristic of the hazardous waste; or
- (iv) Is a mixture of solid waste and specific listed wastes discharged under the Clean Water Act.

(b)(2) Is a mixture of a listed hazardous waste(s) and a solid waste;

(b)(3) Is a mixture of waste, when the waste exhibits any characteristics.

(c,d) Any solid waste generated from the treatment, storage, or disposal of a hazardous waste is a hazardous waste, unless it no longer exhibits any characteristics, or it has been delisted if it is derived from a listed waste.

Characteristics of Hazardous Waste

§261.20 General

(a) A solid waste, as defined in §261.2, if not excluded by §261.4(b), is a hazardous waste if it exhibits the characteristics of ignitability, corrosivity, reactivity or toxicity.

(b) A hazardous waste which is identified by a characteristic must be assigned every applicable EPA Hazardous Waste Number in 40 CFR Part 261 Subpart C.

(c) Appendix I of 40 CFR Part 261 contains suggested representative sampling methods; however a person may employ an alternative method without formally demonstrating equivalency.

§261.21 Characteristic of Ignitability (D001)

(a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste is:

(1) A liquid having a flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade);

(2) A non-liquid which causes fire through friction, absorption of moisture, or spontaneous chemical changes and, when ignited, burns so vigorously and persistently it creates a hazard;

(3) An ignitable compressed gas; or

(4) An oxidizer.

§261.22 Characteristic of Corrosivity (D002)

(a) A solid waste exhibits the characteristic of corrosivity if a representative sample of the waste is:

(1) Aqueous, with a pH less than or equal to 2, or greater than or equal to 12.5; or

(2) Liquid and corrodes steel at a rate greater than 6.35 mm per year when applying a National Association of Corrosion Engineers Standard Test Method.

§261.23 Characteristic of Reactivity (D003)

(a) A solid waste exhibits the characteristic of reactivity if a representative sample of the waste:

(1) Is normally unstable and readily undergoes violent change;

(2) Reacts violently with water;

(3) Forms potentially explosive mixtures with water;

(4) Generates toxic gases, vapors, or fumes when mixed with water;

(5) Is a cyanide or sulfide-bearing waste which, when exposed to pH conditions between 2 and 12.5, can generate toxic gases, vapors, or fumes;

(6) Is capable of detonation or explosion if subjected to a strong initiating source of if heated under confinement;

(7) Is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure; or

(8) Is a forbidden explosive as defined by DOT.

EXHIBIT
D

RDCF-19-17

RESOLUTION OF THRESOURCES AND DEVELOPMENT COMMITTE
23rd Navajo Nation Council --- Third Year, 2017

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE TERMINATION OF BUSINESS SITE LEASE NO. CH-04-128, LESSEE HOOSH DOH DII T'O DEVELOPMENT INC., WHIPPOORWILL, ARIZONA

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Resources Committee is established as a standing committee of the Navajo Nation Council. 2 N.N.C. §500(A).

B. The Resources Committee of the Navajo Nation Council is empowered to grant final approval for non-mineral leases. 2 N.N.C. §501(B)(2).

SECTION TWO. FINDINGS

A. The Chinle Regional Business Development Office (CRBDO), **Exhibit F**, has requested that the Resources and Development Committee terminate Business Site Lease No. CH-04-128, attached hereto as **Exhibit B.**

B. The Termination of Business Site Lease CH-04-128, **Exhibit A**, states the reasons for the request for termination, as listed:

1. Section B required the Lessee to use and operate the leased premises; however, the lessee has breached the lease agreement by neglecting and abandoning the business operation causing the business to cease and desist;

2. Section C required the Lessee to occupy the business site for the term of twenty-five (25) years, beginning on the date Lease is approved by the Secretary which was May 28, 2004;

3. Section G required Lessee to maintain the premises and all improvements in good order and repair and in a safe, sanitary, neat and attractive condition,, and shall comply with all laws, ordinances and regulations applicable to said premises;

4. Lessee has been given the opportunity to regroup and revive the business by RBDO intervention and meeting with former Board of Directors and former Executive Director, however, no significant progress was made by former HDDT, Inc.

