

**RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
23rd Navajo Nation Council --- Fourth Year, 2018**

AN ACTION

**RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF
RIGHT-OF-WAY TO THE UNITED STATES DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS FOR A TERM OF SEVENTY FIVE (75) YEARS
FOR THE KAIBETO RECONSTRUCTION PROJECT: N6330(1)/N6331(1-
2) (2)/N21(3A)1,2&4 IN KAIBETO, NAVAJO NATION, COCONINO COUNTY,
ARIZONA**

BE IT ENACTED:

SECTION ONE. AUTHORITY

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

SECTION TWO. FINDINGS

- A. The United States Department of the Interior, Bureau of Indian Affairs (BIA) has submitted a Right-of-Way application for a term of seventy-five (75) years for the Kaibeto Reconstruction Project: N6330(1)/N6331(1-2) (2)/N21(3A)1,2&4 in Kaibeto, Navajo Nation, Coconino County, Arizona. See Exhibit "A".
- B. The application for the Right-of-Way as submitted by the BIA has been reviewed by the Navajo Land Departments; Fish and Wildlife; Historic Preservation; Minerals; Navajo Nation Environmental Protection; Division of Natural Resources and the Department of Justice and "Approved" or found "Sufficient" by all. See Exhibit "B".

- C. The Navajo Nation may waive consideration upon a determination that the project at issue benefits the Navajo Nation and its People and such waiver is specified in the Terms and Conditions Paragraph (b). See Exhibit "C".
- D. The Navajo Nation, pursuant to 25 CFR § 169.103 (f), may waive the requirements of bonding insurance or other security upon the determination that such a waiver is in the best interest of the Navajo Nation.

SECTION THREE. APPROVAL

- A. The Resources and Development Committee of the Navajo Nation Council hereby approves the Grant of Right-of-Way to the BIA for the Kaibeto Reconstruction Project: N6330(1)/N6331(1-2)(2)/N21(3A)1,2&4 in Kaibeto, Navajo Nation, Coconino County, Arizona. See Exhibit "A".
- B. The Resources and Development Committee of the Navajo Nation Council hereby approves the Right-Of-Way subject to, but not limited to the Terms and Conditions, incorporated herein, including the waiver of consideration, as attached and found at Exhibit "C".
- C. The Resources and Development Committee hereby waives the requirement for a bond, insurance or alternative form of security on the part of the Grantee, based on the determination that the project benefits the Navajo Nation and such a waiver is in the best interest of the Navajo Nation, pursuant to Title 25 CFR §169.103 (f)(2).
- D. The Resources and Development Committee of the Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to affect the intent and purpose of this resolution.

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 the Navajo Transportation Administrative Complex, Tse Bonito, Navajo Nation (New Mexico), at which a quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, 1 abstained on this 3rd day of January, 2018.

A handwritten signature in blue ink, appearing to read 'B. Bennett', with a long horizontal stroke extending to the right.

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

Motion: Honorable Davis Filfred
Second: Honorable Leonard Pete



In Reply Refer To:
Division of Transportation
M/C: N370

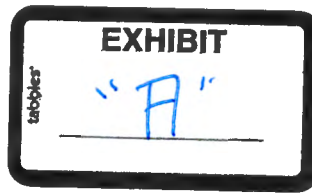
United States Department of the Interior

Bureau of Indian Affairs

Navajo Region

P. O. Box 1060

Gallup, New Mexico 87305



JUL 18 2017



Mr. Russell Begay

President, The Navajo Nation

Attention: Elerina Yazzie, General Land Development Department

RE: Submittal of Right-of-Way Application for Seventy Five (75) Term for the Bureau of Indian Affairs (BIA) to Construct & Maintain Road Project No. N6330(1) / N6331(1-1) (2) / N21(3A)1,2&4 located in Kaibeto, Coconino County, Arizona

President Begay:

The Naa'biik'iyati Committee of the 22nd Navajo Nation Council has authorized the BIA Navajo Region Division of Transportation (BIA-NRDOT) to improve the subject BIA Routes traversing through Navajo Nation Trust Lands.

At the request of community members and the Navajo Nation Resource Development Committee (RDC), this road Project is scheduled for improvement so as to alleviate hardship/difficult traveling conditions during the winter and rainy seasons, especially for school buses and the elders.

Pursuant to the enclosed Navajo Nation Council Resolution No. CN-67-02 "*Approving Interim Standard Terms and Condition for the Granting of Right-of-Way for BIA Road Construction Projects on the Navajo Nation*," the Navajo Nation has previously waived any compensation that is associated to a transportation project application. The Terms and Conditions have not been updated under the new Right-of-Way Regulations. However, the new 25 CFR Part 169 Regulations require BIA to request for Tribal consent/waiver for the following sections of the new Regulations:

(1) 25 CFR § 169.103: *What bonds, insurance, or other security must accompany the application?*

(f) *We may waive the requirements for a bond, insurance, or alternative form of security:*

a. *For individually owned Indian land, if the Indian landowners of the majority of the interests request it and we determine, in writing, that a waiver is in the Indian landowners' best interest considering the purpose of and risks*

associated with the right-of-way, or if the grantee is a utility cooperative and is providing a direct benefit to the Indian land or is a tribal utility.

- b. For tribal land, deferring, to the maximum extent possible, to the tribe's determination that a waiver of a bond, insurance or alternative form of security is in its best interest.*

(2) 25 CFR § 169.110: *How much monetary compensation must be paid for a right-of-way over or across tribal land?*

- a. A right-of-way over or across tribal land may allow for any payment amount negotiated by the tribe, and we will defer to the tribe and not require a valuation if the tribe submits a tribal authorization expressly stating that it:*

- (1) Has agreed upon compensation satisfactory to the tribe;*
- (2) Waives valuation; and*
- (3) Has determined that accepting such agreed-upon compensation and waiving valuation is in its best interest.*

(3) §169.105: *What requirements for due diligence must a right-of-way grant include?*

- a. If permanent improvements are to be constructed, the right-of-way grant must include due diligence requirements that require the grantee to complete construction of any permanent improvements within the schedule specified in the right-of-way grant or general schedule of construction, and a process for changing the schedule by mutual consent of the parties. If construction does not occur, or is not expected to be completed within the time period specified in the grant, the grantee must provide the Indian landowners and BIA with an explanation of good cause as to the nature of any delay, the anticipated date of construction of facilities, and evidence of progress toward commencement of construction.*
- b. Failure of the grantee to comply with the due diligence requirements of the grant is a violation of the grant and may lead to cancellation of the right-of-way under § 169.405 or § 169.408.*
- c. BIA may waive the requirements in this section if we determine, in writing, that a waiver is in the best interest of the Indian landowners.*

Based upon the above requirements, we request for the Navajo Nation to concur (in writing) to: 1) waive the bonding requirements; 2) waive the valuation and compensation requirements as the project is in the Nation's best interest; 3) waive the due diligence requirement or allow the timeline to be when actual construction takes place up to the Contract final construction deadlines, taking into account any time extension authorized by BIA due to any change orders in the work or unforeseen construction issues; 4) the term of the right-of-way grant be a Seventy Five (75) Term Easement as specified in the Navajo Nation Council Resolution No. CN-67-02; and 5) BIA request the right-of-way grant of easement include a utility system.

The right-of-way easement will include construction of utilities with the N6330(1)/N6331(1-1)(2)/N21(3A)1,2&4 easement corridor. This provision will allow the road right-of-way grant to the Bureau of Indian Affairs, Navajo Region, to be used for such purpose that will benefit the tribal communities and their socioeconomic development needs with respect to utilities. The utility conveyance construction and maintenance must not interfere with the integrity of the road prism, road ditches, road design features and miscellaneous road appurtenances. Any and all utility installations or relocations will be approved through the BIA-NRDOT permit process where applicable and subject to: "Utility company(s) must

first obtain consent from the underlying land owner in writing if the utility is crossing such land."

Please note, however, in accordance with 25 CFR 169.127(a)(2) new use within the existing right-of-way that is not within the same scope of use of the original grant, may require a request for right-of-way by the utility provider.

BIA-NRDOT is submitting the Right-of-Way application and supporting documents for Project No. N6330(1)/N6331(1-1)(2)/N21(3A)1,2&4 which crosses Navajo Nation Trust lands. The supporting documents are:

1. One original and photocopy of the new Title 25, Part 169 Right-of-way application
2. One original reproducible right-of-way plat map
3. Two photocopies of the right-of-way plat map
4. Two photocopies of the legal description, and
5. One photocopy of the Abbreviated Environmental Assessment (EA) report consisting of the Archaeological Clearance report, Biological report and Categorical Exclusion Determination/Approval report
6. One photocopy of the Navajo Nation Council Resolution No. CN-67-02

BIA-NRDOT is asking your Office to process the application expeditiously to ensure the Project receives right-of-way before construction commences. The Project is scheduled for construction on or about August 15, 2017.

Should you have any questions or need additional information, please call Mr. Herby Larsen, Division Manager, at (505) 863-8281 or Mr. Harold J. Riley, Planning & Design Branch Chief, at (505) 863-8284.

Sincerely,



Regional Director, Navajo

Enclosures

cc: Western Navajo Agency DOT
Eastern Navajo Agency Real Estate

UNITED STATES DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

RIGHT-OF-WAY APPLICATION MUST IDENTIFY [§169.102(a)]:

1. Applicant Name and Address: Bureau of Indian Affairs, Navajo Region, Division of Transportation, P.O. Box 1060, Gallup, New Mexico 87301
2. Tract(s) or parcel(s) affected by the right-of-way: See attached ROW Plat Map .
3. General location (easement description): See attached Legal Description.
4. Purpose: Construction of an all-weather roadway, operation and maintenance of Public Highway Navajo Route N6330(1)/N6331(1-1)(2)/N21(3A(2)1,2&4 and accordance with 25 CFR, Part 170
5. Term (Renewal, if applicable): 75 years term.
6. Identify ownership of permanent improvements associated with the right-of-way and the responsibility for constructing, operating, maintaining, and managing; or removal of permanent improvements under §169.105:

REQUIRED SUPPORTING DOCUMENTS [§169.102(b)]:

NOTE: DUE TO THE APPLICANT BEING THE US GOVERNMENT:

- I. A REQUEST TO WAIVE ITEM Nos. 3 and 6 WILL BE MADE TO THE NAVAJO NATION.
 - II. ITEM No. 7 IS NOT APPLICABLE.
-
1. Accurate legal description of the right-of-way, its boundaries, and parcels associated with the right-of way;
 2. A map of definite location of the right-of-way; (25 CFR 169.102((b)(2); survey plat signed by professional surveyor or engineer showing the location, size, and extent of the ROW and other related parcels, with respect to each affected parcel of individually owned land, tribal land, or BIA land and with reference to the public surveys under 25 U.S.C. § 176, 43 U.S.C. § 2 AND § 1764, and showing existing facilities adjacent to the proposed project.)
 3. Bond(s), insurance, and/or other security meeting the requirements of §169.103;
 4. Record of notice that the right-of-way was provided to all Indian landowners;
 5. Record of consent that the right-of-way meets the requirements of §169.107, or a statement documenting a request for a right-of-way without consent under §169.107(b);
 6. If applicable, a valuation meeting the requirements of §§ 169.110, 112, 114;

7. With each application, if the applicant is a corporation, limited liability company, partnership, joint venture, or other legal entity, except a tribal entity, information such as organizational documents, certificates, filing records, and resolutions, demonstrating that:
 - a. The representative has authority to execute the application;
 - b. The right-of-way will be enforceable against the applicant; and
 - c. The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located.
8. Current environmental and archaeological reports, surveys, and site assessments, as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements;
9. If required, a statement from the appropriate tribal authority that the proposed right-of-way is in conformance with applicable tribal law.

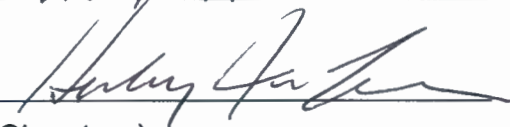
THE APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

To conform and to abide by all applicable requirements with respect to the right-of-way herein applied for. The applicant agrees to conform to and abide by the rules, regulations, and requirements contained in the *Code of Federal Regulations*, Title 25 Indians, Part 169, as amended, and by reference includes such rules, regulations and requirements as a part of this application to the same effect as if the same were herein set out in full.

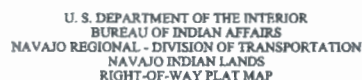
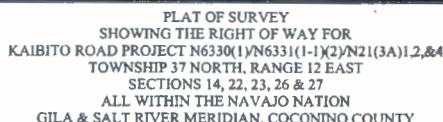
Applicant Point of Contact Information:

NAME: Herby J. Larsen
ADDRESS: BIA, NRO Division of Transportation
P.O. Box 1060
CITY/STATE: Gallup, New Mexico
ZIP: 87301
PHONE: (505) 863-8281
FAX: (505) 863-8255
EMAIL: Herby.Larsen@bia.gov

DATE: 7/13/2017

APPLICANT: 
(Signature)

Herby J. Larsen
(Print Name)



ROUTE No. N6303(1) PROJECT N6303(1)1264 LENGTH 0.906 KILOMETERS
23,000 meters left and 23,000 (sylvatic wetlands) meters right of road.
Containing 3.162 Hectares (7.81 ac) ±

ROUTE No. N6331(1)-1322 PROJECT N6331(1)-1322 2684 LENGTH 3.846 KILOMETERS
23,000 (various wetlands) meters left and 23,000 (various wetlands) meters right of road.
Containing 19,002 Hectares (198.94 ac) ±

ROUTE No. M214(2A) PROJECT M214(2A) 2684 LENGTH 0.782 KILOMETERS
20,000 meters left and 20,000 meters right of road. Containing 3.021 Hectares
(7.46 ac) ±

STATE OF: ARIZONA
COUNTY OF: COCHISE

Henry Larsen, Regional Division of Transportation Manager, Hensley Regional Office, Bureau of Indian Affairs, as the applicant herein for the right-of-way for the construction of Bureau of Indian Affairs Road Project No. M83C03(1)/M83P(1)(1)C02(1)C4(1) 1.2.84 over an arroyo Indian lands, County of COCHISE, AZ certifies that the survey is accurately represented on this map. Project length and length are as shown herein.

Regional Division of Transportation Manager
Navejo Regional Office

Sworn and subscribed to me on this 27th day of Sept, 2017.
Notary Public in and for the State of Texas.

County of San Francisco
 OFFICIAL SEAL:
 STEPHEN S. HASKINS, by commission expires August 01, 2000
 CLERK PUBLIC STATE OF NEW JERSEY

Document released pursuant to: Supreme Court Order

RIGHT OF WAY TABLE							
SECTION 36.61		LENGTH		WIDTH			
STATION	TO STATION	RIGHT OF WAY	LEFT	RIGHT	RIGHT	HETLANDS	ACRES
1+023.000	1+078.000	47.508	184.350	23m (75.420)	23m (75.420)	0.216	0.53
1+078.000	1+137.000	59.000	185.000	23m (75.420)	23m (75.420)	0.67	1.66
1+137.000	1+232.252	492.778	1929.000	23m (75.420)	23m (75.420)	2.271	6.91
TOTALS		709.286	1993.350			3.103	7.81
		(0.00000)	(0.3900)				
RIGHT 11+102.364							
STATION		LENGTH		WIDTH			
STATION	TO STATION	RIGHT OF WAY	LEFT	RIGHT	RIGHT	HETLANDS	ACRES
3+023.814	3+072.428	181.878	894.330	23m (75.420)	23m (75.420)	0.820	30.89
3+072.428	3+127.000	54.572	185.232	23m (75.420)	23m (75.420)	0.252	7.69
3+127.000	3+227.512	205.032	880.130	23m (75.420)	23m (75.420)	1.194	2.88
3+227.512	3+289.875	114.644	867.280	14m (45.930)	14m (45.930)	0.021	1.21
3+289.875	3+345.857	55.982	182.000	23m (75.420)	23m (75.420)	0.292	1.77
TOTALS		564.112	1188.972			16.002	39.84
		(2.41000)	(0.3900)				
RIGHT 11+084.84							
STATION		LENGTH		WIDTH			
STATION	TO STATION	RIGHT OF WAY	LEFT	RIGHT	RIGHT	HETLANDS	ACRES
0+030.567	0+137.248	72.574	246.678	30m (98.430)	30m (98.430)	0.01	7.48
		72.574	246.678			0.01	7.48
		(0.76200)	(0.3900)				
OVERALL TOTALS		869.587	1942.24			22.189	84.82

PROJECT N63
SEE SHEET 2

PROJECT NAME: N213A384 KARNITO SCHOOL SPUR			
COMBINE SCALE FACTOR: 1.000572549 8888888219			
POINT STATION		NORTHING	
POI	=000.000	019785.434	25789.874
Tangent	N 88°05'11" W	30.483	
POB	=000.463	019785.434	25789.874
Tangent	N 88°03'51" W	408.880	
CURVED 80' 2 1/2" x 30"			
PC	=046.889	019785.888	25789.874
PT	=054.389	019785.888	25789.874
Station	=054.389		25747.227
Offset		11.4025' Right	
Length of Curve(Miles)		0.2645	
Distance		108.462	
Chord		32.516	
Chord - Ang		32° 51' 00"	
Tangent	N 88°17'30" W		
P.O.B.	=0763.322	019688.191	26758.391

PROFIT OF WAY TRAMPS					
MEMBER	PERMITTER	AREA (SQ)	NECTARIES	ACRES	
SECTION 14	146,847	218,024	9,162	7.61	
	146,848	240,044	9,874	8.49	
MEMBER	PERMITTER	AREA (SQ)	NECTARIES	ACRES	
SECTION 14	195,448	879,014	3,674	3.17	
SECTION 22	129,009	991,410	8,763	7.60	
SECTION 23	402,890	399,684	9,380	2.61	
SECTION 26	21,674	141	1,074	0.03	
SECTION 27	238,674	242,930	9,042	0.89	
Sum	833,006	206,642.739	19,102	20.64	
MEMBER	PERMITTER	AREA (SQ)	NECTARIES	ACRES	
SECTION 23	29,398	42,859	2,854	0.25	
SECTION 27	340,844	340,833	2,480	0.58	
TRACT 37					
TRACT 47	202,142	1797,859	9,171	0.42	
TRACT 47	382,948	2934,070	6,265	0.58	
TRACT 47	177,077	3008,794	2881	0.48	
ALL TOTAL	1297,291	2327,780	23,340	24.87	

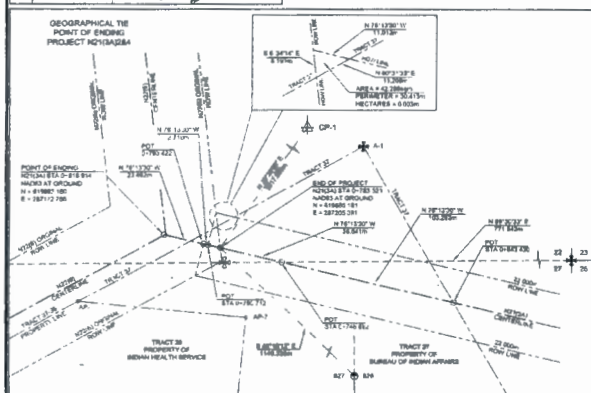
UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
NAVAJO REGIONAL OFFICE * DIVISION OF TRANSPORTATION