C. Attached are **Exhibit A**, Termination of Business Site Lease CH-04-128; **Exhibit B**, Business Site Lease CH-04-128 (May 28, 2004); **Exhibit C**, Procurement Clearance documents; **Exhibit D**, Resolution of Whippoorwill Chapter; **Exhibit E**, Certificate of Revocation of Hoosh Doh Dii To' Development Inc.; and, **Exhibit F**, Executive Summary for Termination of Business Site CH-04-128.

SECTION THREE. APPROVING TERMINATION OF BUSINESS SITE LEASE

A. The Navajo Nation hereby approves the Termination of Business Site Lease CH-04-128, as set forth in **Exhibit A**.

B. The Navajo Nation hereby authorizes the President of the Navajo Nation to execute this Termination of Business Site Lease CH-04-128 and all other documents necessary to effectuate the intent of this resolution.

C. The Resources and Development Committee issued a directive with respect to vacated leased building, be issued to Division of Economic Development with a copy to Department of Risk Management to find mechanism for risk assurance and bring those options to the Committee for its consideration.

CERTIFICATION

I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at Leupp Chapter, Leupp, (Navajo Nation) Arizona, at which quorum was present and that same was passed by a vote of 3 in favor, 0 opposed, 1 abstained this 14th day of February, 2017.

Alton Joe Shepherd, Chairperson
Resources and Development Committee
Of the 23rd Navajo Nation Council

Motion: Honorable Walter Phelps
Second: Honorable Jonathan Perry

NHA Hooghan—Center of Family Growth, Strength and Beauty
NAVAJO HOUSING AUTHORITY

January 8, 2019

Elerina Yazzie, Program Manager
Navajo Land Dept. - General Leasing
THE NAVAJO NATION
Post Office Box 2249
Window Rock, Arizona 86515

RE: Land Lease (Designation) Package for Whippoorwill, Arizona

Greeting, Ms. Yazzie

The Navajo Housing Authority (NHA) is forwarding Master Lease packet for reassignment of twenty (20) acre tract of land to NHA with supporting Resolutions from the Hoosh Dooh Dii To' Development, Inc. (HDDTD), the Whippoorwill Chapter Government and the Navajo Nation - Resources and Development Committee's Resolution terminating twenty (20) acre Business Site Lease. There are permanent infrastructures located on the premises and the HDDTD has abandon the property without proper legal relinquishment or reassignment and upon which no valid leases were obtained by the Whippoorwill Chapter. The NHA is desirous of obtaining a valid lease concurrent with Federal and Tribal guidelines for site control of the premises for renovation and operational purposes.

The NHA has enclosed an original proposed Master Lease with four (4) signature sheets for final processing for NHA project that is located within the Whippoorwill Chapter Community, Central Navajo Agency. Enclosed with the proposed Master Lease are supporting documentations and maps;

HDDTD Letter & Resolution	Dated: August 22, 2013
Chapter Resolution WC15:149	Dated: July 15, 2015
NN-RDC Resolution RDCF-19-17	Dated: February 14, 2017
Exhibit "A"	Boundary Plat of Subdivision; Signed: Michael Paisano Dated: January 2, 2019
Exhibit "B"	Proposed Master Lease
Exhibit "C"	Archeological Clearance/CRCF
Exhibit "D"	Environmental Assessment/CATEX

Your attention and efforts in finalizing this proposed Master Lease is greatly appreciated in advance. If you have any further questions or clarity to the contents of the letter or Land Lease (Designation) Package, please do not hesitate to contact Mr. Richard Notah with NHA-Realty & Title Dept. at (928) 729-6638 or myself at (928) 729-6632 and/or by email at tjensen@hooghan.org

Thank you,

Ted Jensen, Dev. Manager
NHA-DCSD/Quality Inspection Program

RECEIVED
JAN - 8 2019
19-9234
DNR - GENERAL LAND DEVELOPMENT DEPARTMENT

Enclosures

Cc: Craig Dougall, CEO / NHA
Richard Notah, Realty Mgr,/ NHA-DCSD
Lorraine Lee, Reality Specialist / NHA-DCSD
Mike Halona, Dept. Director, / Navajo Land Dept.
Martina Yazzie, SEDS / NN-Chinle RBDO
Dwight Witherspoon, Chief of Staff / NN-OPVP
Paulette Johnson, Chapter Coord. / Whippoorwill Chapter

Hoosh Dooh Dii To' Development Incorporated

PO Box 4204
Blue Gap, Arizona 86520
Telephone: 928-725-3333

RESOLUTION

The Hoosh Dooh Dii To' Development Incorporated is requesting the Navajo Housing Authority-Tribally Designated Housing Entity of the Navajo Nation to accept the relinquishment of the HDDT, Inc Elderly Hogan Homes.

WHEREAS:

1. The Hoosh Dooh Dii To' Development Incorporated (HDDT) is a recognized non-profit organization in accordance with the Internal Revenue Services 501 (c) (3) status, and

2. The Hoosh Dooh Dii To' Development Incorporated is entered into the laws and jurisdiction of the Navajo Nation authorized to transact business within the Navajo Nation as a non-profit organization; and

3. The Hoosh Dooh Dii To' Development Incorporated came to find that tremendous amount of red tape exist that plaques any efforts to exist as a stand-alone program within the boundary of the Navajo Nation, and

4. That the Hoosh Dooh Dii To' Development Incorporated Board of Directors has made all attempts to keep its program for the elderly operating, however

5. The Hoosh Dooh Dii To' Development Incorporated has become a statistic in its bureaucratic demise

NOW THEREFORE IT BE RESOLVED:

1. The Hoosh Dooh Dii To' Development Inc. will relinquish all of the fourteen (14) elderly Hogan that were built with the NAHASDA funding that was approved for FY2000 Indian Housing Block Grant.

CERTIFICATION

The Hoosh Dooh Dii To' Development Incorporated Board of Directors hereby certify that the foregoing resolution was duly considered at a regular called meeting of the Hoosh Dooh Dii To' Development Incorporated at Whippoorwill Spring, Arizona at which a quorum was present and that same was passed by a vote of 3 in favor, 0 abstaining and 0 opposed, this 22nd, day of August 2013.

Evangeline Ben, President	8-22-13 Date	Vacant, Vice-President	Date
Louise K Shonie, Sec/Treasurer	8/22/13 Date	Albert Wartz, Member	8/22/2013 Date

EXHIBIT
D

The Navajo
Whippoorwill Chapter

P.O. Box 279, Pinon, Arizona 86510 Telephone: (928) 725-3727/3728 FAX: (928) 725-3745/3177
Community Service Coordinator- Marian Bowman **** Account Maintenance Specialist - Vacant

Dwight Witherspoon, Council Delegate Jennifer Begay, President Elroy Bahe, Vice President Loretta Begay, Secretary/Treasurer

RESOLUTION OF THE WHIPPOORWILL CHAPTER WC15: 149

THE WHIPPOORWILL CHAPTER HEREBY REQUESTS THE RECINDING OF EDCJA-04-02 THE ISSUANCE OF 20 ACRES OF NAVAJO NATION TRUST LANDS WITHIN THE WHIPPOORWILL CHAPTER FOR COMMUNITY USE.