RIGHT OF WAY PLAT DRAWING

LOCATION: KAIBITO, AZ
SURVEYED BY: NRDOT May 2015

DRAWN BY: NRDOT (CM) APRIL 2017
CHECK BY: NRDOT (HR) APRIL 2017
FILE NAME: N8330N8331(N21/3A) FINAL ROW-2017

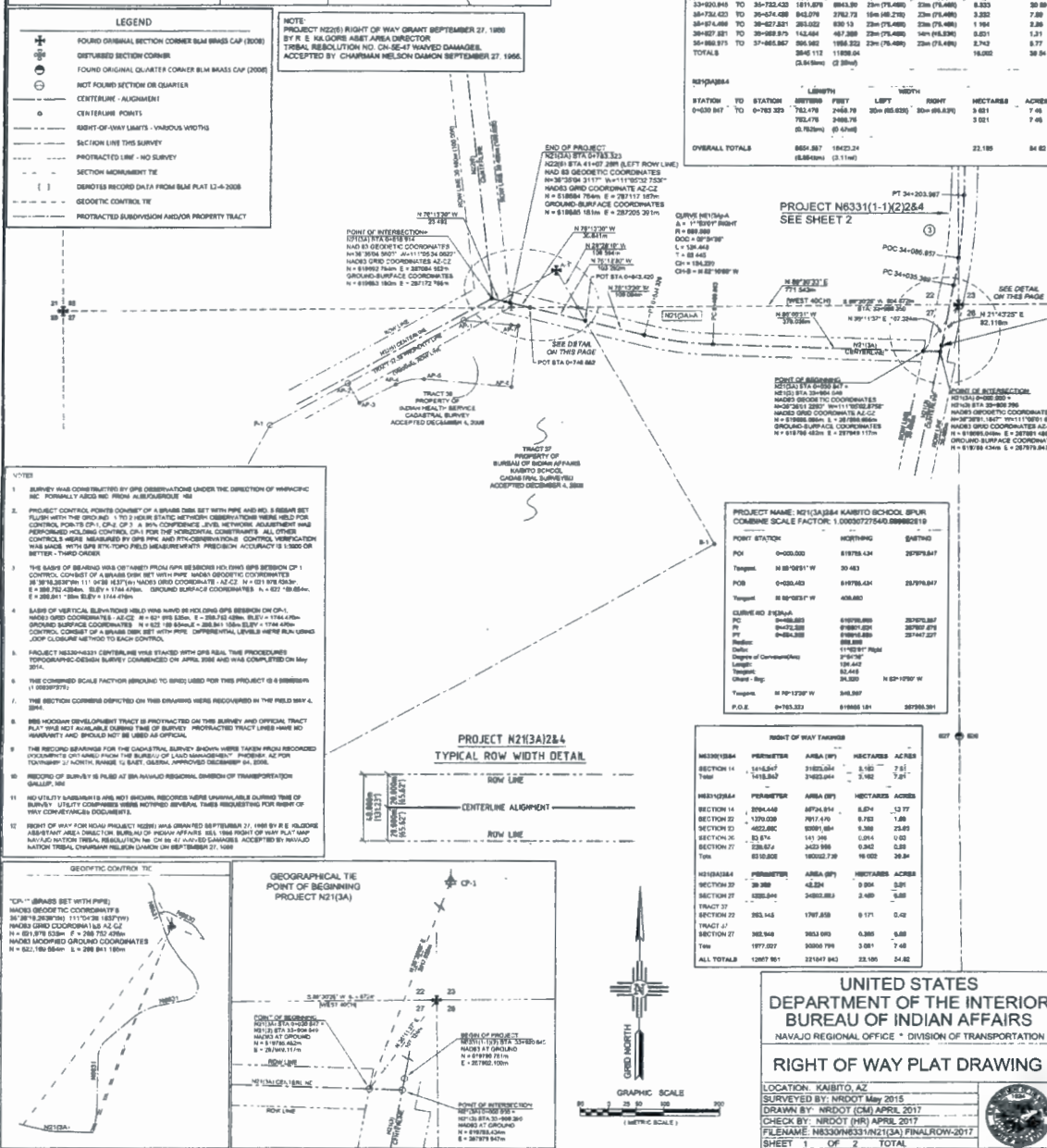
SHEET 1	OF 2	TOTAL
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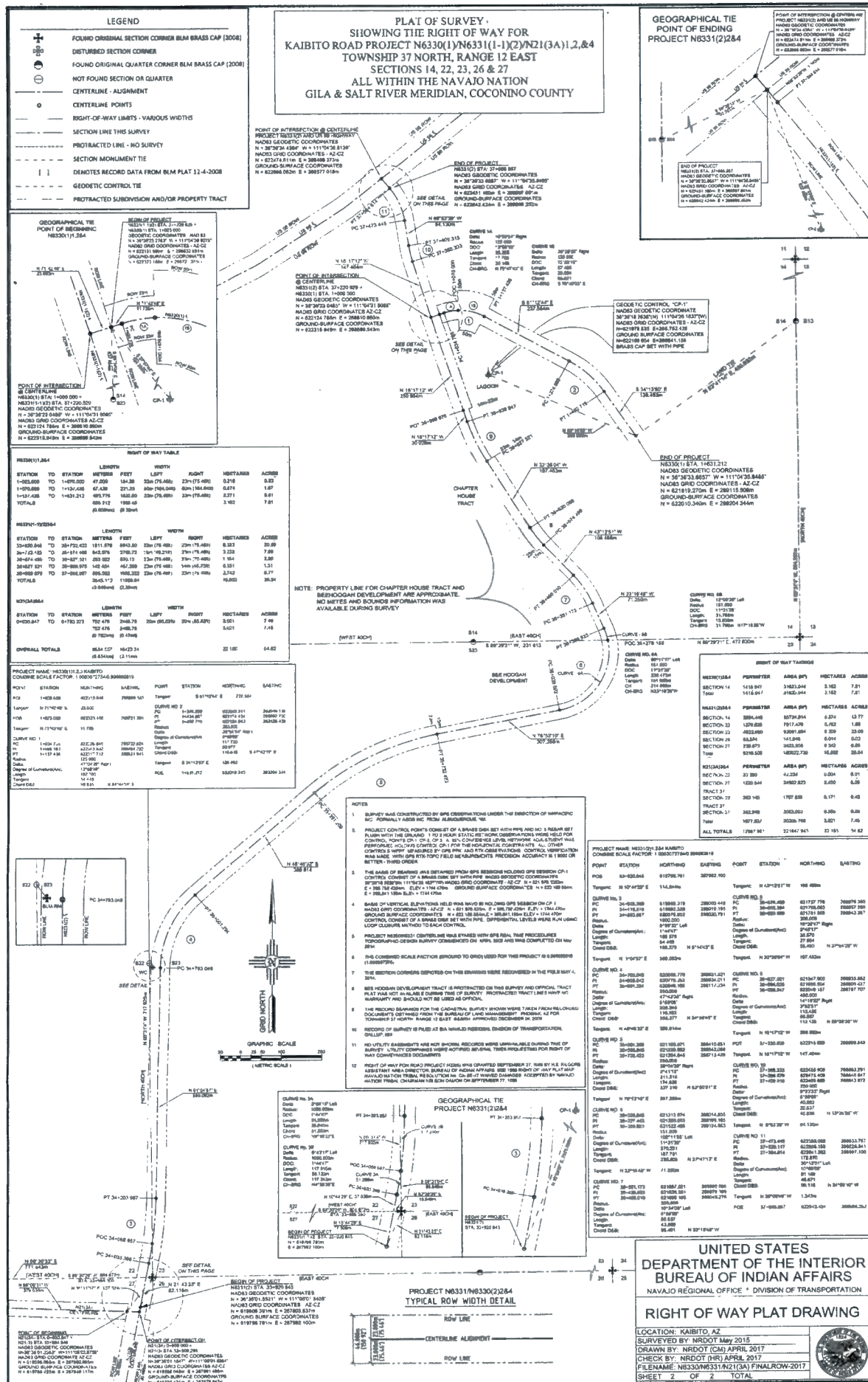


LEGEND

- POURED ORIGINAL SECTION CORNER BLUM BRASS CAP (3)
DISTURBED SECTION CORNER
POURED ORIGINAL QUARTER CORNER BLUM BRASS CAP (2)
NOT FOUND SECTION OR QUARTER
CENTERLINE - ALIGNMENT
CENTERLINE POINTS
SIGHT-OF-ANY LIMITS - VARIOUS WIDTHS
SECTION LINE THIS SURVEY
PROTRACTED LINE - NO SURVEY
SECTION MONUMENT THE
DENOTES RECORDED DATA FROM BLUM PLAT L2-4-2008
GEOLOGIC CONTROL THE
PROTRACTED SUBDIVISION AND/OR PROPERTY TRACT

NOTE:
PROJECT N22(6) RIGHT OF WAY GRANT SEPTEMBER 27, 1980
BY R E KILGORE ASSET AREA DIRECTOR
TRIBAL RESOLUTION NO. CN-5E-47 WAIVED DAMAGES.
ACCEPTED BY CHAIRMAN NELSON DAMON SEPTEMBER 27, 1980





**RIGHT-OF-WAY LEGAL DESCRIPTION
KAIBITO ROAD PROJECT No.'s N6330(1)/N6331(1-1)(2)/N21(3A)1,2&4
NAVAJO NATION, COCONINO COUNTY, ARIZONA
GILA AND SALT RIVER MERIDIAN**

BIA ROAD PROJECT N21(3A)2,4

A strip of land modeled at 20.000 meters left and 20.000m right wide along the following described centerline lying within Section 22 and 27, Township 37 North, Range 12 East, Gila and Salt River Meridian, Coconino County and more particularly described as follows:

Beginning at a Point of Intersection station 0+000.000m on BIA Road Project N21(3A) which is equal to P.O.T. station 33+909.296m on BIA Road Project N21(3); whence said point having North American Datum (NAD) 83 Geodetic Coordinates Values of N 36°35'01.1847" W 111°05'01.6364" and Arizona State Plane Coordinates (Central Zone) Grid Values of N=619,595.048, E=287,891.485m and Arizona State Plane Modified Ground Values of N=619,785.434m, E=287,979.947m;

**SECTION 27, TOWNSHIP 37 NORTH, RANGE 12 EAST, G&SRM, COCONINO COUNTY,
NAVAJO NATION LANDS;**

THENCE, N 88°06'31" E, along said centerline BIA Road Project N21(3A), a distance of 30.847 meters to station 0+030.847m, said point is the **POINT OF BEGINNING** and a point on the west Right of Way line of N21(3), whence said point having North American Datum (NAD) 83 Geodetic Coordinates Values of N 36°35'01.2263" W 111°05'02.8759" and Arizona State Plane Coordinates (Central Zone) Grid Values of N=619,596.065m, E=287,860.665m and Arizona State Plane Modified Ground Values of N=619,786.452m, E=287,949.117m; said point having a section quarter corner tie to the northeast quarter corner of Section 27, (common to sections 22, 23 & 26) Township 37 North, Range 12 West, G&SRM, Coconino County, Arizona, bears N 36°11'37" E, a distance of 107.324 meters, and whence a BIA Control tie was made to "CP-1", bears N 35°29'08" E, a distance of 2817.859 meters;

THENCE, N 88°06'31" W, continuing with said centerline N21(3A), a distance of 379.036 meters to PC station 0+409.883m;

THENCE, continuing with said centerline N21(3A) along the arc of 2°54'38" Curve 21(3A)-A, having a radius of 599.989 meters, a central angle of 11°53'01" RIGHT, having an arc length of 124.443 meters, a tangent distance of 62.445 meters, a chord distance of 124.220 meters and a chord bearing of N 82°10'00" W, to P.T. station 0+534.326m;

THENCE, N 76°13'30" W, continuing with said centerline N21(3A), a distance of 109.094 meters to P.O.T. station 0+643.420m; whence said centerline is the end of Navajo Nation lands and enters TRACT 37 of the Bureau of Indian Affairs Kaibito School Tract;

SECTION 27, TOWNSHIP 37 NORTH, RANGE 12 EAST, G&SRM, COCONINO COUNTY,
TRACT 37, BUREAU OF INDIAN AFFAIRS KAIBITO SCHOOL TRACT;

THENCE, N 76°13'30" E, continuing with said centerline N21(3A), a distance of 103.262 meters to P.O.T. station 0+746.682m; whence said point being on the north line of Section 27, Township 37 North, Range 12 East, G&SRM, Coconino County and is on the same line as the south line of Section 22, Township 37 North, Range 12 East, G&SRM, Coconino County, and a section corner tie is made to the north east corner of section 27 (common to sections 22, 23 & 26) that bears N 89°30'33" E, a distance of 771.543 meters all within TRACT 37, Bureau of Indian Affairs Kaibito School Tract of this said section;

SECTION 22, TOWNSHIP 37 NORTH, RANGE 12 EAST, G&SRM, COCONINO COUNTY,
TRACT 37 BUREAU OF INDIAN AFFAIRS KAIBITO SCHOOL TRACT;

THENCE, N 76°13'30" E, continuing with said centerline N21(3A), a distance of 36.641 meters to Point of Ending (POE) station 0+783.323m; whence the said point is being on the left right of way line of Project N22(6)2&4, station 41+07.28IFT (Right of Way Granted on September 27, 1966 by R.E. Kilgore, Assistant Bureau of Indian Affairs Area Director); whence said point having North American Datum (NAD) 83 Geodetic Coordinates Values of N 36°35'04.3117" W 111°05'32.7530" and Arizona State Plane Coordinates (Central Zone) Grid Values of N=619,684.764m, E=287,117.167m and Arizona State Plane Modified Ground Values of N=619,885.181m, E=287,205.391m, and said point having a section corner tie to the east quarter corner of Section 27, (common to the west quarter corner section 26) Township 37 North, Range 12 West, G&SRM, Coconino County, Arizona, bears S 45°16'12" E, a distance of 1146.330 meters, and whence a BIA Control tie was made to "CP-1", bears N 35°29'08" E, a distance of 2817.859 meters all within Tract 37, Bureau of Indian Affairs Kaibito School Tract of this said section;

The Project Right of Way width is modeled at 20.000 meters left and 20.000 meters right on each side of said centerline survey BIA Road Project N21(3A)2&4 contains a total of 0.752 kilometers (0.47 miles) in length, and contains 3.021 hectares (7.46 acres), more or less.

BIA ROAD PROJECT N6331(1-1)(2)2&4

A strip of land modeled at 23.000 meters left and 23.000m right and with various widths along the following described centerline and lying within Sections 14, 22, 23, 26 & 27, Township 37 North, Range 12 East, Gila and Salt River Meridian, Coconino County and more particularly described as follows:

Beginning at Engineer's surveyed centerline, **POINT OF BEGINNING (POB)** Station 33+920.845 meters, on BIA Road Project N6331(1-1)(2)2&4, whence said point having North American Datum (NAD) 83 Geodetic Coordinates Values of N 36°35'01.5521" W 111°05'54.5459"; Arizona State Plane Coordinates (Central Zone) Grid Values of N= 619,606.391m, E= 287,893.637m, and Arizona State Plane Modified Ground Values of N= 619,796.781m, E= 287,982.100m, said point having a section corner tie to the northeast corner of section 27, (common to sections 22, 23 & 26) Township 37 North, Range 12 West, G&SRM, Coconino County, Arizona, bears N 21°43'25" E, a distance of 82.116 meters, and whence a BIA Control tie was made to "CP-1", bears N 19°54'07" E, a distance of 2,523.589 meters;

**SECTION 27, TOWNSHIP 37 NORTH, RANGE 12 EAST, G&SRM, COCONINO COUNTY,
NAVAJO NATION LANDS;**

THENCE, N 10°44'29" E, continuing with said centerline N6331(1-1)(2), a distance of 77.505 meters to P.O.T. station 33+998.350; whence said point being on the north line of Section 27, Township 37 North, Range 12 East, G&SRM, Coconino County; is on the same line as the south line of Section 22, Township 37 North, Range 12 East, G&SRM, Coconino County and a section corner tie is made to the northeast corner of section 27, (common to sections 22, 23 & 26) Township 37 North, Range 12 East, G&SRM, Coconino County that bears N 89°30'26" E, a distance of 15.949 meters and is within the Navajo Nation Lands;

**SECTION 22, TOWNSHIP 37 NORTH, RANGE 12 EAST, G&SRM, COCONINO COUNTY,
NAVAJO NATION LANDS;**

THENCE, N 10°44'29" E, continuing with said centerline N6331(1-1)(2), a distance of 37.039 meters to PC station 34+035.389;

THENCE, continuing with said centerline N6331(2) along the arc of a 1°44'47" Curve (3A), having a radius of 1000.000 meters, a central angle of 2°56'15" LEFT, having an arc length of 51.268 meters, a tangent distance of 25.640 meters, a chord distance of 51.263 meters and a chord bearing of N 9°16'22" E, to P.O.C. station 34+086.657m; said point being on the east line of Section 22, Township 37 North, Range 12 East, G&SRM, Coconino County and is on the same line as the west line of Section 23, Township 37 North, Range 12 East, G&SRM, Coconino County, and a section corner tie is made to the south east corner of section 22 (common to sections 23, 27 & 26) Township 37 North, Range 12 East, G&SRM, Coconino County that bears S 00°31'04" E, a distance of 86.849 meters and is within the Navajo Nation Lands;

**SECTION 23, TOWNSHIP 37 NORTH, RANGE 12 EAST, G&SRM, COCONINO COUNTY,
NAVAJO NATION LANDS;**

THENCE, continuing with said centerline N6331(1-1)(2) along the arc of a 1°44'47" Curve (3B), having a radius of 1000.000 meters, a central angle of 6°43'17" LEFT, having an arc length of 117.310 meters, a tangent distance of 58.723 meters, a chord distance of 117.243 meters and a chord bearing of N 4°26'36" E, to P.T. station 34+203.967m;

THENCE, N 1°04'57" E, continuing with said centerline N6331(1-1)(2), a distance of 589.082 meters to PC station 34+793.049m;

THENCE, continuing with said centerline N6331(1-1)(2) along the arc of a 6°59'08" Curve (4), having a radius of 250.000 meters, a central angle of 47°43'35" RIGHT, having an arc length of 208.245 meters, a tangent distance of 110.592 meters, a chord distance of 202.277 meters and a chord bearing of N 24°56'45" E, to PT. station 35+001.294m;

THENCE, N 48°48'32" E, continuing with said centerline N6331(1-1)(2), a distance of 389.914 meters to PC station 35+391.209m;

THENCE, continuing with said centerline N6331(2) along the arc of a $2^{\circ}41'12''$ Curve (5), having a radius of 650.000 meters, a central angle of $30^{\circ}04'38''$ RIGHT, having an arc length of 341.215 meters, a tangent distance of 174.636 meters, a chord distance of 337.310 meters and a chord bearing of N $63^{\circ}50'51''$ E, to P.T. station 35+732.423m; whence the right of way width is 23.000 meters left and right and changes to 15.000 meters left and 23.000 meters right;

THENCE, N $78^{\circ}53'10''$ E, continuing with said centerline N6331(1-1)(2), a distance of 307.268 meters to PC station 36+039.692m;

THENCE, continuing with said centerline N6331(2) along the arc of a $11^{\circ}31'38''$ Curve (6A), having a radius of 151.500 meters, a central angle of $90^{\circ}11'17''$ LEFT, having an arc length of 238.473 meters, a tangent distance of 151.998 meters, a chord distance of 214.605 meters and a chord bearing of N $33^{\circ}18'26''$ W, to P.O.C. station 36+278.165m; said point being on the north line of Section 23, Township 37 North, Range 12 East, G&SRM, Coconino County and is on the same line as the south line of Section 14, Township 37 North Range 12 East, G&SRM, Coconino County and a section corner tie is made to the north east corner of Section 23, (common to sections 14, 13 & 24) Township 37 North Range 12 East, G&SRM, Coconino County that bears N $89^{\circ}29'21''$ E, a distance of 472.930 meters and is within the Navajo Nation Lands;

SECTION 14, TOWNSHIP 37 NORTH, RANGE 12 EAST, G&SRM, COCONINO COUNTY, NAVAJO NATION LANDS;

THENCE, continuing with said centerline N6331(1-1)(2) along the arc of a $11^{\circ}31'38''$ Curve (6B), having a radius of 151.500 meters, a central angle of $12^{\circ}00'38''$ LEFT, having an arc length of 31.758 meters, a tangent distance of 15.938 meters, a chord distance of 31.700 meters and a chord bearing of N $17^{\circ}18'26''$ W, to P.T. station 36+309.923m;

THENCE, N $23^{\circ}18'45''$ W, continuing with said centerline N6331(1-1)(2), a distance of 71.250 meters to PC station 36+381.173m;

THENCE, continuing with said centerline N6331(1-1)(2) along the arc of a $6^{\circ}59'08''$ Curve (7), having a radius of 250.000 meters, a central angle of $19^{\circ}54'06''$ LEFT, having an arc length of 86.837 meters, a tangent distance of 43.860 meters, a chord distance of 86.401 meters and a chord bearing of N $33^{\circ}15'48''$ W, to P.T. station 36+468.010m;

THENCE, N $43^{\circ}12'51''$ W, continuing with said centerline N6331(1-1)(2), a distance of 106.489 meters to PC station 36+574.499m; whence the left right of way is 15.000 meters and the right-right of way is 23.000 meters and changes to 23.000 meters left and right;

THENCE, continuing with said centerline N6331(1-1)(2) along the arc of a $5^{\circ}49'17''$ Curve (8), having a radius of 300.000 meters, a central angle of $10^{\circ}36'47''$ RIGHT, having an arc length of 55.570 meters, a tangent distance of 27.864 meters, a chord distance of 55.490 meters and a chord bearing of N $37^{\circ}54'28''$ W, to P.T. station 36+630.069m;

THENCE, N $32^{\circ}36'04''$ W, continuing with said centerline N6331(1-1)(2), a distance of 197.453 meters to PC station 36+827.521m; whence the left and right-right of way is 23.000 meters and changes to 23.000 meters left and 14.000 meters right;

THENCE, continuing with said centerline N6331(1-1)(2) along the arc of a 3°52'51" Curve (9), having a radius of 450.000 meters, a central angle of 14°18'52" RIGHT, having an arc length of 112.426 meters, a tangent distance of 56.507 meters, a chord distance of 112.133 meters and a chord bearing of N 25°26'38" W, to P.T. station 36+939.947m;

THENCE, N 18°17'12" W, continuing with said centerline N6331(1-1)(2), a distance of 30.028 meters to P.O.T. station 36+969.975m; whence the left right of way is 23.000 and the right-right of way is 14.000 meters and changes to 23.000 meters left and right;

THENCE, N 18°17'12" W, continuing with said centerline N6331(1-1)(2), a distance of 250.954 meters to P.O.T. station 37+220.929m;

THENCE, N 18°17'12" W, continuing with said centerline N6331(1-1)(2), a distance of 147.404 meters to P.C. station 37+368.333m;

THENCE, continuing with said centerline N6331(1-1)(2) along the arc of a 6°59'08" Curve (10), having a radius of 250.000 meters, a central angle of 9°23'33" RIGHT, having an arc length of 40.982 meters, a tangent distance of 20.537 meters, a chord distance of 40.936 meters and a chord bearing of N 13°35'26" W, to P.T. station 37+409.315m;

THENCE, N 8°53'39" W, continuing with said centerline N6331(1-1)(2), a distance of 64.130 meters to PC station 37+473.445m;

THENCE, continuing with said centerline N6331(1-1)(2) along the arc of a 10°06'08" Curve (11), having a radius of 172.870 meters, a central angle of 30°13'01" LEFT, having an arc length of 91.169 meters, a tangent distance of 46.671 meters, a chord distance of 90.116 meters and a chord bearing of N 24°00'10" W, to P.T. station 37+564.614m;

THENCE, N 08°53'39" W, continuing with said centerline N6331(1-1)(2), a distance of 1.343 meters to END OF PROJECT station 37+565.957m; whence said point having North American Datum (NAD) 83 Geodetic Coordinates Values of N 36°36'33.6657" W 111°04'35.8485" and Arizona State Plane Coordinates (Central Zone) Grid Values of N= 622,451.160m, E= 288,507.601m, and Arizona State Plane Modified Ground Values of N= 622,642.424m, E= 288,596.252m, said point being on the south Right of Way line of US98 Highway and having a section corner tie made to the west quarter corner of Section 14, Township 37 North, Range 12 West, G&SRM, Coconino County, Arizona, bears S 59°35'13" W, a distance of 702.201 meters, and whence a BIA Control tie was made to "CP-1", bears S 27°23'06" E, a distance of 532.436 meters, all within Navajo Nation lands;

The Project Right of Way width is modeled at 23.000 meters left and 23.000 meters right along with various widths on each side of said centerline survey BIA Road Project N6331(1-1)(2)2&4 contains a total of 3.645 kilometers (2.26 miles) in length, and contains 16.002 hectares (39.54 acres), more or less.

BIA ROAD PROJECT N6330(1)1,2&4

A strip of land modeled at 23.000 meters left and 23.000m right and with various widths along the following described centerline lying within Section 14, Township 37 North, Range 12 East, Gila and Salt River Meridian, Coconino County and more particularly described as follows:

Beginning at a Point of Intersection station 1+000.000m on BIA Road Project N6330(1) and P.O.T. station 37+220.929m on BIA Road Project N6331(1-1)(2); whence said point having North American Datum (NAD) 83 Geodetic Coordinates Values of N 36°36'23.0485" W 111°04'31.8085" and Arizona State Plane Coordinates (Central Zone) Grid Values of N=622,124.785m, E=288,610.860m and Arizona State Plane Modified Ground Values of N=622,315.949m, E=288,699.543m;

SECTION 14, TOWNSHIP 37 NORTH, RANGE 12 EAST, G&SRM, COCONINO COUNTY, NAVAJO NATION LANDS;

THENCE, N 71°42'48" E, along said centerline BIA Road Project N6330(1), a distance of 23.00 meters to station 1+023.000m, said point is the **POINT OF BEGINNING** of the N6330(1), whence said point having North American Datum (NAD) 83 Geodetic Coordinates Values of N 36°36'23.2763" W 111°04'30.9275" and Arizona State Plane Coordinates (Central Zone) Grid Values of N=622,131.999m, E=288,632.691m and Arizona State Plane Modified Ground Values of N=622,323.165m, E=288,721.381m; said point having a section quarter corner tie to the south quarter corner of Section 14, (common to section 23) Township 37 North, Range 12 West, G&SRM, Coconino County, Arizona, bears S 05°34'09" E, a distance of 837.854 meters, and whence a BIA Control tie was made to "CP-1", bears S 37°57'44" E, a distance of 194.709 meters;

THENCE, N 71°42'48" E, continuing with said centerline N6330(1), a distance of 11.735 meters to PC station 1+034.735m;

THENCE, continuing with said centerline N6330(1) along the arc of a 13°58'16" Curve (1A) Right, having a radius of 125.000 meters, a central angle of 16°09'51", having an arc length of 35.265 meters, a tangent distance of 17.750 meters, a chord distance of 35.148 meters and a chord bearing being N 79°47'43" E, to P.O.C. station 1+070.000m; whence the right-of-way width changes from 23.000 meters left and right to 50.000 meters left and right;

THENCE, continuing with said centerline N6330(1) along the arc of a 13°58'16" Curve (1B) RIGHT, having a radius of 125.000 meters, a central angle of 26°39'55", having an arc length of 67.436 meters, a tangent distance of 29.624 meters, a chord distance of 66.621 meters and a with the chord bearing being S 76°40'03" E, to P.T. station 1+137.436m; whence the right-of-way width changes from 50.000 meters left and right to 23.000 meters left and right;

THENCE, S 61°12'44" E, continuing with said centerline N6330(1), a distance of 237.554 meters to PC station 1+374.989m;

THENCE, continuing with said centerline N6330(1) along the arc of a 6°59'08" Curve (2), having a radius of 250.000 meters, a central angle of 26°58'54" RIGHT, having an arc length of 117.730 meters, a tangent distance of 59.977 meters, a chord distance of 116.645 meters and a chord bearing of S 47°43'17" E, to P.T. station 1+492.719m;

THENCE, S 34°13'50" E, continuing with said centerline BIA Road Project N6330(1), a distance of 138.493 meters to **Point of Ending** (POE) station 1+631.212m; whence said point having North American Datum (NAD) 83 Geodetic Coordinates Values of N 36°36'33.6657" W 111°04'35.8485" and Arizona State Plane Coordinates (Central Zone) Grid Values of N=621,819.270m, E=289,115.506m and Arizona State Plane Modified Ground Values of N=622,010.340m, E=289,204.344m; said point having a section corner tie to the east quarter corner of Section 14, (common to west quarter corner of section 13) Township 37 North, Range 12 West, G&SRM, Coconino County, Arizona, bears N 53°41'14" E, a distance of 490.932 meters, and whence a BIA Control tie was made to "CP-1", bears N 66°18'55" W, a distance of 396.595 meters, all within Navajo Nation lands;

The Project Right of Way width is modeled at 23.000 meters left and 23.000 meters right along with various widths on each side of said centerline survey BIA Road Project N6330(1)1,2 & 4 contains a total of 0.631 kilometers (0.39 miles) in length, and contains 3.162 hectares (7.81 acres), more or less.

RIGHT OF WAY TAKINGS

N6330(1)2&4	PERIMETER	AREA (M²)	HECTARES	ACRES
SECTION 14	1415.947	31623.044	3.162	7.81
Total	1415.947	31623.044	3.162	7.81
N6331(1-1)(2)2&4	PERIMETER	AREA (M²)	HECTARES	ACRES
SECTION 14	2694.448	55734.814	5.574	13.77
SECTION 22	1370.039	7617.470	0.762	1.88
SECTION 23	4622.680	93091.884	9.309	23.00
SECTION 26	83.574	141.046	0.014	0.03
SECTION 27	239.673	3423.956	0.342	0.85
Total	9310.508	160022.739	16.002	39.54
N21(3A)2&4	PERIMETER	AREA (M²)	HECTARES	ACRES
SECTION 22	30.390	42.224	0.004	0.01
SECTION 27	1320.544	24502.923	2.450	6.05
TRACT 37				
SECTION 22	263.145	1707.558	0.171	0.42
TRACT 37				
SECTION 27	362.948	3953.093	0.395	0.98
Total	1977.027	30205.798	3.021	7.46
Overall Totals	12887.961	221847.943	22.185	54.82

RIGHT OF WAY TABLE

N6330(1)2&4

			LENGTH		WIDTH			
STATION	TO	STATION	METERS	FEET	LEFT	RIGHT	Hectares	ACRES
1+023.000	TO	1+070.000	47.000	154.20	23.000m (75.46ft)	23.000m (75.46ft)	0.216	0.53
1+070.000	TO	1+137.436	67.436	221.25	50.000m (164.04ft)	50.000m (164.04ft)	0.674	1.76
1+137.436	TO	1+631.212	493.776	1620.00	23.000m (75.46ft)	23.000m (75.46ft)	2.271	5.61
TOTAL			608.212 (0.608km)	1995.45 (0.38miles)			3.162	7.81

N6331(2)2&4

			LENGTH		WIDTH			
STATION	TO	STATION	METERS	FEET	LEFT	RIGHT	Hectares	ACRES
33+920.845	TO	35+732.423	1811.578	5943.50	23.000m (75.46ft)	23.000m (75.46ft)	8.333	20.59
35+732.423	TO	36+574.499	842.076	2762.72	15.000m (49.21ft)	23.000m (75.46ft)	3.232	7.99
36+574.499	TO	36+827.521	253.022	830.13	23.000m (75.46ft)	23.000m (75.46ft)	1.164	2.88
36+827.521	TO	36+969.975	142.454	467.368	23.000m (75.46ft)	14.000m (45.93ft)	0.531	1.31
36+969.975	TO	37+565.957	595.982	1955.322	23.000m (75.46ft)	23.000m (75.46ft)	2.742	6.77
TOTAL			3645.112 (3.645km)	11959.04 (2.26miles)			16.002	39.54

N21(3A)2&4

			LENGTH		WIDTH			
STATION	TO	STATION	METERS	FEET	LEFT	RIGHT	Hectares	ACRES
0+030.847	TO	0+783.323	752.476	2468.75	20.000m (65.62ft)	20.000m (65.62ft)	3.021	7.46
TOTAL			752.476 (0.752km)	2468.75 (0.47miles)			3.021	7.46

OVERALL TOTALS			8654.557 (8.654km)	16423.24 (3.11miles)			22.185	54.82
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RIGHT-OF-WAY LEGAL DESCRIPTION
KAIBITO ROAD PROJECT No.'s N6330(1)/N6331(1-1)(2)/N21(3A)1,2&4
NAVAJO NATION, COCONINO COUNTY, ARIZONA
GILA AND SALT RIVER MERIDIAN

BIA ROAD PROJECT N21(3A)2,4

A strip of land modeled at 20.000 meters left and 20.000m right wide along the following described centerline lying within Section 22 and 27, Township 37 North, Range 12 East, Gila and Salt River Meridian, Coconino County and more particularly described as follows:

Beginning at a Point of Intersection station 0+000.000m on BIA Road Project N21(3A) which is equal to P.O.T. station 33+909.296m on BIA Road Project N21(3); whence said point having North American Datum (NAD) 83 Geodetic Coordinates Values of N 36°35'01.1847" W 111°05'01.6364" and Arizona State Plane Coordinates (Central Zone) Grid Values of N=619,595.048, E=287,891.485m and Arizona State Plane Modified Ground Values of N=619,785.434m, E=287,979.947m;

SECTION 27, TOWNSHIP 37 NORTH, RANGE 12 EAST, G&SRM, COCONINO COUNTY, NAVAJO NATION LANDS;

THENCE, N 88°06'31" E, along said centerline BIA Road Project N21(3A), a distance of 30.847 meters to station 0+030.847m, said point is the **POINT OF BEGINNING** and a point on the west Right of Way line of N21(3), whence said point having North American Datum (NAD) 83 Geodetic Coordinates Values of N 36°35'01.2263" W 111°05'02.8759" and Arizona State Plane Coordinates (Central Zone) Grid Values of N=619,596.065m, E=287,860.665m and Arizona State Plane Modified Ground Values of N=619,786.452m, E=287,949.117m; said point having a section quarter corner tie to the northeast quarter corner of Section 27, (common to sections 22, 23 & 26) Township 37 North, Range 12 West, G&SRM, Coconino County, Arizona, bears N 36°11'37" E, a distance of 107.324 meters, and whence a BIA Control tie was made to "CP-1", bears N 35°29'08" E, a distance of 2817.859 meters;

THENCE, N 88°06'31" W, continuing with said centerline N21(3A), a distance of 379.036 meters to PC station 0+409.883m;

THENCE, continuing with said centerline N21(3A) along the arc of 2°54'38" Curve 21(3A)-A, having a radius of 599.989 meters, a central angle of 11°53'01" RIGHT, having an arc length of 124.443 meters, a tangent distance of 62.445 meters, a chord distance of 124.220 meters and a chord bearing of N 82°10'00" W, to P.T. station 0+534.326m;

THENCE, N 76°13'30" W, continuing with said centerline N21(3A), a distance of 109.094 meters to P.O.T. station 0+643.420m; whence said centerline is the end of Navajo Nation lands and enters TRACT 37 of the Bureau of Indian Affairs Kaibito School Tract;

**SECTION 27, TOWNSHIP 37 NORTH, RANGE 12 EAST, G&SRM, COCONINO COUNTY,
TRACT 37, BUREAU OF INDIAN AFFAIRS KAIBITO SCHOOL TRACT;**

THENCE, N 76°13'30" E, continuing with said centerline N21(3A), a distance of 103.262 meters to P.O.T. station 0+746.682m; whence said point being on the north line of Section 27, Township 37 North, Range 12 East, G&SRM, Coconino County and is on the same line as the south line of Section 22, Township 37 North, Range 12 East, G&SRM, Coconino County, and a section corner tie is made to the north east corner of section 27 (common to sections 22, 23 & 26) that bears N 89°30'33" E, a distance of 771.543 meters all within TRACT 37, Bureau of Indian Affairs Kaibito School Tract of this said section;

**SECTION 22, TOWNSHIP 37 NORTH, RANGE 12 EAST, G&SRM, COCONINO COUNTY,
TRACT 37 BUREAU OF INDIAN AFFAIRS KAIBITO SCHOOL TRACT;**

THENCE, N 76°13'30" E, continuing with said centerline N21(3A), a distance of 36.641 meters to Point of Ending (POE) station 0+783.323m; whence the said point is being on the left right of way line of Project N22(6)2&4, station 41+07.28IFT (Right of Way Granted on September 27, 1966 by R.E. Kilgore, Assistant Bureau of Indian Affairs Area Director); whence said point having North American Datum (NAD) 83 Geodetic Coordinates Values of N 36°35'04.3117" W 111°05'32.7530" and Arizona State Plane Coordinates (Central Zone) Grid Values of N=619,684.764m, E=287,117.167m and Arizona State Plane Modified Ground Values of N=619,885.181m, E=287,205.391m, and said point having a section corner tie to the east quarter corner of Section 27, (common to the west quarter corner section 26) Township 37 North, Range 12 West, G&SRM, Coconino County, Arizona, bears S 45°16'12" E, a distance of 1146.330 meters, and whence a BIA Control tie was made to "CP-1", bears N 35°29'08" E, a distance of 2817.859 meters all within Tract 37, Bureau of Indian Affairs Kaibito School Tract of this said section;

The Project Right of Way width is modeled at 20.000 meters left and 20.000 meters right on each side of said centerline survey BIA Road Project N21(3A)2&4 contains a total of 0.752 kilometers (0.47 miles) in length, and contains 3.021 hectares (7.46 acres), more or less.

BIA ROAD PROJECT N6331(1-1)(2)2&4

A strip of land modeled at 23.000 meters left and 23.000m right and with various widths along the following described centerline and lying within Sections 14, 22, 23, 26 & 27, Township 37 North, Range 12 East, Gila and Salt River Meridian, Coconino County and more particularly described as follows:

Beginning at Engineer's surveyed centerline, **POINT OF BEGINNING (POB)** Station 33+920.845 meters, on BIA Road Project N6331(1-1)(2)2&4, whence said point having North American Datum (NAD) 83 Geodetic Coordinates Values of N 36°35'01.5521" W 111°05'54.5459"; Arizona State Plane Coordinates (Central Zone) Grid Values of N= 619,606.391m, E= 287,893.637m, and Arizona State Plane Modified Ground Values of N= 619,796.781m, E= 287,982.100m, said point having a section corner tie to the northeast corner of section 27, (common to sections 22, 23 & 26) Township 37 North, Range 12 West, G&SRM, Coconino County, Arizona, bears N 21°43'25" E, a distance of 82.116 meters, and whence a BIA Control tie was made to "CP-1", bears N 19°54'07" E, a distance of 2,523.589 meters;

**SECTION 27, TOWNSHIP 37 NORTH, RANGE 12 EAST, G&SRM, COCONINO COUNTY,
NAVAJO NATION LANDS;**

THENCE, N 10°44'29" E, continuing with said centerline N6331(1-1)(2), a distance of 77.505 meters to P.O.T. station 33+998.350; whence said point being on the north line of Section 27, Township 37 North, Range 12 East, G&SRM, Coconino County; is on the same line as the south line of Section 22, Township 37 North, Range 12 East, G&SRM, Coconino County and a section corner tie is made to the northeast corner of section 27, (common to sections 22, 23 & 26) Township 37 North, Range 12 East, G&SRM, Coconino County that bears N 89°30'26" E, a distance of 15.949 meters and is within the Navajo Nation Lands;

**SECTION 22, TOWNSHIP 37 NORTH, RANGE 12 EAST, G&SRM, COCONINO COUNTY,
NAVAJO NATION LANDS;**

THENCE, N 10°44'29" E, continuing with said centerline N6331(1-1)(2), a distance of 37.039 meters to PC station 34+035.389;

THENCE, continuing with said centerline N6331(2) along the arc of a 1°44'47" Curve (3A), having a radius of 1000.000 meters, a central angle of 2°56'15" LEFT, having an arc length of 51.268 meters, a tangent distance of 25.640 meters, a chord distance of 51.263 meters and a chord bearing of N 9°16'22" E, to P.O.C. station 34+086.657m; said point being on the east line of Section 22, Township 37 North, Range 12 East, G&SRM, Coconino County and is on the same line as the west line of Section 23, Township 37 North, Range 12 East, G&SRM, Coconino County, and a section corner tie is made to the south east corner of section 22 (common to sections 23, 27 & 26) Township 37 North, Range 12 East, G&SRM, Coconino County that bears S 00°31'04" E, a distance of 86.849 meters and is within the Navajo Nation Lands;

**SECTION 23, TOWNSHIP 37 NORTH, RANGE 12 EAST, G&SRM, COCONINO COUNTY,
NAVAJO NATION LANDS;**

THENCE, continuing with said centerline N6331(1-1)(2) along the arc of a 1°44'47" Curve (3B), having a radius of 1000.000 meters, a central angle of 6°43'17" LEFT, having an arc length of 117.310 meters, a tangent distance of 58.723 meters, a chord distance of 117.243 meters and a chord bearing of N 4°26'36" E, to P.T. station 34+203.967m;

THENCE, N 1°04'57" E, continuing with said centerline N6331(1-1)(2), a distance of 589.082 meters to PC station 34+793.049m;

THENCE, continuing with said centerline N6331(1-1)(2) along the arc of a 6°59'08" Curve (4), having a radius of 250.000 meters, a central angle of 47°43'35" RIGHT, having an arc length of 208.245 meters, a tangent distance of 110.592 meters, a chord distance of 202.277 meters and a chord bearing of N 24°56'45" E, to PT. station 35+001.294m;

THENCE, N 48°48'32" E, continuing with said centerline N6331(1-1)(2), a distance of 389.914 meters to PC station 35+391.209m;

THENCE, continuing with said centerline N6331(2) along the arc of a 2°41'12" Curve (5), having a radius of 650.000 meters, a central angle of 30°04'38" RIGHT, having an arc length of 341.215 meters, a tangent distance of 174.636 meters, a chord distance of 337.310 meters and a chord bearing of N 63°50'51" E, to P.T. station 35+732.423m; whence the right of way width is 23.000 meters left and right and changes to 15.000 meters left and 23.000 meters right;

THENCE, N 78°53'10" E, continuing with said centerline N6331(1-1)(2), a distance of 307.268 meters to PC station 36+039.692m;

THENCE, continuing with said centerline N6331(2) along the arc of a 11°31'38" Curve (6A), having a radius of 151.500 meters, a central angle of 90°11'17" LEFT, having an arc length of 238.473 meters, a tangent distance of 151.998 meters, a chord distance of 214.605 meters and a chord bearing of N 33°18'26" W, to P.O.C. station 36+278.165m; said point being on the north line of Section 23, Township 37 North, Range 12 East, G&SRM, Coconino County and is on the same line as the south line of Section 14, Township 37 North Range 12 East, G&SRM, Coconino County and a section corner tie is made to the north east corner of Section 23, (common to sections 14, 13 & 24) Township 37 North Range 12 East, G&SRM, Coconino County that bears N 89°29'21" E, a distance of 472.930 meters and is within the Navajo Nation Lands;

SECTION 14, TOWNSHIP 37 NORTH, RANGE 12 EAST, G&SRM, COCONINO COUNTY, NAVAJO NATION LANDS;

THENCE, continuing with said centerline N6331(1-1)(2) along the arc of a 11°31'38" Curve (6B), having a radius of 151.500 meters, a central angle of 12°00'38" LEFT, having an arc length of 31.758 meters, a tangent distance of 15.938 meters, a chord distance of 31.700 meters and a chord bearing of N 17°18'26" W, to P.T. station 36+309.923m;

THENCE, N 23°18'45" W, continuing with said centerline N6331(1-1)(2), a distance of 71.250 meters to PC station 36+381.173m;

THENCE, continuing with said centerline N6331(1-1)(2) along the arc of a 6°59'08" Curve (7), having a radius of 250.000 meters, a central angle of 19°54'06" LEFT, having an arc length of 86.837 meters, a tangent distance of 43.860 meters, a chord distance of 86.401 meters and a chord bearing of N 33°15'48" W, to P.T. station 36+468.010m;

THENCE, N 43°12'51" W, continuing with said centerline N6331(1-1)(2), a distance of 106.489 meters to PC station 36+574.499m; whence the left right of way is 15.000 meters and the right-right of way is 23.000 meters and changes to 23.000 meters left and right;