WHEREAS:

1. The Navajo Nation Council Resolution CS-34-98 enacted the Navajo Nation Local Governance Act and codified it under Title 26 of the Navajo Nation Code; and

2. Pursuant to Title 26 NNC, Section B-1&2, the purpose of the Local Governance Act is to recognize at the local level and to delegate to chapter government with respect to local matters consistent with Navajo Laws including custom and tradition and to make decisions over local matter; and

3. In 2002 The Hoosh Dooh Dii To' Development, Inc. received the lease for construction, operation and maintenance of Elderly Home Units; Elderly Group Home; Office Complex; Multipurpose Building; and

4. Hoosh Dooh Dii To' Development, Inc. has lost their 501 (C)(3) status; and

5. Hoosh Dooh Dii To' Development, Inc. is no longer managing the property; and

6. The Reclaiming of the 20 Acres of Land will benefit the Community of Whippoorwill.

NOW THEREFORE BE IT RESOLVED THAT:

The Navajo Nation
Whippoorwill Chapter

P.O. Box 279, Pinon, Arizona 86510 Telephone: (928) 725-3727/3728 FAX: (928) 725-3745/3177
Community Service Coordinator- Marian Bowman **** Account Maintenance Specialist - Vacant

Dwight Witherspoon, Council Delegate Jennifer Begay, President Elroy Bahe, Vice President Loretta Begay, Secretary/Treasurer

The Whippoorwill Chapter Hereby Requests the Rescinding of EDCJA-04-02 The Issuance of 20 Acres Of Navajo Nation Trust Lands Within The Whippoorwill Chapter For Community Use.

CERTIFICATION

We hereby certify that the foregoing resolution was duly considered by the Whippoorwill Chapter at a duly called meeting in Whippoorwill, Navajo Nation, Arizona which quorum was present that same was passed by vote of 21 in favor 00 opposed and 06 abstained on this 15th day of July, 2015.

Motion by: George Denezpi Sr.

Second by: Manuel Begay

Jennifer Begay, Chapter President

Loretta Begay, Secretary/Treasurer

Elroy Bahe, Vice-President

Dwight Witherspoon, Council Delegate

EXHIBIT E

Document No. 011841 Date Issued: 01/23/2019

EXECUTIVE OFFICIAL REVIEW

Title of Document: NHA, Master Lease Whipporwill, Arizona Contact Name: YAZZIE, ELERINA B

Program/Division: DIVISION OF NATURAL RESOURCES

Email: e_yazzie@navajo-nsn.gov Phone Number: 928/871/6447

			Sufficient	Insufficient
☐ **Business Site Lease**				
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: (recommendation only)		Date:	☐	☐
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:	☐	☐
2. Office of the Attorney General:		Date:	☐	☐

☐ **Land Withdrawals for Non-Commercial Purposes, General Land Leases and Resource Leases**

1. NLD		Date:	☐	☐
2. F&W		Date:	☐	☐
3. HPD		Date:	☐	☐
4. Minerals		Date:	☐	☐
5. NNEPA		Date:	☐	☐
6. DNR		Date:	☐	☐
7. DOJ		Date:	☐	☐
8. OPVP		Date: 4/24/19	☑	☐

☐ **Rights of Way**

1. NLD		Date:	☐	☐
2. F&W		Date:	☐	☐
3. HPD		Date:	☐	☐
4. Minerals		Date:	☐	☐
5. NNEPA		Date:	☐	☐
6. Office of the Attorney General:		Date:	☐	☐
7. OPVP		Date:	☐	☐

☐ **Oil and Gas Prospecting Permits, Drilling and Exploration Permits, Mining Permit, Mining Lease**

1. Minerals		Date:	☐	☐
2. OPVP		Date:	☐	☐
3. NLD		Date:	☐	☐

☐ **Assignment of Mineral Lease**

1. Minerals		Date:	☐	☐
2. DNR		Date:	☐	☐
3. DOJ		Date:	☐	☐

☐ **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:	☐	☐
2. F&W		Date:	☐	☐
3. HPD		Date:	☐	☐
4. Minerals		Date:	☐	☐
5. NNEPA		Date:	☐	☐
6. DNR		Date:	☐	☐
7. DOJ		Date:	☐	☐
8. OPVP		Date:	☐	☐