THENCE, continuing with said centerline N6331(1-1)(2) along the arc of a 5°49'17" Curve (8), having a radius of 300.000 meters, a central angle of 10°36'47" RIGHT, having an arc length of 55.570 meters, a tangent distance of 27.864 meters, a chord distance of 55.490 meters and a chord bearing of N 37°54'28" W, to P.T. station 36+630.069m;

THENCE, N 32°36'04" W, continuing with said centerline N6331(1-1)(2), a distance of 197.453 meters to PC station 36+827.521m; whence the left and right-right of way is 23.000 meters and changes to 23.000 meters left and 14.000 meters right;

THENCE, continuing with said centerline N6331(1-1)(2) along the arc of a 3°52'51" Curve (9), having a radius of 450.000 meters, a central angle of 14°18'52" RIGHT, having an arc length of 112.426 meters, a tangent distance of 56.507 meters, a chord distance of 112.133 meters and a chord bearing of N 25°26'38" W, to P.T. station 36+939.947m;

THENCE, N 18°17'12" W, continuing with said centerline N6331(1-1)(2), a distance of 30.028 meters to P.O.T. station 36+969.975m; whence the left right of way is 23.000 and the right-right of way is 14.000 meters and changes to 23.000 meters left and right;

THENCE, N 18°17'12" W, continuing with said centerline N6331(1-1)(2), a distance of 250.954 meters to P.O.T. station 37+220.929m;

THENCE, N 18°17'12" W, continuing with said centerline N6331(1-1)(2), a distance of 147.404 meters to P.C. station 37+368.333m;

THENCE, continuing with said centerline N6331(1-1)(2) along the arc of a 6°59'08" Curve (10), having a radius of 250.000 meters, a central angle of 9°23'33" RIGHT, having an arc length of 40.982 meters, a tangent distance of 20.537 meters, a chord distance of 40.936 meters and a chord bearing of N 13°35'26" W, to P.T. station 37+409.315m;

THENCE, N 8°53'39" W, continuing with said centerline N6331(1-1)(2), a distance of 64.130 meters to PC station 37+473.445m;

THENCE, continuing with said centerline N6331(1-1)(2) along the arc of a 10°06'08" Curve (11), having a radius of 172.870 meters, a central angle of 30°13'01" LEFT, having an arc length of 91.169 meters, a tangent distance of 46.671 meters, a chord distance of 90.116 meters and a chord bearing of N 24°00'10" W, to P.T. station 37+564.614m;

THENCE, N 08°53'39" W, continuing with said centerline N6331(1-1)(2), a distance of 1.343 meters to END OF PROJECT station 37+565.957m; whence said point having North American Datum (NAD) 83 Geodetic Coordinates Values of N 36°36'33.6657" W 111°04'35.8485" and Arizona State Plane Coordinates (Central Zone) Grid Values of N= 622,451.160m, E= 288,507.601m, and Arizona State Plane Modified Ground Values of N= 622,642.424m, E= 288,596.252m, said point being on the south Right of Way line of US98 Highway and having a section corner tie made to the west quarter corner of Section 14, Township 37 North, Range 12 West, G&SRM, Coconino County, Arizona, bears S 59°35'13" W, a distance of 702.201 meters, and whence a BIA Control tie was made to "CP-1", bears S 27°23'06" E, a distance of 532.436 meters, all within Navajo Nation lands;

The Project Right of Way width is modeled at 23.000 meters left and 23.000 meters right along with various widths on each side of said centerline survey BIA Road Project N6331(1-1)(2)2&4 contains a total of 3.645 kilometers (2.26 miles) in length, and contains 16.002 hectares (39.54 acres); more or less.

BIA ROAD PROJECT N6330(1)1,2&4

A strip of land modeled at 23.000 meters left and 23.000m right and with various widths along the following described centerline lying within Section 14, Township 37 North, Range 12 East, Gila and Salt River Meridian, Coconino County and more particularly described as follows:

Beginning at a Point of Intersection station 1+000.000m on BIA Road Project N6330(1) and P.O.T. station 37+220.929m on BIA Road Project N6331(1-1)(2); whence said point having North American Datum (NAD) 83 Geodetic Coordinates Values of N 36°36'23.0485" W 111°04'31.8085" and Arizona State Plane Coordinates (Central Zone) Grid Values of N=622,124.785m, E=288,610.860m and Arizona State Plane Modified Ground Values of N=622,315.949m, E=288,699.543m;

SECTION 14, TOWNSHIP 37 NORTH, RANGE 12 EAST, G&SRM, COCONINO COUNTY, NAVAJO NATION LANDS;

THENCE, N 71°42'48" E, along said centerline BIA Road Project N6330(1), a distance of 23.00 meters to station 1+023.000m, said point is the **POINT OF BEGINNING** of the N6330(1), whence said point having North American Datum (NAD) 83 Geodetic Coordinates Values of N 36°36'23.2763" W 111°04'30.9275" and Arizona State Plane Coordinates (Central Zone) Grid Values of N=622,131.999m, E=288,632.691m and Arizona State Plane Modified Ground Values of N=622,323.165m, E=288,721.381m; said point having a section quarter corner tie to the south quarter corner of Section 14, (common to section 23) Township 37 North, Range 12 West, G&SRM, Coconino County, Arizona, bears S 05°34'09" E, a distance of 837.854 meters, and whence a BIA Control tie was made to "CP-1", bears S 37°57'44" E, a distance of 194.709 meters;

THENCE, N 71°42'48" E, continuing with said centerline N6330(1), a distance of 11.735 meters to PC station 1+034.735m;

THENCE, continuing with said centerline N6330(1) along the arc of a 13°58'16" Curve (1A) Right, having a radius of 125.000 meters, a central angle of 16°09'51", having an arc length of 35.265 meters, a tangent distance of 17.750 meters, a chord distance of 35.148 meters and a chord bearing being N 79°47'43" E, to P.O.C. station 1+070.000m; whence the right-of-way width changes from 23.000 meters left and right to 50.000 meters left and right;

THENCE, continuing with said centerline N6330(1) along the arc of a 13°58'16" Curve (1B) RIGHT, having a radius of 125.000 meters, a central angle of 26°39'55", having an arc length of 67.436 meters, a tangent distance of 29.624 meters, a chord distance of 66.621 meters and a with the chord bearing being S 76°40'03" E, to P.T. station 1+137.436m; whence the right-of-way width changes from 50.000 meters left and right to 23.000 meters left and right;

THENCE, S 61°12'44" E, continuing with said centerline N6330(1), a distance of 237.554 meters to PC station 1+374.989m;

THENCE, continuing with said centerline N6330(1) along the arc of a 6°59'08" Curve (2), having a radius of 250.000 meters, a central angle of 26°58'54" RIGHT, having an arc length of 117.730 meters, a tangent distance of 59.977 meters, a chord distance of 116.645 meters and a chord bearing of S 47°43'17" E, to P.T. station 1+492.719m;

THENCE, S 34°13'50" E, continuing with said centerline BIA Road Project N6330(1), a distance of 138.493 meters to **Point of Ending (POE)** station 1+631.212m; whence said point having North American Datum (NAD) 83 Geodetic Coordinates Values of N 36°36'33.6657" W 111°04'35.8485" and Arizona State Plane Coordinates (Central Zone) Grid Values of N=621,819.270m, E=289,115.506m and Arizona State Plane Modified Ground Values of N=622,010.340m, E=289,204.344m; said point having a section corner tie to the east quarter corner of Section 14, (common to west quarter corner of section 13) Township 37 North, Range 12 West, G&SRM, Coconino County, Arizona, bears N 53°41'14" E, a distance of 490.932 meters, and whence a BIA Control tie was made to "CP-1", bears N 66°18'55" W, a distance of 396.595 meters, all within Navajo Nation lands;

The Project Right of Way width is modeled at 23.000 meters left and 23.000 meters right along with various widths on each side of said centerline survey BIA Road Project N6330(1)1,2 & 4 contains a total of 0.631 kilometers (0.39 miles) in length, and contains 3.162 hectares (7.81 acres), more or less.

RIGHT OF WAY TAKINGS

N6330(1)2&4	PERIMETER	AREA (M²)	HECTARES	ACRES
SECTION 14	1415.947	31623.044	3.162	7.81
Total	1415.947	31623.044	3.162	7.81
N6331(1-1)(2)2&4	PERIMETER	AREA (M²)	HECTARES	ACRES
SECTION 14	2694.448	55734.814	5.574	13.77
SECTION 22	1370.039	7617.470	0.762	1.88
SECTION 23	4622.680	93091.884	9.309	23.00
SECTION 26	83.574	141.046	0.014	0.03
SECTION 27	239.673	3423.956	0.342	0.85
Total	9310.508	160022.739	16.002	39.54
N21(3A)2&4	PERIMETER	AREA (M²)	HECTARES	ACRES
SECTION 22	30.390	42.224	0.004	0.01
SECTION 27	1320.544	24502.923	2.450	6.05
TRACT 37				
SECTION 22	263.145	1707.558	0.171	0.42
TRACT 37				
SECTION 27	362.948	3953.093	0.395	0.98
Total	1977.027	30205.798	3.021	7.46
Overall Totals	12887.961	221847.943	22.185	54.82

RIGHT OF WAY TABLE

N6330(1)2&4

			LENGTH		WIDTH			
STATION	TO	STATION	METERS	FEET	LEFT	RIGHT	Hectares	ACRES
1+023.000	TO	1+070.000	47.000	154.20	23.000m (75.46ft)	23.000m (75.46ft)	0.216	0.53
1+070.000	TO	1+137.436	67.436	221.25	50.000m (164.04ft)	50.000m (164.04ft)	0.674	1.76
1+137.436	TO	1+631.212	493.776	1620.00	23.000m (75.46ft)	23.000m (75.46ft)	2.271	5.61
TOTAL			608.212 (0.608km)	1995.45 (0.38miles)			3.162	7.81

N6331(2)2&4

			LENGTH		WIDTH			
STATION	TO	STATION	METERS	FEET	LEFT	RIGHT	Hectares	ACRES
33+920.845	TO	35+732.423	1811.578	5943.50	23.000m (75.46ft)	23.000m (75.46ft)	8.333	20.59
35+732.423	TO	36+574.499	842.076	2762.72	15.000m (49.21ft)	23.000m (75.46ft)	3.232	7.99
36+574.499	TO	36+827.521	253.022	830.13	23.000m (75.46ft)	23.000m (75.46ft)	1.164	2.88
36+827.521	TO	36+969.975	142.454	467.368	23.000m (75.46ft)	14.000m (45.93ft)	0.531	1.31
36+969.975	TO	37+565.957	595.982	1955.322	23.000m (75.46ft)	23.000m (75.46ft)	2.742	6.77
TOTAL			3645.112 (3.645km)	11959.04 (2.26miles)			16.002	39.54

N21(3A)2&4

			LENGTH		WIDTH			
STATION	TO	STATION	METERS	FEET	LEFT	RIGHT	Hectares	ACRES
0+030.847	TO	0+783.323	752.476	2468.75	20.000m (65.62ft)	20.000m (65.62ft)	3.021	7.46
TOTAL			752.476 (0.752km)	2468.75 (0.47miles)			3.021	7.46

OVERALL TOTALS			8654.557 (8.654km)	16423.24 (3.11miles)			22.185	54.82
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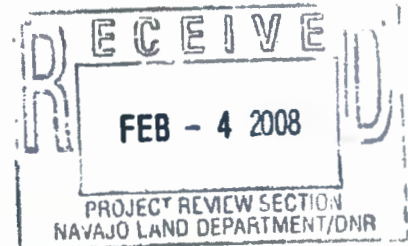


DR. JOE SHIRLEY, JR.
President

BEN SHELLY
Vice President

January 24, 2008

Ms. Yolanda Coriz-Yazzie, Awarding Official
BIA - Navajo Regional Office
Regional Branch of Self Determination (0340)
Post Office Box 1060
Gallup, New Mexico 87305-1060



RE: *Field Clearance Report for BIA Road and Bridge Projects:*
Coalmine Wash Bridge, NM N541(1), N619 and Kaibeto, AZ
N6331(1)/N6330(1)

Dear Ms. Coriz-Yazzie:

Per your request, attached are the above mention reports on which projects are completed and being submitted for the Navajo Nation Right-of-Way Clearance Program, Navajo Land Department - DNR.

Should you have questions or need additional information, contact the Right-of-Way Program, at (928) 871-6447/7051.

Sincerely,

THE NAVAJO NATION


Cordell Shortey
Contracting Officer
Contracts & Grants Section - OMB

CS/rc:
Encl.: BIA Roads/Bridge Report

XC: Art C. Slim, R.O.W., DNR ✓
File/Chrono



The Navajo Nation

DR. JOE SHIRLEY, JR.
President

BEN SHELLEY
Vice President

January 14, 2008

MEMORANDUM

TO Cordell Shorty, Contracting Officer
Contracts and Grants Section – OMB

FROM


for Art C. Slim, Senior Right-of-Way Agent
Right-of-Way Clearance Program
Navajo Land Department

SUBJECT: Field Clearance Reports for BIA Road Projects: N541(1), Coalmine Wash
Bridge, New Mexico and N6331(1)/N6330(1), Kaibeto, Arizona

Transmittal herewith is copies of Field Clearance Reports for the above BIA Road Projects. Per letter dated September 17, 2007 from Yolanda Crizyazzie requested our office to obtain consent from the affected land users (grazing permittees) for the above projects. Please forward the reports to the Bureau of Indian Affairs (BIA), Division of Transportation and Office of Indian Self Determination for their information and use.

Please call our office at (928) 871-6447 or 7051, if you should have any questions. Thank you.

ST/as

ATTACHMENTS

xc: Chrono File
W. Mike Halona, Department Manager III



DR. JOE SHIRLEY, JR.
President

BEN SHELLY
Vice President

December 03, 2007

MEMORANDUM:

TO : W. Mike Halona, Department Manager III
Navajo Land Department

FROM : Art C. Slim
Art C. Slim, Senior Right-of-Way Agent II
BIA Roads Section, Navajo Land Department

SUBJECT: Field Clearance on BIA Road Projects N6331(1) and N6330(1), Kaibeto, Arizona

The Bureau of Indian Affairs, Division of Transportation, Navajo Region of P.O. Box 1060, Gallup, New Mexico 87305 has requested for field clearance on the propose right-of-way for the BIA Road Project N6331(1) and N6330(1), Kaibeto, Arizona. The field clearance was conducted on the right-of-ways and is completed.

The right-of-way is for road construction and its operation and maintenance. The propose right-of-way for BIA Road Project N6331(1) is on Navajo Nation trust lands for a total of 5.91 miles in length (9,326.371 feet in length), a width of 150 feet wide, and consist of 41.61 acres and 6330(1), more or less, situated in Section 5 and 7, Township 4 North, Range 5 West, NMPM, Cibola County, New Mexico.

The field clearance was conducted by contacting Mr. Elroy Martin, Grazing Committee Member of the Kaibeto Chapter for land status and land users. Mr. Martin has that the lands that's affected is Navajo Nation trust lands and that there is one land user being affected, which is John Joe C#048472. Mr. Martin and I contacted Mr. Joe and explained the purpose of the road project and we ask Mr. Joe. If he had any questions or comments about the propose projects and he said no. I then obtained his consent without any objections and the executed consent was acknowledged and verified by Mr. Martin

The field clearance is completed on the proposed right-of-ways. This office will process the application documents through the 164 SAS review process for approval from the Navajo Nation, when the complete application documents is received from the BIA, Division of Transportation, Navajo Region.

CONSENT FORM - 3

(Waiver of compensation for damages)

CONSENT TO USE
NAVAJO TRIBAL LANDS

TO WHOM IT MAY CONCERN:

I, JOHN JOE, hereby grant consent to the
Navajo Tribe and the Bureau of Indian Affairs to permit Bureau of Indian Affairs
of P.O. Box 1060 Gallup, New Mexico 87305 Division of Transportation
to use a portion of my land use area for the
following purpose (s): For a right-of-way for BIA Road Project ~~RM~~ N6331(1) and N6330 (1), Kaibeto
Arizona

as shown on the map showing the location of the proposed project on the back of
this consent form.

I hereby waive any rights I may have to compensation for the diminish-
ment in value of my land use rights as a result of the above-referenced project
as proposed.

REMARKS: _____

4-28-87 John B. Joe 048472 1-1119
Date Land User Signature (or thumbprint) Census No. Permit No.

WITNESS:

Art C. Sli
4-28-87 Shroy Math 1-2
Date Grazing Committee or Land Board Member District No.

Acknowledgement of Field Agent

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

Art C. Sli
Field Agent Signature



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



IN REPLY REFER TO:
Indian Self-Determination Office — N303

SEP 17 2007

Honorable Joe Shirley, Jr.
President, The Navajo Nation
P.O. Box 9000
Window Rock, Arizona 86515
Attention: Cordell Shortey, Contracting Officer



Dear President Shirley:

This is in reference to the Public Law 93-638 Contract No. CTN00T78094, Right-of-Way Clearance Program, Projects N6331(1) and N6330(1).

The Navajo Regional Department of Transportation plans to pave and improve the existing dirt road by providing adequate drainage and realigning part of the road for better site distances. Therefore, we are requesting the Navajo Nation's Right-of-Way Clearance Program to garner consents for two (2) listed projects in Kiabeto, Arizona. A copy of a map is enclosed for your review and utilization.

The project scope also involves improving an access over Kiabeto Wash onto the east hills. Pavement markings, traffic signs, right-of-way fencing and guardrail where warranted will also be within the scope of work for both projects.

Project No. N6331(1) is approximately 5.91 miles in length and is 150 feet wide for a total of 41.61 acres. Project N6330(1) is approximately 1.08 miles in length and varies in width due to the topographic conditions and to accommodate a new drainage structure that is being proposed to be placed to have traffic cross over the wash. The N6330(1) project will encompass a total of 8.80 acres.

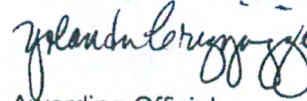
The beginning of project starts at the intersection on the south end with Navajo Route 21(3), and traverses north approximately 5.90 miles and intersects into US 89 at its terminus. It can be located on the Kaibeto, Arizona, USGS 7.5' Quadrangle (see enclosed map).

The projects are listed in priority listing under the Public Law 93-638 contract for the Right-of-Way Clearance Program.

Please provide our office with the necessary consent **no later than December 17, 2007**.

Should you have any questions or concerns, please call Mr. Harold Riley, AOTR, at (505) 863-8284 or Mr. Raymond Lucero, SAOTR, at (505) 863-8305.

Sincerely,

A handwritten signature in black ink, appearing to read "Raymond Lucero", written over the printed name.

Awarding Official

Enclosure

cc: N370 Division of Transportation, Attn: Harold Riley, AOTR
N370 Division of Transportation, Attn: Raymond Lucero, SAOTR



RESOLUTION OF THE K'ai'Bii'Tó CHAPTER

P.O. Box 1761 * K'ai'Bii'Tó, AZ * 86053 Ph#: (928) 673-5850/5851 Fax#: (928) 673-5853

APPROVING AND SUPPORTING THE K'ai'Bii'Tó CHAPTER'S REQUEST TO AMEND AND RELINQUISH CHAPTER TRACT PORTION THAT IS OVERLAPPING THE BIA N-6331 ROAD WAY PAVING CONSTRUCTION AND GRANTS RIGHT OF WAY PRIVILEGES TO BIA FOR SAID ROAD CONSTRUCTION, CHAPTER WILL AMEND K'ai'Bii'Tó CHAPTER'S RESOLUTION ACIL-108-59 WHEN UPDATED SURVEY HAS BEEN COMPLETED, THESE ACTIONS WILL BE IMPLEMENTED SO BIA N-6331 ROAD WAY CONSTRUCTION IS NOT DELAYED.

WHEREAS:

1. The K'ai'bii'tó Chapter is certified Chapter of the Navajo Nation and is delegated the authority and responsibility to promote projects which benefits the local community; and
2. Pursuant to 2 N.N.C., Section 4028 (a), the K'ai'bii'tó Chapter is vested with the authority to review all matters affecting the community and make appropriate recommendations to the Navajo Nation, Federal, State, and local agencies for appropriate actions; and
3. The K'ai'bii'tó Chapter strives for the betterment of its people by providing and assisting them with opportunity for improvement in the area of livelihood, health, and education; and
4. The K'ai'bii'tó Chapter approves, supports and allows the BIA paving and construction N-6331 road to continue and will amend chapter land tract for continued construction activities; and

NOW, THEREFORE BE IT RESOLVED THAT:

1. The K'ai'bii'tó Chapter hereby request to amend and relinquish Chapter Tract portion that is overlapping the BIA N6331 road way paving construction and grants right of way privileges to BIA for said road construction, Chapter will amend K'ai'Bii'Tó Chapter's resolution ACIL-108-59 when updated survey has been completed, these actions will be implemented so BIA N6331 road way construction is not delayed.

CERTIFICATION

We, hereby, certify that the foregoing resolution was duly considered by K'ai'bii'tó Chapter at a duly called meeting held at K'ai'bii'tó, (Navajo Nation) Arizona, at which a quorum was present and that the same was passed by a vote of 55 in favor, 0 opposed, 0 abstaining, with motion by Elouise June and second by Harry Coleman, this 8th, day of March, 2009.

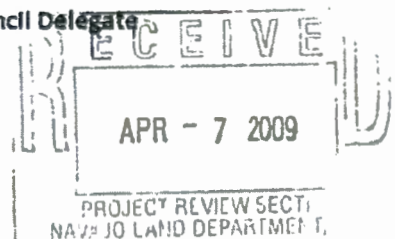

Kelsey A. Begaye, President


Ernest Goatson, Vice-President


Linda Israel, Secretary/Treasurer

Kee Y. Mann, Council Delegate


Elroy Martin, District Grazing Committee Member





RESOLUTION OF THE K'ai'Bii'Tó CHAPTER

KB2QTR-70-02/09

P.O. Box 1761; K'ai'Bii'Tó, AZ 86053

Ph#: (928) 673-5850/5851

Fax#: (928) 673-5853

APPROVING AND SUPPORTING THE K'ai'Bii'Tó CHAPTER'S REQUEST TO MODIFY K'ai'Bii'Tó CHAPTER LAND TRACT BOUNDARY AND USE N6331 RIGHT-OF-WAY LIMIT AS THE SOUTH/SOUTHEAST BOUNDARY, ALSO TO COMPLETE THE ASSOCIATED ENVIRONMENTAL ASSESSMENTS.

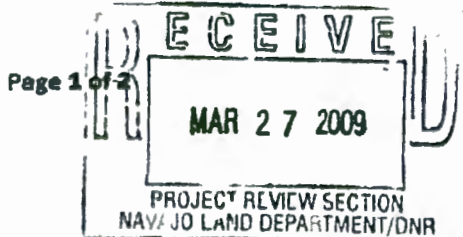
WHEREAS:

1. The K'ai'bii'tó Chapter is certified Chapter of the Navajo Nation and is delegated the authority and responsibility to promote projects which benefits the local community; and
2. Pursuant to 2 N.N.C., Section 4028 (a), the K'ai'bii'tó Chapter is vested with the authority to review all matters affecting the community and make appropriate recommendations to the Navajo Nation, Federal, State, and local agencies for appropriate actions; and
3. The K'ai'bii'tó Chapter strives for the betterment of its people by providing and assisting them with opportunity for improvement in the area of livelihood, health, and education; and
4. In 1960, the K'ai'bii'tó Chapter approved Resolution ACJL-108-59 to establish the chapter land tract; to date no corner markers (re-bars) are to be located; and
5. The K'ai'bii'tó Chapter finds it imperative to reestablish boundary markers, to define the boundaries use N6331 right-of-way as the south/southeast boundary ; and
6. The K'ai'bii'tó Chapter will contract survey work to a certified/licensed surveyor to complete land tract, Chapter Officials will determine after obtaining three quotes which surveyor to hire for the job; and
7. The K'ai'bii'tó Chapter is aware this survey and the associated environmental assessment has to be completed before N6331 road construction project.

NOW, THEREFORE BE IT RESOLVED THAT:

1. The K'ai'bii'tó Chapter hereby approves and supports the modification of the chapter land tract so it is adjacent to N6331 right-of-way corridor.

CERTIFICATION



Chapter Boundary

Post-It® Fax Note	7871	Date	3/27/09	# of pages	2
To	Ant Slim	From	K'ai'bii'tó		
Co./Dept.	Land Dept.	Co.	Chapter		
Phone #	928) 671-7051	Phone #	928) 673-5850		
Fax #	928) 671-7039	Fax #	928) 673-5853		

KB2QTR-70-02/09

We, hereby, certify that the foregoing resolution was duly considered by K'ai'bil'tó Chapter Officials at a duly called Strategic meeting held at K'ai'bil'tó, (Navajo Nation) Arizona, at which a quorum was present and that the same was passed by a vote of 55 in favor, 0 opposed, 0 abstaining, with motion by Harry Coleman, and second by Elouise June, this 8th, day of February, 2009.



Kelsey A. Begaye, President



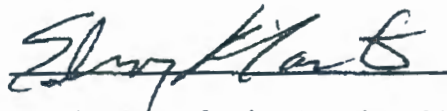
Ernest Goatson, Vice-President



Adolph June, Jr., Secretary/Treasurer



Kee Y. Mann, Council Delegate



Elroy Martin, District Grazing Committee Member

Bee Hoogan Shelter Foundation, Inc.

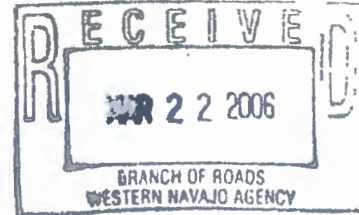


P.O. Box 1545
Fort Defiance, Arizona 86504

Phone: (928) 729-2944/45/48
Fax: (928) 729-2946

March 15, 2006

Roland Becenti, Supervisory Highway Engineer
Bureau of Indian Affairs – Navajo Region
Western Navajo Agency
P.O. Box 127
Tuba City, Arizona 86045



RE: ROAD RIGHT-OF-WAY / LOWER KAIBETO HOUSING PROJECT

Dear Mr. Becenti:

As I informed you, Bee Hoogan Shelter Foundation (BHSF), Inc. has the site lease for the newly constructed housing project located at the Lower Kaibeto community. The BHSF, Inc. is willing to yield portions of its housing subdivision tract to accommodate the Bureau of Indian Affairs (BIA) Road Department to adjust their right-of-way for the proposed paving project of the N 6331.

The BHSF, Inc. is aware that sections of the right-of-way for the road will end up in the Kaibeto wash, so for realignment purpose the boundaries for the road right-of-way will have to be moved inward toward the housing project. The realignment will most likely overlap the right-of-way boundary of the subdivision tract. But at the same time, BHSF, Inc. also realizes that the road paving project is very much needed for the new housing project and the chapter house. Therefore, BHSF, Inc. is willing to yield portions of its housing tract to accommodate the BIA Roads Department right-of-way for N 6331 paving project.

The BHSF, Inc. is willing to work with your office to make the necessary adjustments pertaining to BIA Roads right-of-way and the housing tract boundaries.

Enclosed is copy of the lease for the Lower Kaibeto Housing Subdivision tract. If you have any questions, please contact our office at (928) 729-2944.

Sincerely,

Ernest Goatson, Executive Director

CN-67-02

RESOLUTION OF THE
NAVAJO NATION COUNCIL

Approving Interim Standard Terms and Condition for the
Granting of Right-of-Way for BIA Road Construction Projects on
the Navajo Nation

WHEREAS:

1. Pursuant to 2 N.N.C. §102 (A), the Navajo Nation Council is the governing body of the Navajo Nation; and

2. Pursuant to 2 N.N.C. §102 (C), the Navajo Nation Council shall supervise all powers delegated; and

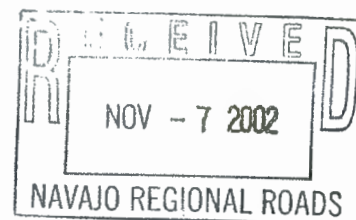
3. Pursuant to 2 N.N.C. §423 (E), the Transportation and Community Development Committee is empowered to represent the Navajo Nation in all roads and transportation matters and developing and approving priority lists for roads and transportation projects; and

4. Pursuant to 2 N.N.C. §695 (B)(2), the Resources Committee of the Navajo Nation Council has been delegated authority to give final approval of rights-of-way over Navajo lands in accordance with applicable federal and Navajo Nation laws; and

5. Based on the federal law, the Transportation Equity Act for the 21st Century (TEA-21) authorized funding for Federal Aid Highways, Highway Safety Programs, Transit, and Federal Lands Programs including the Indian Reservation Roads Program; and

6. TEA-21 authorized funding for the Indian Reservation Roads Program by increasing the annual allocation of \$225,000,000 for Fiscal Year 1998 and \$275,000,000 for each fiscal year of 1999 and 2003; and

7. Based on annual allocations to Indian Tribes, the Navajo Nation receives its share of funding from the IRR Program. The Nation is now receiving an approximate amount of \$55 Million annually and are used for construction of roads including securing the necessary clearances and acquisition of rights-of-way; and



CN-67-02

8. On April 23, 2002, the Transportation and Community Development Committee of the Navajo Nation Council was apprised that certain road projects, totaling an approximate amount of \$24.37 million, were experiencing delays due to unresolved right-of-way issues:

- N-21(2)2 & 4, Kaibeto to Red Lake
- N-32(2)2 & 4, Navajo to Mexican Springs
- N-27(2-1/N-2-1)(1-2)2 & 4, Nazlini to Chinle
- N-203 (1)1,2,3 Switchback Bridge Project at Kinlichee
- N-55(2)2 & 4, Alamo to I-40
- N-35(6)2 & 4, U.S. 191 Rock Point to Sweetwater;

and in subsequent years, additional delays and potential loss of federal funds may occur if the right-of-way issue is not resolved by the two (2) standing committees; and

9. The Navajo Nation President Kelsey A. Begaye has taken the position that no IRR construction funds will be returned to the Federal Highway Administration and that the Navajo Nation must fully utilize the annual allocated IRR funds to improve badly needed roads; and

10. The Right-of-Way Clearance Program under the Navajo Land Department has encountered difficulties in ascertaining the right-of-way due to the "Terms and Conditions" to be used for all new road right-of-way packages. The Department of Justice has recommended that the Terms and Conditions be revised to prevent the potential loss of jurisdiction over said right-of-way; and

11. To prevent the potential loss of federal highway funds allocated for the Navajo Nation, the Department of Justice has recommended the adoption of interim Terms and Conditions until all the affected parties can work together on new and updated terms and conditions for BIA Road Projects; and

CN-67-02

12. In order to secure the needed federal highway funds, the BIA is requesting that the right-of-way be granted for a term of 75 years. On May 5, 2002, the Navajo Department of Justice, Project Review Office, and the Bureau of Indian Affairs/Branch of Roads discussed in a teleconference with the Bureau Solicitor, the language for the Interim Terms and Conditions that would specifically address BIA road projects. The agreed upon Interim Terms and Conditions are attached hereto and incorporated herein by this reference as Exhibit "A"; and

13. On May 15, 2002, the Transportation and Community Development Committee of the Navajo Nation Council met with the Resources Committee of the Navajo Nation Council in a joint meeting and discussed the status of road projects and the "Terms and Conditions" for the right-of-way. Such Interim Terms and Conditions were made available; and

14. On May 21, 2002, by Resolution TCDCMY-31-02, attached and marked herein as Exhibit "B", the Transportation and Community Development Committee of the Navajo Nation Council recommended the "Terms and Conditions" for the right-of-way for road projects; and

15. On July 25, 2002, by Resolution RCJY-108-02, attached and marked herein as Exhibit "C", the Resources Committee of the Navajo Nation Council recommended the "Terms and Conditions" for the right-of-way for road projects.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Nation Council hereby approves the Interim Right-of-Way Terms and Conditions for Road Projects, attached hereto as Exhibit "A".

2. The Navajo Nation Council directs that the Interim Standard Terms and Conditions shall be used for all subsequent Right-of-Way for BIA Road Projects until all affected parties can work together on developing a new and updated Terms and Conditions for BIA road projects.

CN- 67-02

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 66 in favor, 0 opposed and 0 abstained, this 1st day of November 2002.



Edward T. Begay, Speaker
Navajo Nation Council

Nov 5, 2002

Date

Motion: Larry Noble

Second: Joe Dayzie

Document No. 008513Date Issued: 08/08/2017**EXECUTIVE ORDER REVIEW**Title of Document: BIA, ROW to Road Project in Kaibeto Az Contact Name: YAZZIE, ELERINA BProgram/Division: DIVISION OF NATURAL RESOURCESEmail: michellehoskie@frontier.com Phone Number: 928-871-6447

<input type="checkbox"/>	Business Site Lease			Sufficient	Insufficient
	1. Division:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Controller:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	(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: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	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: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Fund Management Plan, Expenditure Plans, Carry Over Requests, Budget Modifications				
	1. Office of Management and Budget:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Controller:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Navajo Housing Authority Request for Release of Funds				
	1. NNEPA:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Lease Purchase Agreements				
	1. Office of the Controller:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	(recommendation only)				
	2. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Grant Applications				
	1. Office of Management and Budget:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Controller:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	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: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Relinquishment of Navajo Membership				
	1. Land Department:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Elections:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☐ **Land Withdrawal or Relinquishment for Commercial Purposes**

Sufficient Insufficient

1. Division:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

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

1. NLD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. F&W	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. HPD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5. NNEPA	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
6. DNR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
7. DOJ	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☐ **Rights of Way**

1. NLD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. F&W	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. HPD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5. NNEPA	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
6. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
7. OPVP	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

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

1. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. OPVP	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. NLD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☐ **Assignment of Mineral Lease**

1. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. DNR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. DOJ	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☒ **ROW (where there has been no delegation of authority to the Navajo Land Department to grant the Nation's consent to a ROW)**

1. NLD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. F&W	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. HPD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5. NNEPA	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
6. DNR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
7. DOJ (ic)	<i>VB Blank</i>	Date: <u>10/18/17</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. OPVP	<i>m</i>	Date: <u>11-1-17</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

☐ **OTHER:**

1.	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2.	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3.	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4.	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5.	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

Braddy
505 371-8397
NDOJ



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT
REVIEW
REQUEST
FORM



DOJ
10/5/17 @ 1040c
DATE / TIME
☐ 7 Day Deadline
DOC #: 008513#2
SAS #:
UNIT: NRU

☒ RESUBMITTAL
(Sept 2017)

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

CLIENT TO COMPLETE

DATE OF REQUEST: 10/5/2017 DIVISION: Division Natural Resources
CONTACT NAME: Michelle Hoskie or Stevie Hudson DEPARTMENT: General Land Development Department
PHONE NUMBER: 871-6447 or 6401 E-MAIL: michellehoskie@frontier.com

TITLE OF DOCUMENT: BIA ROW ROAD PROJECT IN KAIBETO AZ

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 10-5-17 11:05am REVIEWING ATTORNEY/ADVOCATE: J. M. Chae 10-16-17

DATE TIME OUT OF UNIT: 10-18-17 @ 1:00pm By: BJ

DOJ ATTORNEY / ADVOCATE COMMENTS

- Document is legally sufficient.

REVIEWED BY: (Print) J. M. Chae Date / Time 10/18/17
SURNAMED BY: (Print) V. Blackhat Date / Time 10/18/17 9:50 AM
Emailed
DOJ Secretary Called: Michelle & Stevie for Document Pick Up on 10-18-17 at 1:11pm By: BJ

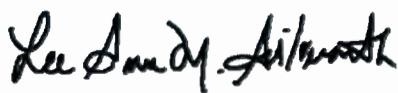



PICKED UP BY: (Print)

DATE / TIME:

NNDOJ/DRRF-July 2013

COMPLETED

Tier 1 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Eugenia Quintana EPA (Navajo Land Title Data System - Windowrock AZ)	Air and Toxics - Reviewer	Navajo Nation Environmental Protection Agency	Approved	no comments	No Reply	09-Aug-2017	
Lee Anna Martinez EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. BIA Transportation knows our procedures for CWA Section 401. When the time comes to consult with our office concerning the transportation project impacting the Kaibeto Creek. Please submit proper correspondences to our office in a timely manner for review, before your project commences. Thank you. (928) 871-7692.	1. No Reply	18-Aug-2017	
Najamh Tariq (Navajo Land Title Data System - Windowrock AZ)	Approver	Department of Water Resources	Approved	no comments	No Reply	09-Aug-2017	
Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. #09EM01A	1. No Reply	09-Aug-2017	
Pam Maples EPA (Navajo Land Title Data System - Windowrock AZ)	Storage Tanks Program - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. Finally found a precise location in the Abbreviated Environmental Assessment.	1. No Reply	11-Aug-2017	
Patrick Antonio (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Supervisor	Navajo Nation Environmental Protection Agency	Approved	1. 66.41 acres of land surface to be disturbed requiring coverage under the federal Construction General Permit. Project EA	1. No Reply	09-Aug-2017	

says BIA and contractor to file for Notice of Intents and contractor will develop a Storm Water Pollution Prevention Plan.

Robert Allan Deputy
DNR Director
(Navajo Land DNR
Title Data
System -
Windowrock
AZ)

DNR
Administration

Approved

1. Make sure the Interim Terms and Conditions are attached to the ROW indenture. They are attached to the abbreviated EA as Attachment No. 4.

1. No
Reply

23-Aug-2017

Robert O. Allan

Tamara Billie HPD
NNHP Reviewer
(Navajo Land
Title Data
System -
Windowrock
AZ)

Historic
Preservation
Department

Approved

1. HPD-08-450

1. No Reply

10-Aug-2017

Tamara Billie

Yolanda Public
Barney EPA Water
(Navajo Land System
Title Data Supervision
System - Agency
Windowrock
AZ)

Navajo Nation
Environmental
Protection
Agency

Approved




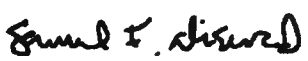
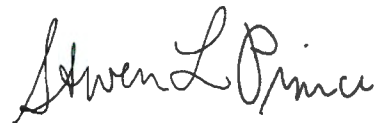
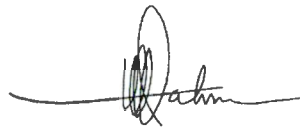
no comments

No Reply

09-Aug-2017

Yolanda

Tier 2 Document Voting Results


User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Bidtah N. Becker (FBFA)	FBFA Users	FBFA Action Team	Approved	1. Please adhere to the Minerals Department comment.	1. No Reply	27-Sep-2017	
Richard Begay NNHP (Navajo Land Title Data System - Windowrock AZ)	Navajo Nation Historic Preservation Officer	Historic Preservation Department	Approved	1. Although this CRCF is dated 2008, the conditions of clearance remain the same.	1. No Reply	30-Aug-2017	
Ronnie Ben EPA (Navajo Land Title Data System - Windowrock AZ)	Underground Injection Control - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. Conditional Approval contingent on compliance with all NNEPA and EPA environmental laws.	1. No Reply	28-Aug-2017	
Sam Diswood (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	no comments	No Reply	23-Aug-2017	
Steven Prince MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	1. This vote is contingent on the permanent inclusion of the uploaded Terms and Conditions document in the approval package. slp	1. No Reply	25-Aug-2017	
W. Mike Halona (Navajo Land Title Data System - Windowrock AZ)	Manager III Navajo Land Department	NLD Administration	Approved	no comments	No Reply	23-Aug-2017	

UNITED STATES
DEPARTMENT OF THE INTERIOR
BIA/NRO/Div. of Transportation
BUREAU OR OFFICE

RECEIPT FOR PROPERTY

ORIGINAL - RETAIN
BY ISSUING OFFICE
DUPLICATE - EMPLOYEE
DUPLICATE - INTERNAL USE

NUMBER		DESCRIPTION (INCLUDE SERIAL NUMBERS, MODEL, ETC.)	QUANTITY	UNIT OF ISSUE	COST
ITEM	PROPERTY				
1		PROJECT N6331/N6330(1-1)/N21(3)1,2&4 KAIBITO			
2		ROW PACKAGE DOCUMENTS CONSIST OF:			
3		ROW APPLICATION - ORIGINAL	1	EA	
4		ROW PLAT - MYLAR COPY	1	EA	
5		ROW PLAT - PAPER COPY	2	EA	
6		LEGAL DESCRIPTION - Copy	2	EA	
7		ENVIRONMENTAL ASSESSMENT & ARCHAEOLOGICAL	1	EA	
8		NN COUNCIL RESOLUTION No. CN-67-02 - Copy	1	EA	
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					

Issued By: (Name and Title) Calvin Murphy NRDOT - PLANNING SECTION		Date Issued: JULY 24, 2017
It is understood that I am personally responsible for the property listed hereon and that if any of the property is lost, stolen, damaged or destroyed through my simple or ordinary neglect or negligence or gross negligence I can be held financially liable as determined by a Board of Survey.		
Received By: (Name and Title) Charity Sam, Admin Asst		Signature and Date:  7/24/17

RETURN ORIGINAL TO EMPLOYEE UPON TURN-IN OF PROPERTY

UNITED STATES
DEPARTMENT OF THE INTERIOR
BIA/NRO/Div. of Transportation
BUREAU OF OFFICE

RECEIPT FOR PROPERTY

ORIGINAL - RETAIN
BY ISSUING OFFICE
DUPLICATE - EMPLOYEE
DUPLICATE - INTERNAL USE

NUMBER		DESCRIPTION (INCLUDE SERIAL NUMBERS, MODEL, ETC.)	QUANTITY	UNIT OF ISSUE	COST
ITEM	PROPERTY				
1		PROJECT N6331/N6330(1-1)/N21(3)1,2&4 KAIBITO			
2		ROW PACKAGE DOCUMENTS CONSIST OF:			
3		ROW APPLICATION - ORIGINAL	1	EA	
4		ROW PLAT - MYLAR COPY	1	EA	
5		ROW PLAT - PAPER COPY	2	EA	
6		LEGAL DESCRIPTION - Copy	2	EA	
7		ENVIRONMENTAL ASSESSMENT & ARCHAEOLOGICAL	1	EA	
8		NN COUNCIL RESOLUTION No. CN-67-02 - Copy	1	EA	
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					

Issued By: (Name and Title)

Calvin Murphy NRDOT - PLANNING SECTION

Date Issued:

JULY 24, 2017

It is understood that I am personally responsible for the property listed hereon and that if any of the property is lost, stolen, damaged or destroyed through my simple or ordinary neglect or negligence or gross negligence I can be held financially liable as determined by a Board of Survey.