☐ **OTHER:**

1.		Date:	☐	☐
2.		Date:	☐	☐
3.		Date:	☐	☐
4.		Date:	☐	☐
5.		Date:	☐	☐

Tier 1 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signiture
Eugenia Quintana EPA (Navajo Land Title Data System - Windowrock AZ)	Air and Toxics - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. This is an administrative action. However, if the abandoned units will be re-developed for use, it is requested that . NHA is requested to ensure that as Lessor, that Lessor and Lessees are familiar with applicable NN environmental rules and regulations, e.g., NN Open Burn Regulations and its applicability on the NN. NHA is encouraged to allow Lessees and potential new homeowners to learn about their health and environment, e.g., indoor environmental health hazards such as exposure to Radon. We have staff available to assist with dissemination of information and Radon testing. Thank you.	1. *No Reply*	24-Jan-2019	
Lee Anna Martinez EPA (Navajo Land Title Data System -	Water Quality - Reviwer	Navajo Nation Environmental Protection Agency	Approved	1. The EA indicates that there are no impacts to Polocca Wash or its tributaries.	1. *No Reply*	05-Feb-2019	

Windowrock AZ)				Should that hold true; there is no 401 required.			
Najamh Tariq (Navajo Land Title Data System - Windowrock AZ)	Approver	Department of Water Resources	Approved	*no comments*	*No Reply*	23-Jan-2019	
Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. F&W APPROVER: Upload BRCF #EOR-011841 from ftp site and provide signature approval then upload to the NLTDS.	1. *No Reply*	28-Jan-2019	
Patrick Antonio EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Supervisor	Navajo Nation Environmental Protection Agency	Approved	1. The master lease action itself does require coverage under the federal Construction General Permit (CGP) for storm water discharges from construction sites. But the plan to renovate may require CGP coverage if surface land disturbance is greater than 1.0 acre. The construction of dwellings after the initial land withdrawal should have been covered by the CGP but was not.	1. *No Reply*	24-Jan-2019	

Robert Allan DNR (Navajo Land Title Data System - Windowrock AZ)	Deputy Director DNR	DNR Administration	Approved	1.	CONDITIONAL-- 1)Paragraph 3 (B) of draft lease indenture should be amended to the word "Secretary" from the of "General Plan" requirements. 2) Paragraph 5 references to the General Leasing Act Regulations should read," 16 N.N.C. Sections 2334 (F) and 2332 (C). 3)Paragraph 11 (C)--the phrase ". . . but without further consent or approval of the Navajo Nation . . . " should be removed.	1.	*No Reply*	29-Jan-2019	Robert O. Allan
Tamara Billie NNHP (Navajo Land Title Data System - Windowrock AZ)	HPD Reviewer	Historic Preservation Department	Approved	1.	HPD-06-154	1.	*No Reply*	24-Jan-2019	Tamara Billie
Warren Roan - EPA (Navajo Land Title Data System - Windowrock AZ)	Storage Tanks Program - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1.	There are no impacts from UST and/or Leaking USTs to the location for project development.	1.	*No Reply*	04-Feb-2019	Warren J Roan
Yolanda Barney EPA (Navajo Land Title Data System - Windowrock AZ)	Public Water System Supervision Program	Navajo Nation Environmental Protection Agency	Approved	1.	Please see attached memorandum approving this project.	1.	*No Reply*	28-Jan-2019	Yolanda Barney