Received By: (Name and Title)

Charity Sam, Admin Asst

Signature and Date:

 7/24/17

RETURN ORIGINAL TO EMPLOYEE UPON TURN-IN OF PROPERTY

BUREAU OF INDIAN AFFAIRS



TTP Projects Abbreviated Environmental Assessment

Proposed Project: **Kaibeto Reconstruction Project:N6330(1)/N6331(1-2)(2)/N21(3A)1,2&4**

Date: 9/14/2016

Preparer Information

Name: Harold Riley-PE & Raymond Lucero

Title: P&D Branch Chief & ROW Engineer Email:

harold.riley@bia.gov & Raymond.lucero@bia.gov

APPLICABILITY

This Form can be used if the proposed project has been determined to be routine in nature having limited context and intensity (e.g., limited size and magnitude or short-term effects). This Form is intended to be used when a project cannot be categorically excluded from a formal environmental assessment, but when the environmental impacts of the proposed project are expected to be insignificant and a detailed EA would not be appropriate. Accordingly, this Form is intended to meet the intent of a short EA while satisfying the regulatory requirements of an EA. Proper completion of the Form will allow the BIA to determine whether the proposed project can be processed with a short EA, or whether a more detailed EA or EIS must be prepared.

The Form can be used if the project will result in no significant environmental impacts on threatened/endangered species, public health or safety, wetlands, wild or scenic rivers, refuges, floodplains, rivers placed on the nationwide river inventory, prime or unique farmlands, and historic properties. The project will not have any highly controversial or uncertain effects on the environment or pose any unique or unknown environmental risks to the immediate and surrounding environment. The project will not establish a precedent.

AUTHORITY

This is an abbreviated EA written in accordance with 43 CFR 46.310: (b) "When the Responsible Official determines that there are no unresolved conflicts about the proposed action with respect to alternative uses of available resources, the environmental assessment need only consider the proposed action and does not need to consider additional alternatives, including the no action alternative. (See Section 102(2)(E) of NEPA)." This EA contains the minimum EA requirements found in 43CFR 46.310 (a): (a) At a minimum, an environmental assessment must include brief discussions of: (1) The proposal; (2) The need for the proposal; (3) The environmental impacts of the proposed action; (4) The environmental impacts of the alternatives considered; and (5) A list of agencies and persons consulted.

Project Description (List and clearly describe ALL components of project proposal including all connected actions). Attach a map or drawing of the area with the location(s) of the proposed action(s) identified:

The Navajo Regional Office, Division of Transportation (NRDOT) proposes to obtain rights-of-way (ROW) to construct Navajo Route N6330(1), N6331(2)(1-2) & N21 (3A) with a paved surface, engineered drainage system and a round a-bout intersection for the existing three way intersection on the west end of N21(3A) that joins with N6331(1-2) within the vicinity of Kaibeto, Coconino County, Arizona.

The drainage and roadway will be improved to accommodate the latest geometric design parameters for safety and hydraulic flow management. Once the project is built maintenance to keep the infrastructure operational will include restriping, sign and guardrail replacement, cleaning drainage structures, erosion control, milling and resurfacing the pavement. The traffic count for N6330 in the year 2005 was 78 vehicles per day (vpd) and is projected to be 116 vpd in 2025. The traffic count for N6331 in the year 2003 was 564 vehicles per day (vpd) and is projected to be 838 vpd in 2023. The existing road is designed to deviate in certain areas from the existing graded roadway to accommodate smooth curves and increase sight distances that will enhance safety. In the areas where the proposed road will deviate from the existing roadway the road will be reclaimed by harrowing and planting of native seeds of grasses and plants. The drainage will be managed by two methods first by placing sized culvert pipes at natural water crossings and secondly by constructing furrow ditches on long tangent grades. The objective of the furrow ditches is to manage flow (reduce the velocity and to disperse flow into areas for vegetative growth). The final roadway prism will have two 3.3 meter driving lanes and 1.5 meter shoulders. The entire surface will have an asphalt concrete surface. Photos of the existing road are provided in the attachments.

Project Purpose and Need:

The purpose of the action is to provide Kaibeto Chapter residences located in Township 37 North, Range 12 East, Sections 14, 22, 23, 26 & 27, with safer access and to improved unpaved roads across Navajo Tribal Trust land managed by the Bureau of Indian Affairs (BIA). The need for the action is established by the BIA's responsibility under 25 Code of Federal Regulation, Part 169 and 170 to respond to a request for a Right-of Way Grant for legal access to construct unpaved roads over existing BIA roads. The goal of the project is to improve the safety of the existing infrastructure. The existing dirt road is impassible during monsoon seasons and has sharp horizontal curves. The proposed action includes raising the grade of the existing road, paving with hot asphalt concrete pavement and improving the drainage by setting engineered sized pipes to manage the flows into the creek. The new alignment will closely follow the existing roadway.

Describe the affected environment (existing conditions) and land use in the vicinity of project:

3.1 LAND RESOURCES

3.1.1 TOPOGRAPHY (land forms, drainage, gradients)

The proposed roadway lies in a relatively flat parcel with elevations ranging from 5,800 feet to 5,705 feet near Kaibeto Creek. The topography comprises of gently rolling hills, rocky ridges, and deep canyons. The vegetation is chiefly pinyon and juniper mixed with grass. The area drains into Kaibeto Creek, which flows northward toward Lake Powell about 20 miles northwest. Geologic rock units exposed in this area consist of the Navajo Sandstone in the lower elevations. The Kayenta and Chinle Formations underlie these units. The San Raphael group is exposed in the higher elevations along the rim of White Mesa. The climate is semiarid. In this region, precipitation has a strong and fairly uniform relationship to altitude and topography (Cooley et al. 1969). Kaibeto Chapter receives a mean annual precipitation of 9 inches per year; mean annual temperature is about 52°F (Cooley et al. 1969).

3.1.2 SOILS

The Sheppard-Fruitland-Rock Outcrop Association consists of somewhat excessively drained and well-drained soils and rock outcrop on plains and plateaus. The soils formed in Aeolian sandy material weathered from sandstone and shale (Hendricks 1985). These soils pose few limitations for potential roadway development. The sandy texture of the Sheppard soils, however, has severe limitations for shallow excavations (Hendricks 1985).

3.1.3 GEOLOGIC SETTINGS, Mineral Resources

Soils in this area are part of the Terriorhents-Camborthids-Rock Outcrop Association and the Sheppard-Fruitland-Rock Outcrop Association. The topography of the project area is fairly level, and the elevation is approximately 5705 feet (1,739 meters). The soils within the project areas are rock outcrop-Mido-Mido, loamy substratum complex and Urban land-Ustic Haplocambids complex, which exceed a depth of 20 inches and are eolian sands derived from sandstone (USDA NRCS 2008).

3.2 WATER RESOURCES (surface and ground; quality, quantity, use rights)

3.2.1 SURFACE WATER

Drainages; the roadway site is located parallel along the southwest bank of Kaibeto Creek. Kaibeto Creek flows northward, northwest sides of White Mesa toward Lake Powell. The creek is an ephemeral stream, meaning that it generally flows only in response to intense precipitation events. Most of the year the creek has no water flowing.

Wetlands; Wetlands provide habitat for a wide variety of plants, invertebrates, fish, and larger animals, including many rare, threatened or endangered species. According to the field survey conducted by Stephanie Lee, biologist, no evidence of wetlands vegetation and wildlife were found within 200 feet of the project boundary.

Floodplains; A 100-year floodplain boundary for Kaibeto Creek near the proposed development was delineated by ASCG Incorporated Albuquerque, NM. The 100-year discharge for Kaibeto Creek was estimated using the United States Army Corps of Engineers Hydrologic Modeling System (HEC-HMS). The peak flows were calculated and verified using methods presented in the Arizona Department of Transportation Highway Drainage Design Manual Hydrology, The watershed encompasses 97 km² 37.57 square miles, ranging in elevation from 2194 m (7,198 feet) at its highest point to 1739 m (5705 feet) near the end of the

project site. Peak discharge was determined to be 5,704.40 cubic feet per second (cfs). Up to 30 cross sections were used to delineate the 100-year floodplain boundary near the proposed development. ASCG took the data that resulted from the HEC-RAS and coordinated that information to the CAD file to illustrate the water level on a map. According to this map (see attached flood map) most of the project is located outside the 100-year floodplain except from station 36+480 to 37+760. The foot print of the project clips the flood plain area by an average of three meters. To protect the roadway and public from the over topping water the roadway the roadway is design to accommodate the extra water therefore the design is to provide an eighteen inch freeboard. Wire-enclosed rip-rap is being placed to protect the roadway prism from scour within the 100 year flood plain. Since homes are in close proximity (west) of the existing road and the proposed road is within the same foot print at these stations there are no alternatives to relocate the road to the west or east. The road could not be relocated to the east since the Kaibeto wash is located to the east. A one-hundred year storm is defined as an event that could occur at least once within the 100 year time and has a 1% chance to occur in a year.

3.2.2 GROUND WATER

Ground water in this area is found in the N-aquifer. According to the Navajo Nation's database, about 18 wells tap this source. They range in depth from 600 feet to 1,360 feet. This aquifer is a valuable source of domestic water supply for this community and other communities in this region. Two (2) wells are located immediately east of the proposed N6331 roadway (see attached well map).

3.2.3 WATER QUALITY

Water quality is primarily affected by land use practices within the watershed and associated urban runoff, storm water discharges, agricultural runoff, and effluent discharge from wastewater treatment plants. Kaibeto Creek receives runoff from the Navajo Housing site directly but no agricultural runoff and no effluent discharge directly or indirectly (through tributary inflow) although there is a sewage lagoon adjacent to the roadway right-of-way and the creek.

3.3 AIR RESOURCES

3.3.1 QUALITY

The Navajo Nation Air Quality Program designates the project area as "unclassified assuming attainment". This designation is assigned to areas where no air quality monitoring occurs. Currently, the project area is within an attainment area (does not exceed Federal air quality standards) for priority pollutants: carbon monoxide, sulphur oxides, nitrogen dioxide, lead, ozone, and particulate matter. Air quality is generally good.

3.3.2 VISIBILITY

Visibility is generally good except during dust storms.

3.3.3 CILMATE/METEROLOGY

Air quality and visibility are generally good to excellent in this region according to the data recorded by the nearest ambient air monitoring station located at Grand Canyon, Arizona, 30 miles to the west (GCVTC 1996). Some days, air quality and visibility are impaired by regional haze attributed to long-range plumes, stationary sources (coal burning generating stations), and mobile sources (i.e. vehicles). Overall the project area is an attainment area according to the USEPA Region 9 attainment (PM₁₀) criteria maps (<https://www3.epa.gov/region9/air/maps/pdfs/air1300053-1-reg9-pm10-naaqs-designs.pdf>). Local visibility and air quality impairments are attributed to automobiles, windblown dust wood burning stoves during the winter months.

3.4 BIOTIC RESOURCES

3.4.1 DESCRIPTION of ECOSYSTEM and BIOLOGICAL COMMUNITY

The project areas falls within the Great Basin conifer woodland and the Great Basin desert scrub plant communities as defined by Brown (1994). The dominant plants were broom snakeweed (*Gutierrezia* spp.), mormon tea (*Ephedra viridis*), one-seed juniper (*Juniperus monosperma*), Indian ricegrass (*Oryzopsis hymenoides*), globe mallow (*Sphaeralcea* spp.), scattered pinyon pine (*Pinus edulis*), antelope bush (*Purshia tridentata*), rabbitbrush (*Chrysothamnus* spp.), pale wolfberry (*Lycium pallidum*), big mountain sagebrush (*Artemisia tridentata*), tumbleweed (*Salsola* spp.), blue grama (*Bouteloua gracilis*), alkali sacaton (*Sporobolus airoides*), and prickly pear (*Opuntia* spp.).

The noxious weed observed was salt cedar (*Carduus nutans*), which is a BIA Navajo Region Class C noxious weed. Class C weeds are weeds that are widespread and well established. Control efforts for Class C weeds would be costly. Management tools emphasized are education, awareness, identification/monitoring, and management.

3.4.2 WILDLIFE

Wildlife habitat is largely a function of vegetation communities. Climate, topography, and hydrology are additional factors that affect vegetation. Two primary habitat communities were identified within the project area, which are the Great Basin Desert Scrub and the Great Basin conifer woodland.

The Navajo Department of Fish and Wildlife (NDFW) agency was consulted regarding the presence of listed threatened or endangered species (T&E) within the project area. Eco Systems Management conducted a biological survey for the Preferred Alternative. The survey covered an approximate 48.08 acre area, which included the construction site and buffer area where possible staging areas could be located. The report concluded that no threatened and endangered species would be impacted.

The NDFW provided an updated list of T&E species for the project area and Coconino County. The U.S. Fish and Wildlife was also consulted. They also provided a T&E species list for Coconino County. Both lists are included in the biological evaluation attached.

3.4.2.1 TERRESTRIAL

The existing and proposed alignment provides little natural habitat for wildlife. Site vegetation consists of elm trees (*Ulmus* sp.) and grasses such as Indian rice grass (*Oruzopsis hymenoides*), grama grass (*Bouteloua* sp.), and others. Rabbitbrush (*Chrysothamnus nauseosus*) and other shrubs were also prevalent. During a field survey, conducted by Stephanie Lee, Biologist, on May 6, 2009, a variety of birds were observed including the American kestrel (*Falco Sparverius*), Mt. Bluebird (*Sialia currucoides*), House finch (*Carpodacus mexicanus*), Raven (*Corvus corax*), and Scrub jay (*Aphelcoma California*). No other wildlife was observed.

3.4.2.2 THREATENED AND ENDANGERED PLANT AND ANIMAL SPECIES

The Navajo Fish and Wildlife Department was contacted for a list of species of concern that potentially occur in this area. The field survey, conducted by Stephanie Lee assessed the potential for the occurrence of threatened or endangered species based on the available habitat. The survey results revealed the habitat suitability for these species was determined to be low due to its previous disturbance and use of property and its proximity to nearby roads and homes. A letter from Navajo Fish and Wildlife Department indicated that they had no record of species of concern occurring at this site. Therefore, no impacts to TES species are anticipated as a result of the project activities.

Riparian and Aquatic; A review of the U.S. Fish and Wildlife Service's Wetlands Delineation Map for Central Arizona indicates no riparian or aquatic species for the project area. A reconnaissance of the area revealed no wetland areas.

3.4.3 VEGETATION (Terrestrial, Aquatic)

The vegetative community in the project area lies in the transition zone between Great Basin Desert shrub and Great Basin Conifer Woodland (Brown 1994). Juniper (*Juniperus* sp.) is the dominant tree species within the survey area. This woodland type is scattered on hilltops, ridges and mesas surrounding project area.

3.4.3.1 TERRESTRIAL, AQUATIC

The existing and proposed alignment provides little natural habitat for wildlife. Site vegetation consists of elm trees (*Ulmus* sp.) and grasses such as Indian rice grass (*Oruzopsis hymenoides*), grama grass (*Bouteloua* sp.), and others. Rabbitbrush (*Chrysothamnus nauseosus*) and other shrubs were also prevalent. During a field survey, conducted by Stephanie Lee, Biologist, on May 6, 2009, a variety of birds were observed including the American kestrel (*Falco Sparverius*), Mt. Bluebird (*Sialia currucoides*), House finch (*Carpodacus mexicanus*), Raven (*Corvus corax*), and Scrub jay (*Aphelcoma California*). No other wildlife was observed as define on the Threaten & Endangered Species List shown in the Biological Evaluation attached.

3.4.3.2 RIPARIAN AND AQUATIC

No riparian or aquatic species occur within the APE for the project. See Biological Evaluation study report attached.

3.4.4 AGRICULTURE

No agricultural activities were observed in the project area.

3.5 CULTURAL RESOURCES

3.5.1 HISTORIC, CULTURAL, and RELIGIOUS PROPERTIES

The site was surveyed by the Navajo Nation Historic Preservation Department (NHPD) to comply with Section 106 of the National Historic Preservation Act and Navajo Nation Cultural Resource Preservation Act (CRPA). NHPD issued cultural resources compliance NNHPD No 08-450 for the project with no conditions or restrictions within the assessed survey corridor (see archaeological compliance attached).

3.5.2 ARCHEOLOGICAL RESOURCES

None were found within the project survey corridor (see attachments)

3.6 SOCIAL ECONOMIC CONDITIONS

3.6.1 EMPLOYMENT and INCOME

Within the Chapter there are about 117 jobs (Rodgers 1997). The largest employer is the BIA, which manages the Kaibeto BIA School located in Upper Kaibeto. The Navajo Nation is the second largest employer, which manages a number of tribal and federal programs.

These programs include the Head Start (Preschool), community health representative, senior citizens, social services, behavioral health, law enforcement, and Lake Powell Medical Center.

The median household income in Kaibeto Chapter is \$20,005, higher than the Navajo Nation at large, but significantly less than the U.S. at \$41,994. Similarly, the per capita income for Kaibeto Chapter is \$8,117, as compared to the Navajo Nation at \$7,269, and the U.S. at \$21,587.

3.6.2 DEMOGRAPHICS TRENDS

In 2000 the total population of Kaibeto Chapter was 2,020. Of this population, 1951 are American Indian. About 1,607 people live within the main community and the remaining residents live in the outskirts. The total population for Kaibeto Chapter represented about 1.1% of the total Navajo Nation population.

3.6.3 LIFESTYLE and CULTURAL VALUES

The community relies on the existing roads to provide and obtain services. Since the N6330 and N6331 are used on a daily basis the upgrading of these roads will only enhance the community's lifestyles.

3.6.4 COMMUNITY INFRASTRUCTURE

Education Facilities; Upper Kaibeto BIA School is the main educational facility in the Chapter. These facilities provide education for K-8 grades. In addition, there is a preschool located near the main school. High school students attend school in Page, Arizona, 36 miles away.

Commercial Facilities; Kaibeto Market is the only commercial establishment within the Chapter. The Chapter is interested in developing an arts and crafts center, but no immediate plans are underway at this time (scoping meeting 2008). Except for a regional transmission line, no industrial development occurs within the Chapter.

Medical Facilities; Medical services are in Tuba City, Indian Medical Center, Page Hospital, Kaibeto Clinic, Inscription House Health Station. Police services are provided by the Tuba City Police of the Navajo Nation Police District Office. Tribal offices that provide services to the Chapter include Division of Social Services, adult in-home care, child protective services, family preservation service, child care center, Navajo behavioral health, senior citizen center/feeding program, youth center, staff of the Department of Head Start; community health representative, food distribution program, work force development program, grandparents program, and local governance service center. There is one mini-mart gas station, in Kaibeto (Navajo Nation 2004).

Public Facilities; Public facilities within Kaibeto Chapter include the Chapter House, laundry mat, senior citizens center, veterans building, solid waste transfer station, Lake Powell Clinic, Navajo Nation Behavioral Health Office, and four churches (Chapter Images 2004).

Transportation Infrastructure; Kaibeto Chapter is accessed by State Highway 98, which extends northward to Page, Arizona, and southeast to the junction of State Highway 160. The proposed roadway construction for N6331 (2) will be within the existing unpaved road. The project will terminate as an intersection with US Highway 98 and traverse south for approximately 3.65 km (2.2 miles) where it abuts with N21 (3) and intersects with N21 (3A). N21 (3A) veers to the west as an existing dirt road for 0.76 km (0.47 mile). This route intersect with N6331 (1-2) by a TEE. N6331 (1-2) veers north to south. N6331 (1-2) connects to US 98 on the north a loop is created with the US 98 and the N21 (3A). From the TEE intersection to the north is a trading post and to the south an elementary school this intersection provides services to the school and the trading post. From the intersection of US 98 with N6331 (2) three-hundred (300) meters south is the beginning point of N6330 (1). N6330 (1) traverses east over the Kaibeto Wash via a low water crossing, the low water crossing puts residence at risk during flows therefore the crossing is being proposed for concrete box culvert after the culvert the road continues up a hill and continues the proposed project will terminate at the crest of the hill. Project N6330 is approximately six-hundred meters (0.38 mile) in length. Project location map is provided in the Attachments.

Power; Electric utilities within the community are owned and managed by Navajo Tribal Utility Authority (NTUA). The proposed project is adjacent to the residential site where NTUA's power line, runs through the site.

Water; the water delivery system is operated and maintained by NTUA. The source of the domestic water supply stems from wells that penetrate the N-aquifer. Two wells supply the main community with its domestic water source.

Wastewater; the wastewater system in the community was built by Indian Health Service (IHS) and turned over to NTUA. Residential developments that aren't connected to the system utilize septic tanks.

The Kaibeto BIA School compound, the NHA subdivisions, and the Chapter House complex discharge their wastewater to sewer lagoons located east of the Chapter House. The BIA school utilized two sewer lagoons west of the proposed road alignment on top of the hill.

Solid Waste; Solid waste is handled through a transfer station system, established through a coordinated effort among the Navajo Nation government, Indian Health Service and Coconino County. Residents are required to bring their waste to a transfer station, which is picked up by a commercial delivery service and hauled to Flagstaff Regional landfill.

3.6.5 ENVIRONMENTAL JUSTICE

The proposed project would not have a disproportionate effect on both minority and low-income populations. Effects are expected to include temporary increases in noise, dust, and truck traffic. Other impacts are loss of vegetation and diminished visual quality. The negative effects would be offset in the long term by safer travel route for the community.