Tier 2 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signiture
Chad Smith - F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. uploaded BRCF 2. uploaded BRCF	1. *No Reply* 2. *No Reply*	12-Mar-2019	
Richard Begay NNHP (Navajo Land Title Data System - Windowrock AZ)	Navajo Nation Historic Preservation Officer	Historic Preservation Department	Approved	*no comments*	*No Reply*	05-Feb-2019	
Ronnie Ben EPA (Navajo Land Title Data System - Windowrock AZ)	Underground Injection Control - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. The 1996 EA will need to be updated. The 1996 EA mentions ephemeral washes present are now protected under the Navajo Nation CWA. The waste water impoundment design may require up grade to meet the propose projects and future infrastructures. The old sheep dip vat will have to be tested and possibly need a mitigation plan for removal to provide surface or groundwater contamination. NNEPA will vote Sufficient, however any future EA will have to be more current within about	1. *No Reply*	28-Feb-2019	

				5 years. According to NHA the WW Lagoon at Whippoorwill Chapter is operated by NTUA. The old sheep dipping vat will still need to sampled to ensure no contaminates present.			
Steven Prince MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	*no comments*	*No Reply*	05-Feb-2019	
W. Mike Halona (NLTDS - Everytt)	DCD Division Director	Navajo Nation	Approved	*no comments*	*No Reply*	05-Feb-2019	

NAVAJO NATION DEPARTMENT OF JUSTICE

☐ RESUBMITTAL

DOCUMENT REVIEW REQUEST FORM

RECEIVED
MAR 13 2019
DEPARTMENT OF JUSTICE
RECEPTIONIST DESK

DOJ
3/13/19 @ 902am
DATE / TIME
☐ 7 Day Deadline
DOC #: 011841
SAS #:
UNIT: NRu

*** FOR NNDOJ USE ONLY - DO NOT CHANGE OR REVISE FORM. VARIATIONS OF THIS FORM WILL NOT BE ACCEPTED. ***

CLIENT TO COMPLETE

DATE OF REQUEST:	3/12/2019	DIVISION:	NATURAL RESOURCES
CONTACT NAME:	Michelle Hoskie or Stevie Hudson	DEPARTMENT:	GENERAL LAND DEVELOPMENT DEPARTMENT
PHONE NUMBER:	x 6447 or x 6423	E-MAIL:	steviehudson@frontier.com

TITLE OF DOCUMENT: NHA, Master Lease Whipporwill, Arizona EOR#11841

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 3.13.19 10 am

REVIEWING ATTORNEY/ADVOCATE: I ruin chee 3.22.19

DATE TIME OUT OF UNIT: 4.11.19 9am

DOJ ATTORNEY / ADVOCATE COMMENTS

~ Document is now legally sufficient after the Master Lease was redrafted. Required document & surveys are attached.

REVIEWED BY: (*Print*)	Date / Time	SURNAMED BY: (*Print*)	Date / Time
I ruin chee	4/9/19	V Blackhat	4/10/19 1:49pm

DOJ Secretary Called: Michelle for Document Pick Up on 4-10.19 at 415 By: B

PICKED UP BY: (*Print*) DATE / TIME:

NNDOJ/DRRF-July 2013

COMPLETED

RESOURCES AND DEVELOPMENT COMIMTTEE
24th Navajo Nation Council
Regular Meeting

ROLL CALL
VOTE TALLY SHEET:

Legislation # 0248-19: An Action Relating to Resources and Development Committee; Approving Housing Project Master Lease AZ12-12-210 Between The Navajo Nation and the Navajo Housing Authority For An Assisted Living Facility Within The Whippoorwill Chapter of the Navajo Nation. *Sponsor: Honorable Jimmy Yellowhair*

Date: August 28, 2019
Meeting Location: Red Lake Chapter, Navajo, New Mexico

MAIN MOTION:
M: Thomas Walker, Jr. S: Mark A. Freeland Vote: 5-0-1 (CNV)
Yeas: Kee Allen Begay, Jr., Thomas Walker, Jr., Mark A. Freeland, Wilson C. Stewart, Jr., and Herman M. Daniels
Nays: None

Honorable Rickie Nez, Presiding Chairman
Resources and Development Committee

Shammie Begay, Legislative Advisor
Office of Legislative Services