The project area is composed of predominantly of a low-income and minority population. Existing land use and neighborhood characteristics along the wash alignment are predominantly open space uses, including grazing. Field investigations of the areas to be affected by construction activities did not reveal or suggest the presence of local residents' characteristics that were considered disproportionately minority and low-income neighborhoods.

With regard to socioeconomics, the proposed project would result in long-term beneficial impacts in the form of temporary employment opportunities for local contractors and or individual residents. Such opportunities would occur during the construction of the Preferred Alternative. Completion of the Preferred Alternative likewise represents a long-term positive impact for the local residents in the form of a modern bridge (eight barrel concrete box culvert) crossing.

In any case, under the Preferred Action Alternative, the impacts are regarded as short-term and therefore, do not represent significant impacts. Because of this, implementation of the Preferred Alternative would not result in environmental justice impacts.

3.7.1 INDIAN TRUST RESOURCES

U.S. Department of the Interior Secretarial Order 3175 (1996) requires each bureau office to identify potential effects of Departmental activities upon Indian Trust Resources. Indian Trust Resources or Assets are legal interests in assets held in trust by the federal government for federally recognized Indian tribes or individual Indians (U.S. Department of the Interior 1995). Trust assets may include land, water, fish, wildlife, rangeland, timber, minerals, fossils or other resources. Indian Trust Resources in the project area include land and wildlife habitat. The roadway and bridge improvements would impact an additional 5.0 acres from what already is disturbed. Approximately 7.8 acres (3.16 hectares) for N6330, 40.46 acres (16.57 hectares) for N6331 (2), 0.153 acres (0.062 hectares) for N6331 (1-2) and 7.62 acres (3.08 hectares) for N21 (3A) with a total of 56.03 acres will be acquired for right-of-way.

3.8 ENVIRONMENTAL MODULE

“Environmental Due Diligence” is a term that describes the responsibilities of a landowner, or government entity such as BIA to conduct an appropriate inquiry prior to purchase or development of a parcel of real estate to ensure that all “recognized environmental conditions” have been identified. A “recognized environmental condition” means the presence or likely presence of any hazardous substances covered under the terms of CERCLA, including petroleum products, asbestos, lead-based paint, radon, and other environmental hazards covered under other laws or industry practice. By exercising such due diligence, the landowner gains two benefits:

- (1) Access to the “innocent landowner defense” under CERCLA; and
- (2) Identification of hazardous materials on the site that may require remediation.

The Navajo Region conducted oral surveys, searched through government databases and reviewed records of Federal and local databases to determine if any sites were listed within the APE, defined in the American Society of Testing and Material (ASTM) standards as a maximum one-mile radius of the proposed project Site. The survey included.

The ASTM standards for a Phase I states that for each project area, the approximate minimum search distances are as follows:

- Federal NPL sites - 1.0 miles
- Federal CERCLIS list - 0.5 miles
- Federal RCRA TSDFs - 1.0 miles
- Federal RCRA generators - local
- Federal ERNS list - property only
- State hazardous waste sites - 1.0 miles
- State landfills - 0.5 miles
- State leaking underground storage tanks (USTs) - 0.5 miles
- State registered USTs – local

3.8.1 RESOURCE CONSERVATION and RECOVERY ACT SUBTITLE C

There are no known hazardous waste or materials adjacent to the project area (personal communication, Rose Duweynie, Bureau of Indian Affairs, Navajo Regional Office 7-29-09).

3.8.2 RESOURCE CONSERVATION and RECOVERY ACT SUBTITLE D

There are no known non-hazardous solid waste sites within or adjacent to the project area (personal communication, Rose Duweynie, Bureau of Indian Affairs, Navajo Regional Office 7-29-09). The closest BIA closed landfill is located in Kaibeto approximately 3 mile south of the intersection of N21(3) (or the beginning of the project) and N6331 (personal communication, Rose Duweynie, Bureau of Indian Affairs, Navajo Regional Office 7-29-09).

3.8.3 RESOURCE CONSERVATION and RECOVERY ACT SUBTITLE I

There are no known underground storage tanks within or adjacent to the project area (personal communication, Rose Duweynie, Bureau of Indian Affairs, Navajo Regional Office 7-29-09).

3.8.4 COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION and LIABILITY ACT, and SUPERFUND AMENDMENTS and REAUTHORIZATION ACT

The Comprehensive Environmental Response Compensation and Liability Act and Superfund Amendments and Reauthorization Act require that any proposed user operator involved in an acquisition of property shall undergo an Environmental Assessment Phase I or II for protection of the future “innocent land owner.” No underground storage tanks (USTs) are known to be present in the project area (personal communication Warren Roan Navajo Nation UST Program at (928) 871-7995).

3.8.5 TOXIC SUBSTANCES CONTROL ACT

Based on the site review performed there are no remains of structures that would lead to believe that any or there is a potential to have any control toxic substances with the project area.

3.9.0 RESOURCE/LAND USE PATTERNS

3.9.1 HUNTING, FISHING and GATHERING

Limited hunting and gathering in the project area and surrounding region may be undertaken by area residents

3.9.2 TIMBER HARVESTING

A few junipers that had been cut apparently for fuel wood were observed in the project area. Timber resources in the region are limited.

3.9.3 AGRICULTURE

No agricultural activities were observed in the project area.

3.9.4 MINING

The proposed action would not affect these resources.

3.9.5 OUTDOOR RECREATION

There are no developed recreation sites within the project area. The project area provides dispersed recreational opportunities such as hiking, picnicking and bird watching. The proposed action would not affect these resources.

3.9.6 TRANSPORTATION NETWORK

Navajo Route 6331(1-2) (2), N6330, and N21 (3a) are located within the vicinity of Kaibeto, Arizona. The entire existing road in length of N6331 is approximately 3.6 km (2.27 miles) and transverses from south to north. The south end or the beginning of the project abuts existing paved N21 (3) and extends north to its terminus where it intersects with Arizona State Route 98. N21 (3) runs approximately 20 miles south where it intersects US 160. N 21(3A) that will be constructed runs west into an existing intersection with N6331 (1-2). N6331 (1-2) from the intersection of N21 (3A) traverses north and south of the intersection this route also intersect US 98 approximately one-fourth of a mile to the north. N6330 (1) traverses to the east from its

beginning point where it intersects N6331 (1). N6330 (1), N6331 (1-2) & (2), and N21 (3A) are subject to BIA jurisdiction whereas the US highways are subject to the State of Arizona.

3.9.7 LAND USE PLAN

The main community developments include the Upper Kaibeto BIA school compound, several NHA subdivisions, several churches, a health clinic, a grocery store, non-subdivision home sites, warehouses, chapter house tract, and several churches. The main community is surrounded by open rangelands and scattered home sites and numerous dirt roads. The Kaibeto Chapter Comprehensive Land Use Plan (2001) was developed but has not been passed by the Chapter membership at this time, nor have zoning ordinances been established. Due to the site's previous uses, which included residential units, the existing routes N6330, N6331 (1-1) & N6331(1-2), and N21 (3A) and there upgrade do not conflict with the current land use pattern, and current land uses have no prior rights to this parcel of land. Public transportation is unavailable in Kaibeto Chapter. However, there are BIA and public school bus routes throughout this area.

3.10.0 OTHER VALUES

3.10.1 WILDERNESS

No wilderness area occurs within or near the project area.

3.10.2 SOUND and NOISE

Due to existing traffic of the project area, there are no sound or noise issues associated with the proposed action.

3.10.3 PUBLIC HEALTH and SAFETY

Kaibeto residents go to the Tuba City Medical Center or the Page Hospital in Page, AZ. The local health clinic servicing Kaibeto is the Kaibeto Health Clinic in Kaibeto.

3.10.4 VISUAL SETTING

The sparsely inhabited, relatively undeveloped land that surrounds the project area provides views of the mesas that dot the landscape.

3.10.5 NON-USER VALUE

The non-user value in the project area is large expanses of open spaces.

Alternatives to the Project: Describe any other reasonable actions that may feasibly substitute for the proposed project, and include a description of the "No Action" alternative. If there are no feasible or reasonable alternatives to the proposed project, explain why (attach alternatives drawings as applicable):

4.1 NO ACTION ALTERNATIVE

The National Environmental Policy Act requires that a “no action” alternative be considered as part of the environmental analysis for the proposed project. Under the no action alternative, the proposed roadway project would not be built. Community members will be limited to existing roadway conditions and would continue to be used by area residents and the traveling public for trips from both US 98 and US 160. No pavement would be constructed drainage would not be managed and no drainage structure would be provided to cross over the Kaibeto Creek. Portions of N6330, N6331 and N21 (3A) would continue to be impassable during flash flooding and fugitive dust would continue to be a problem. Without the upgraded intersection traffic patterns would be on the graces of those being given the right of way to use the intersection while the slower traffic would frustrate the travelers behind.

Further, this alternative would not meet BIA’s stated purpose and need. Even with an effort to implement short-term upgrades and maintenance, the road would continue to experience deficiencies in safety, due to it being a dirt road and has a deficient horizontal alignment (curvature).

4.2 PROPOSED ACTION ALTERNATIVE

The NRDOT proposes to obtain rights-of-way to construct Navajo Route N6330 (1), N6331 (1-2), (2) & N21 (3A). The total length of the construction project for N6330 is 0.608 km (0.40 mile), N6331 (2) is 3.65 km (2.2 mile), N6331 (1) 0.633 km (0.39 mi) and N21 (3A) school spur road is 0.765 km (0.8 mile) for a total of 61.41 acres on Navajo Tribal Trust land located in Township 37 North, Range 12 East, Sections 14, 22, 23, 26 & 27, Kaibeto Quadrangles, USGS 7.5 Minute Series Map within the vicinity of Kaibeto, Coconino County, Arizona.

It is estimated that an additional five (5) acres of new soil will be disturbed or impacted along with the already disturbed 61.41 acres. In the areas where the proposed road deviates from the existing roadway the road will be reclaimed by harrowing and planting of native seeds of grasses and plants. The existing N6331 (1) is paved with asphalt concrete and the N6330 will have a concrete box culvert constructed to allow vehicles to cross the Kaibeto Creek, replacing the existing low water crossing and Bridge N310 upstream. There is also a proposed round a-bout that will accommodate the busy intersection of N21 (3A) and N6331 (1). From the intersection south is a high school and north of the intersection a trading post, post office gas station and laundromat. The radius of the round a-bout is 21 meters with one driving lane with an inner semi-truck lane. There are also raised medians called splitter islands before entering the round a-bout to control the direction of traffic flow and to discourage motorist from making a wrong turn. The three tapered approach lanes to the round a-bout will transition from fifty-one (51m) meters away from the center of the intersection, from 8.5 m to 21 m creating the taper or flare.

The design for N6331(2) does not call for any major alignment improvements. The work will include clearing, grubbing and grading and the final surface will have a final driving surface of asphalt pavement. The proposed road is designed at 35 miles per hour (mph) and will be posted at 15-30 mph depending upon the location. The proposed roadway surface width will consist of one (1) driving lane in each direction each direction having a width of 7.3 m (24.0 ft) and two (2) shoulders of 1.5 m (6 ft.). The traffic count in the

present year 2015 is 1,622 vehicles per day (vpd) and is projected to be 2,717 vpd in the year 2035.

These routes are not *independent* routes because they use other connecting routes to get to public or private emergency services. The routes are connected to other routes such as US 98, and N21 which is connected to US 160. These routes lead to the Western Agency and Page Arizona and Shiprock Agency in New Mexico. These towns provide medical, social, and other commercial services.

The proposed right-of-way being acquired for the project is as follows:

RIGHT-OF-WAY TABLE			
LEFT OF CENTERLINE		RIGHT OF CENTERLINE	
N21(3A) SPUR A STATION TO STATION	WIDTH (m)	N21(3A) SPUR A STATION TO STATION	WIDTH (m)
0+033.961 - 0+798.498	20	0+027.733 - 0+790.711	20
Total Length:	764.537m	Total Length:	762.978m
N6330(1) STATION TO STATION	WIDTH (m)	N6330(1) STATION TO STATION	WIDTH (m)
1+023.000 - 1+070.350	23	1+023.000 - 1+070.350	23
1+070.000 - 1+137.436	50	1+070.000 - 1+137.436	50
1+137.436 - 1+374.989	23	1+137.436 - 1+374.989	23
1+374.989 - 1+492.719	23	1+374.989 - 1+492.719	23
1+492.719 - 1+631.212	23	1+492.719 - 1+631.212	23
Total Length:	608.212	Total Length:	608.212
N6331(2) STATION TO STATION	WIDTH (m)	N6331(2) STATION TO STATION	WIDTH (m)
33+920.845 - 35+732.423	23	33+920.845 - 35+732.423	23
35+732.423 - 36+574.499	15	35+732.423 - 36+574.499	23
36+574.499 - 37+565.957	23	36+574.499 - 36+827.521	23
Total Length:	3645.112	36+827.521 - 36+969.975	14
		36+970.000 - 37+565.957	23
		Total Length:	3645.112
N6331(1-2) - Construction Algn STATION TO STATION	WIDTH (m)	N6331(1-2) - Construction Algn STATION TO STATION	WIDTH (m)
0+920.000 - 1+124.084	23	0+920.000 - 1+552.552	23
1+124.084 - 1+169.867	38.00	Construction Algn.	
1+127.544 - 1+169.867	38.00		
1+173.968 - 1+193.150	23.00		
1+194.060 - 1+552.552	11.00		
Total Length:	632.552	Total Length:	632.552

An expansion, modification, or improvement of an existing project has few practicable alternatives available because there is minimal change to a previously constructed roadway. Alternatives that would involve relocating an existing project are likely to result in more adverse effects to the landscape/ environment.

5. Environmental Consequences

(A) LAND RESOURCES

Would the proposed project directly or indirectly impact land resources (topography, soils). The project would have minor impacts to the topography since the road will be elevated. Material for the building of the roadway will be from the roadside ditches.

5.1 LAND RESOURCE/PHYSICAL IMPACTS AND MITIGATION

5.1.2 GEOLOGIC and SOILS RESOURCES

Foreseeable effects to the geological and soil resources of the project area from the proposed action are soil disturbance and erosion from the road construction. Some small initial increase in soil erosion would occur until the disturbed ground is seeded and the seed germinates. A soil disturbance (seeding & mulching) reclamation specification is attached.

If aggregate or borrow material is obtained from the Navajo Nation for this project, then the contractor will obtain aggregate material permits through the BIA and the Navajo Tribal process, and follow all requirements of the permits, including royalties and environmental protection.

Excavation of soils to accommodate the roads reconstruction will be needed. A Storm Water Pollution Prevention Plan (SWPPP) will be developed to avoid/minimize soil erosion and sediment transport to Laguna Creek.

(B) WATER RESOURCES

5.2 WATER RESOURCE IMPACTS and MITIGATION

Foreseeable effects of the proposed action would be a temporary increase in surface water runoff from the project area until the disturbed ground stabilizes from establishing vegetation and mulching of the slopes. Best Management Practices (BMPs) would be incorporated into the project design plans to the fullest extent possible (see attachment). Construction equipment would be inspected daily for leaks. Leaking equipment would be removed from the project site until repaired and spills are cleaned. All fuels, oils, lubricants, and hydraulic fluids would be kept in sealed, storage containers or facilities that are located within the construction area. Parking and staging areas would be located within the boundaries of the construction area. Drainage structures would be installed in a manner that minimizes soil erosion and provides for a minimum of 12 inches (30 centimeters) of cover over the pipe. Structural replacements would be performed during periods of low-or-no flow periods to minimize water quality impacts. Any asphalt or concrete materials would be disposed of offsite in accordance with applicable federal and tribal regulations.

Section 402(p) of the Clean Water Act (CWA) clarifies that storm water discharges associated with industrial activity to waters of the United States must be authorized by a National Pollutant Discharge Elimination System (NPDES) permit. Industrial activity includes storm water discharge associated with construction activities that involves clearing, grading, and excavation that result in the disturbance of more than one acre of total land area. Because construction activities in the proposed action would disturb more than 1 acre (0.4 hectare) of land, section 402(p) of the CWA requires that the BIA and the contractor file with the United States

Environmental Protection Agency (EPA) a "Notice of Intent" and comply with the terms of this permit. The construction contractor will prepare a Storm Water Pollution Prevention Plan (SWPPP) and obtain the necessary permits before work commences.

If more than one-tenth of an acre of U.S. Waters is impacted, a Clean Water Act Section 404 permit is required from the Army Corps of Engineers (ACOE) to conduct the work in Kaibeto Creek. Nationwide permit 14 authorizes the discharge of dredged or fill material into waters of the U.S. for linear transportation projects which this project falls under. The NRDOT will submit for a Preconstruction Determination before any construction begins.

A Section 401 pre-construction notice with application will be submitted to Navajo Nation EPA (NNEPA) for a 401 determination prior to construction activities taking place. The BIA Division of Transportation has initiated consultation with NNEPA in preparation for submitting 401 permits. The BIA within its specifications and drawings incorporates the requirements to the Nation Wide permits coordination with the Navajo Nation Environmental Protection Agency has been performed. Written communication was sent to the NNEPA attached. The general permit conditions include implementing best management practices to prevent degrading water quality. These practices include the following measures.

- Inspect construction equipment daily for leaks
- Remove leaking equipment from the project site until repaired and spills are cleaned
- Store fuels, oils, lubricants, and hydraulic fluids in sealed storage containers or enclosed facilities within the construction area
- Locate parking and staging areas within the boundaries of the construction area
- Use existing roads for detours, equipment storage, and material and water hauling to the fullest extent possible
- Dispose of asphalt or concrete materials offsite in accordance with applicable federal and Tribal regulations

Impacts to the small area of floodplain in the project area will be limited and minor.

The proposed action would not affect the volume of surface or groundwater in the project area. Water would be required for construction activities. It is unknown at this time as to where the water will be obtained. Permits to use water would be obtained from the appropriate agencies or persons as required. If water is obtained from the Navajo Nation, then the construction contractor would obtain a permit from the Department of Water Resources Management at least 30 days prior to construction. The contractor would notify the Navajo Nation of the location of water resources to be used during construction.

Would the proposed project directly or indirectly impact water resources (including wetlands and floodplains)? Briefly explain.

The project will not impact wetlands or floodplains as no wetlands were identified within the project limits and the floodplain of the Kaibeto Wash meandering on the edge of the N6631 embankment toe. Riprap will be placed at outlets of new drainage structures and armoring of the embankments next to the wash will result in an overall beneficial impact to the waters of the U.S.

(C) LIVING RESOURCES

Would the proposed project directly or indirectly impact living resources? Briefly explain. (Attach record of consultation with federal and state agencies or Tribal biologist as appropriate).

According to a Biological Evaluation conducted by Eco Systems Management, the project will have no impact to species of concern, including federally-listed threatened or endangered species. Based on the information gathered for this Biological Evaluation, the Navajo Fish & Wildlife Department has determined the proposed project would have “no effect” on any federally-listed or tribal species under Section 7 of the Endangered Species Act.

(D) CULTURAL RESOURCES

The project area was culturally surveyed by Judy Touchette. No historic properties were identified during the survey. Based on the information gathered during this survey, the Navajo Nation Roads Cultural Resource Management Office (RCRM) under NDOT determined the proposed project would result in “no historic properties affected” in compliance with Section 106 of the National Historic Preservation Act. The Navajo Tribal Historic Preservation Officer concurred with this determination through the issuance of a compliance document dated July 01, 2008.

(a) Describe any impact the proposed project might have on any properties in or eligible for inclusion in the National Register of Historic Places. (Include a record of your consultation and response with the State or Tribal Historic Preservation Officer (S/THPO)).

No archaeological sites were found within the project limits.

(b) Describe any impacts to archeological resources as a result of the proposed project. (Include a record of consultation with persons or organizations with relevant expertise, including the S/THPO, if applicable).

No archaeological sites were found within the project limits.

(E) RESOURCE USE PATTERNS

TRANSPORTATION USE NETWORK

The proposed action would result in increased use of N6330, N6331 (1) & (2), N21(3A) and US 98. Short-term increases would consist of truck and heavy equipment used during construction. Impacts on the adjacent transportation network would be minor.

LAND USE PLAN

The proposed project does not conflict with any existing land use plans

Would the proposed project directly or indirectly impact resources use patterns (hunting/fishing, agriculture, mining, recreation, transportation networks)? Briefly explain.

The proposed project would not impact resource use patterns because of the project following the existing dirt road alignment as much as possible and avoiding crop fields, recreation areas,

and other development along the proposed routes. The proposed project is simply to reconstruct the existing routes to all weather roads for the safety of the Kaibeto community and other outside traveling public.

(F) ENVIRONMENTAL JUSTICE

Would the proposed project have a disproportionate impact on minority and/or low-income communities? Consider human health, social, economic, and environmental issues in your evaluation. The proposed project would not have a disproportionate effect on both minority and low-income populations. Effects are expected to include temporary increases in noise, dust, and truck traffic. Other impacts are loss of vegetation and diminished visual quality. The negative effects would be offset in the long term by safer travel route for the community.

The project area is composed of predominantly of a low-income and minority population. Existing land use and neighborhood characteristics along the wash alignment are predominantly open space uses, including grazing. Field investigations of the areas to be affected by construction activities did not reveal or suggest the presence of local residents' characteristics that were considered disproportionately minority and low-income neighborhoods.

With regard to socioeconomics, the proposed project would result in long-term beneficial impacts in the form of temporary employment opportunities for local contractors and or individual residents. Such opportunities would occur during the construction of the Preferred Alternative. Completion of the Preferred Alternative likewise represents a long-term positive impact for the local residents in the form of a modern bridge (concrete box culvert) crossing.

In any case, under the Preferred Action Alternative, the impacts are regarded as short-term and therefore do not represent significant impacts. Because of this, implementation of the Preferred Alternative would not result in environmental justice impacts.

The proposed project will not have disproportionate impacts on minority or low-income communities. The project is a reconstruction of existing dirt roads and will improve safety and accessibility in the community of Kaibeto.

(G) OTHER IMPACTS

Would the proposed project directly or indirectly impact any other area (sound/noise, wilderness, public health and safety)?

Noise will temporarily be increased above current background noise, however, it is expected to be minor and work will occur during daytime hours and not on weekends or holidays. Also due to existing traffic of the project area, there are no sound or noise issues associated with the proposed action.

In the long term, public health and safety will be improved by the safety improvements to the infrastructure.

(H) CUMULATIVE IMPACTS

Discuss impacts from past, present, and reasonably foreseeable future projects in the area. Would the proposed project produce a cumulative effect on any of the environmental impact categories above? Consider projects that are connected and may have common timing and/or location. For purposes of this Form, generally use 3 years for past projects and 5 years for future foreseeable projects.

Under the Proposed Action Alternative, Reconstruction of the N6330 (1), N6331 (1-2) & (2), and N21(3A) cumulative impacts on the biological, geological, cultural resources, air and water quality, land use, and economics social structure have been analyzed. The proposed action would result in temporary impacts to the vegetation, wildlife, soils, air quality, and the transportation network. Travelers on both routes would be temporarily affected through increases in noise, traffic, and dust. The Navajo Nation and area residents would obtain economic benefits and safer routes.

Factors	Determinations and Compliance Documentation
Flood Management (24 CFR 55), Executive Order 11988)	The 100-year peak discharge was determined to be 5704.40 cubic feet per second (cfs). HEC-RAS and coordinate information in conjunction with CAD file were used to illustrate the water level on a map or to delineate the floodplain map (see attached map for floodplain boundary). According to this map most of the project is located outside the 100-year floodplain except from station 36+480 to 37+760. The foot print of the project clips the area by an average of three meters. To protect the roadway and public the elevation of the roadway is design to provide an eighteen inch freeboard and wire-enclosed rip-rap is being placed within the 100 year flood plain. Because the proposed alignment follows within the same footprint of the existing road the project will not substantially modify the topography in the project area. Therefore, no impacts on floodplains are anticipated. A one-hundred year storm is defined as an event that could occur with a 1% chance in any given year.
Sole Source Aquifers (40 CFR 149)	No sole source aquifers occur in this region, according to web site information and according to discussions with the Navajo nation Department of Water Management. The construction contract demands that construction activities include Best Management Practices to prevent storm water pollution. A storm water pollution prevention plan (SWPPP) is required for project developments that disturb 1 or more acres.
Wild and Scenic Rivers Act (Sections 7 [b],[c])	"No Wild and Scenic Rivers have been designated within both the Little Colorado River and San Juan River basins.
Farmland Protection Policy Act (7 CFR 658)	No farmlands have been designated for protection within Kaibeto Chapter.
Environmental Justice (Executive Order 12898)	Environmental justice has been defined as the pursuit of equal justice and equal protection under the law for all environmental statutes and regulations without

	discrimination based on race, ethnicity, and/or socioeconomic status. To the greatest extent practicable and permitted by law federal agencies are required to make environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States. The proposed project entails the development of much needed road infrastructure for citizens of Kaibeto Chapter. Based on the nature of the project and its purpose, no disproportional adverse human health or environmental effects shall occur to any populations.
Noise Abatement and Control (24 CFR 51 B)	Occupational noise problems created by extremely loud machinery and community noise problems created primarily by transportation sources are the basic types of noises. These noise levels within the Kaibeto community are very low. Therefore, the project will not be exposed to noise levels which exceed noise standards.
Toxic of Hazardous Substances and Radioactive Materials	Toxic and hazardous substances include radioactive materials, chemical and petro-chemicals of an explosive or fire-prone nature, or toxic chemical disposal sites. Based on review of EPA National Priorities List Sites in Arizona, no abandoned toxic including radioactive waste areas are located in Kaibeto Chapter. Also, based on field observation and discussion with Chapter Staff, Joann Secody, no explosive or fire-prone chemicals are found in Kaibeto Chapter, except for individual propane gas tanks at residential home sites scattered throughout the chapter.

Given nature of this project, and when combined with the minor impacts of the waters of the U.S., the cumulative impacts of this project on resources in the area are expected to be minimal.

6. PERMITS

List all required permits for the proposed project. Has coordination with the appropriate agency commenced and what is the expected time frame of receiving a permit?

- Section 404 Permit (Nationwide) from U.S. Army Corps of Engineers expected mid-July, 2017.
- Section 401 Water Quality Certificate from Navajo Nation Environmental Protection Agency expected early July, 2016 or fall. The topic is discussed in water resources (B) above.

7. MITIGATION

Describe those mitigation measures to be taken to avoid creation of significant impacts to a particular resource as a result of the proposed project, and include a discussion of any impacts that cannot be mitigated.

There are no substantial impacts that require mitigation measures, however, the following environmental commitments/best management practices will be undertaken to lessen impacts of the project: The area of the project is heavily disturbed with continuous maintenance being performed as a result of the erosion from vehicle use, wind and rain. This project will be a benefit to safe guard soils and reduce erosion caused by over topping roadways. Riprap is being placed where energy from runoff can be seen compromising existing geologic formations. No cultural resources were identified and dust will be mitigated by trucks sprinkling the roadway during construction.

8. LIST OF AGENCIES AND PERSON CONSULTED

Navajo Nation Tribal Historic Preservation Officer, Ron Maldonado
Navajo Nation Environmental Protection Agency, Eric Rich
Navajo Natural Heritage Program, Pamela A. Kyselka
Navajo Nation Department of Fish and Wildlife, Gloria Tom
Navajo Division of Transportation, Darryl Bradley
Navajo Division of Transportation, Taft Blackhorse & Peter Kakos
U.S. Corps of Engineers, Sallie Diebolt

9. LIST OF ATTACHMENTS

1. FHWA TTP Environmental Documentation Form
2. Project Best Management Practices (BMPs)
3. Project FHWA Approved TTP-TIP Sheet
4. Support Resolutions
5. Arch Compliance
6. Biological Compliance
7. Biological Evaluation
8. Project 100 Year Flood Map Kaibeto Creek
9. Project Location Map
10. Water Wells Location Map
11. Project Reclamation Specification
12. Project Pictures
13. Tribes Consulted

END OF BIA ABBREVIATED ENVIRONMENTAL ASSESSMENT

Attachment 1- FHWA TTP Environmental Documentation Form

Environmental Documentation Form for Highway* Projects

Please complete the following form. The information provided in this form will help BIA/FHWA obtain most of the information necessary to approve a NEPA project, and will subsequently reduce the number of questions and information requests. Following a YES or NO response or where indicated, provide a description of the potential impact. Document all consultation with resource agencies. Attach all supporting documentation including descriptions of resources, type of impact expected, what measures were taken to avoid or minimize the impact, why the impact is not significant, **and the source of information used to make these determinations.** Use additional sheets to respond to questions, as needed.

*TTP- Tribal Transportation Program (formerly Indian Reservation Road (IRR) Program) Type Projects

Block 1. Project Description and Design Information

Date: September 14, 2016

Project Name: Kaibeto Arizona , road construction

Project Number: N6330(1)/N6331(1-2)(2)/N21(3A)1,2&4

IRR Route/Section Number(s): N21(3A); N6330; N6331 (attach map)

BIA Route/Section Number(s): N21-50; N6330-5; N6331-10,20,30,40,45,70

Project Contact (include name, phone number, street address and email address):

Herby Larsen, 505-863-8281; 301 West Hill Street, Gallup, NM, 87301

Harold Riley, same number and address

Kaibeto Arizona road construction Attached

Project Name and Location (include county, township, municipality, etc.). **Please attach Project Vicinity map and photos of the project area:** See attachments.

Latitude: 36°35'1.16"N

Longitude: 111° 5'1.66"W

Section: 14,22,23,26&27

Township: 37 North

Range: 12 East

Limits of Work:

Start: 2017

End: 2019

Total Length: 5.66km

Project Description Include narrative to describe project scope of work - include type of construction, logical termini, setting, and distinct project features, design plans, traffic studies, drainage studies, etc. Please include in your project description any culverts/bridges or other project features being replaced or repaired, if applicable. Please compare the proposed changes to what currently exists. If developed, please provide current plans showing construction limits and right-of-way (ROW) boundaries:

The Navajo Regional Office, Division of Transportation (NRDOT) proposes to obtain rights-of-way (ROW) to construct Navajo Route N6330(1), N6331(1-2)(2) & N21 (3A) with an all-weather paved surface, engineered drainage system and a round a-bout intersection for the existing three way intersection on the west end of N21(3A) that joins with N6331(1-2) within the vicinity of Kaibeto, , Arizona, Coconino County.

The drainage and roadway will be improved to accommodate the latest geometric design parameters for safety and hydraulic flow management. The traffic count for N6330 in the year 2015 was 30 vehicles per day (vpd) and is projected to be 43 vpd in 2035. The traffic count for N6331 in the year

2015 was 509 vehicles per day (vpd) and is projected to be 685 vpd in 2035. The traffic volume for the school access road N21(3A) was 1622 in 2015 and projected to be 2717 in the year 2035. The existing project roads are designed to deviate in certain areas from the existing graded roadway to accommodate smooth curves and increase sight distances that will enhance safety and better sight distance. In the areas where the proposed road will deviate from the existing roadway the road will be reclaimed by harrowing and planting of native seeds of grasses and plants. The drainage will be managed by two methods first by placing proper sized drainage structures at natural water crossings and secondly by constructing flat bottom shoulder ditches on long tangent grades with riprap. The objective of the ditches is to manage side runoff flow (reduce the velocity and to disperse flow into natural low lying areas for vegetative growth. The final roadway prism will have two 3.3 meter driving lanes and 1.2 to 1.5 meter shoulders. The final road surface will be 51-64mm of asphalt concrete over 102-152mm of aggregate base course.

Purpose and Need for Project Include narrative on why the project is needed, what is to be achieved, and what would happen if the project was not constructed:

The purpose of the action is to provide Kaibeto Chapter residences located in Township 37 North, Range 12 East, Sections 14, 22, 23, 26 & 27, with safer access to health, schools, and other needed community facilities in all weather conditions. This project is the last leg of a large project on a class II route N21 from State road 160 to state road 98. The need for the action is to complete the last leg of a three phased project on route N21 to provide an all-weather high volume route access to the communities in the northern part of the Navajo Reservation in accordance with 25 C.F.R, Part 169 and 170. The goal of the project is to improve the safety of the existing infrastructure and to reduce travel time for the users. The existing roads, under this Phase III project, are impassible during the monsoon season and winter snows. The roads have sharp horizontal curves and poor site distance. The proposed action includes raising the grade of the existing road to avoid future overtopping of runoff, paving with hot asphalt concrete pavement, and improving the drainage by setting engineered sized drainage structures to manage the flows into the wash and other low lying areas. The new alignment will closely follow the existing roadway as much as possible to less the environmental impacts to the environment.

Design Criteria for Roadway: (if not applicable enter N/A)

Functional Classification: N21(3A) Class 6 Street, N6331(1-2) Class 6 Street, N6331(2) Class II Arterial
 Current ADT: 30-1622 vpd ()
 Design Year ADT: 43-2717 vpd ()
 DHV: _____ Trucks: 1 % Directional Distribution 50/50 %
 Design Speed: 25-35 mph
 Posted Speed: 15-30 mph

Setting: ☐ Urban ☐ Suburban ☒ Rural
 Topography: ☐ Flat ☒ Rolling ☐ Other Explain:

Roadway Character (Existing and Proposed):

Existing	Proposed
----------	----------

Number of Lanes:	Width equivalent to two lanes	Two lanes
Surface Type:	dirt	Hot asphalt concrete pavement
Travel Lane Width (ft):	Approx. 12 ft	12 ft
Shoulder Width (ft):	none	4-6ft
Median Width (ft):	none	none
Clear zone (ft):	none	10-14feet
Average ROW Width (ft):	50 ft left 7 right	75 ft left & right of CL

Design Criteria for Bridges / Culverts (if known): (if not applicable enter N/A)

	Existing	Proposed
Bridge Number:	N310	
Sufficiency Rating:	60.3	Box Structure
Estimated Remaining Life:	Was closed to traffic	
Bridge Type:	Single span steel beam w/timber deck	Concrete
Number of Spans:	one	Eight barrel
Structure Length:	50ft	55ft

Are any substructure elements (e.g., piers, abutments, wingwalls, footers, etc.) below the Ordinary High Water Mark (OHWM)? ☒ Yes ☐ No

Will additional rip-rap be added? ☒ Yes ☐ No

1a). TTIP

Is the project in the Tribal Transportation Improvement Plan (TTIP)?

☒ Yes ☐ No

If yes: Phase: See attached TTIP Detail Sheet Date: 07/02/2013

Block 2. Alternatives Considered

2) Were other alternatives considered for the proposed action?

☐ Yes ☒ No

If YES, describe all reasonable alternatives considered including a description of the preferred:

Does the project impact wetlands, floodplains, Section 4(f) properties, or threatened and endangered species?

☐ Yes ☒ No

If YES, describe all avoidance, minimization, and mitigation considered including a description of the preferred:

Block 3. Right-of-Way, Relocations, Utility Coordination

<p>3a) Will the proposed action require new right-of-way (ROW) or existing easement or temporary construction easement? <u>Any construction project funded by the FHWA requires a right of way</u></p> <p>If YES, provide the following information:</p> <p>Approximate area of temporary ROW/easement: <u>0.0</u> acre(s)</p> <p>Approximate area of permanent ROW/easement: <u>61.41</u> acre(s)</p> <p>Reason for ROW/easement: construction of project</p> <p>Current Land Use: existing unimproved roadway</p> <p>Will any tribal trust, individual trust or individual restricted land be involved in this project? This project is aimed at providing the Navajo Tribe a transportation infrastructure that will uphold the US government's policy to provide economic development to Indian Tribes</p> <p>Will the project use any Public Park ROW?</p> <p>Both staging and borrow sites will be the responsibility of the construction contractor to ascertain the impacts and obtain permits for temporary easements</p> <p>Provide additional information for questions answered yes:</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>3b) Will the proposed action cause relocation of any residential homes, businesses, farms, or public institutions?</p> <p>NOTE: If relocations are anticipated, relocation services will need to be provided per the Uniform Relocation Assistance Act.</p> <p>If YES, indicate the following:</p> <p>Number of displacements:</p> <p>Residential: _____ Businesses: _____ Farms: _____ Public Institutions: _____</p> <p>Discuss displacements:</p> <p>Are there properties within the local area available for relocation? If YES, describe:</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>3c) Will the proposed action need to accommodate for utilities in the study area?</p> <p>If YES, state type of utilities and anticipated work involved (e.g., relocation, temporary disruption of service). Note if utility providers have been consulted.</p> <p>If known, indicate if utility crossing(s) will have the potential to impact stream, open water, or wetlands, or if the proposed action will require clearing and grubbing by utilities:</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>3d) Describe the involvement with any railroad (active or inactive) including all rail lines, crossing, bridges, or signals. None</p>	
<p>Block 4. Socio-Economic</p>	
<p>4a) Environmental Justice: Are the anticipated environmental impacts resulting from the proposed action likely to fall disproportionately on the minority and/or low income</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>

<p>populations, including populations with Limited English Proficiency (LEP)?</p> <p>If YES, describe any potential adverse effects and the affected population (e.g., minority, low-income, elderly, or disabled), and describe proposed measures to mitigate for any adverse impacts:</p> <p>The proposed project entails the development of much needed road infrastructure for citizens of Kaibeto Chapter. Based on the nature of the project and its purpose, no disproportional adverse human health or environmental effects shall occur to any populations.</p>	
<p>4b) Will the proposed action require temporary and/or permanent access changes?</p> <p>If YES, describe the access changes (temporary or permanent) and impacts to businesses (disruption, loss or restricted parking), residential neighborhoods, or individual residents:</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>4c) Will the proposed action have an impact on travel patterns (e.g., does the action include a bypass or convert a local street into a higher order roadway)?</p> <p>If YES, describe any permanent traffic diversion or change of traffic patterns that would occur:</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>4d) Is the proposed action consistent with local land use plans?</p> <p>If YES, identify area plans and assess consistency: The proposed plan is to stay within the same foot print of the existing road way as much as possible so as to avoid any displacement of existing infrastructure.</p> <p>If NO, provide details of coordination with local government:</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>4e) Will the proposed action cause economic impacts (temporary or permanent, positive or negative) to the local economy (e.g., adjacent highway-related and other businesses, employment gains or losses, etc.), local tax base or property values?</p> <p>If YES, describe impacts and any proposed measures to minimize economic impacts: The action will provide temporary employment and create better access to the store school, health clinic, and improve the local economy.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>4f) Will the proposed action result in impacts on fire, police, emergency services, health and educational facilities, school bus route, religious institutions, public transportation, or pedestrian and bicycle facilities?</p> <p>If YES, describe impacts and any proposed measures to minimize impacts: Motorist will be able to travel in a safe manner and emergency vehicles will be able to get to emergencies locations easier in a shorter amount of time.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>4g) Will the proposed action result in impacts to community cohesion (e.g., separation from community facilities or isolated portions of a neighborhood)?</p> <p>If YES, describe impacts and any proposed measures to minimize community division or separation:</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>4h) Will the proposed action induce secondary growth?</p> <p>If Yes, explain:</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>4i) Does the project incorporate bicycle or pedestrian facilities into the overall design or operations.</p> <p>If Yes, explain:</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>Block 5. Historic and Cultural Resources (Section 106) (SHPO/THPO CONCURRENCE REQUIRED)</p>	
<p>5) Describe the Area of Potential Effect (APE) and attach a figure showing the APE. (The Area of Potential Effect for highway projects is typically the limit of highway construction where there could be surface disturbance extending out to the clear zone. The APE may extend further in some instances due to visual or noise impacts.)</p> <p>Will there be any new ground disturbance associated with the project? If so, the</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

SHPO/THPO (THPO with formal assumption of SHPO responsibilities) must be consulted under Section 106. An archaeological survey will likely be necessary.

Are there any historic, cultural, Traditional Cultural, burial, or archaeological resources, including historic bridges or roads, that are/or **may** be eligible for or listed in the National Register of Historic Places (NRHP) (i.e., older than 50 years old)? If so, the SHPO/THPO must concur with eligibility determination. If no, please provide a summary of how this was determined.

☐ Yes ☒ No

For any resources listed in or eligible for listing in the NRHP, will the proposed action have an effect on these resources?

☐ Yes ☒ No

NOTE: BIA and/or FHWA, in coordination with the Tribe, will need to complete Section 106 consultation & documentation separately from the CE Process. Please contact BIA NEPA to initiate the Section 106 process as required.

PRESENCE/LEVEL OF EFFECT DOCUMENTATION

If YES: Describe properties or resources impacted by project:

	Presence				Level of Effects		
	Not Present	Potentially Eligible Resource Present	Eligible Resource Present	Listed Resource Present	No Historic Properties Affected	No Adverse Effect	Adverse Effect
Cultural Resources	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes
Prehistoric Archaeology	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes
Historic Archaeology	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes
Historic Structure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes
Historic District	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes
Historic Transportation Corridor	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes

Is SHPO/THPO Coordination complete?

☒ Yes ☐ No

Attach concurrence(s) letter: Date(s) received:

NOTE: If Section 106 consultation results in an "adverse effect" finding, then additional consultation will be needed.**Block 6. Section 4(f) and Section 6(f)**

6a) Will the proposed action have a constructive use or a temporary or permanent occupancy of any Section 4(f) resource (publicly owned parks, recreation areas, and wildlife/waterfowl refuges, and NRHP eligible or listed historic properties)?

☐ Yes ☒ NoAvoidance is always preferred. If YES, a Section 4(f) individual, programmatic, or *de minimis* evaluation will need to be prepared. Consult with FHWA to determine appropriate 4(f) document.

Describe all 4(f) mitigation alternatives, including variations in design, used to minimize impacts:

NOTE: FHWA, in coordination with the Tribe, will need to complete 4(f) documentation separately from the CE Process. Section 4(f) has a public information component.

6b) Does the proposed action require the use of any property (public recreation sites or facilities) protected by Section 6(f) of the Land & Water Conservation Fund Act (LWCFA)?

☐ Yes ☒ No

If YES, describe any property that may be impacted that was purchased or improved through the LWCFA, size /acreage impacted, and the impact (e.g., temporary or permanent, conversion to non-recreation uses).

Concurrence from official with jurisdiction of resource obtained?

☒ Yes ☐ NoAttach correspondence: Date received: Sept 14, 2008**NOTE: BIA/FHWA, in coordination with the Tribe, will need to complete 6(f) documentation separately from the CE Process.**

Block 7. Threatened and Endangered Species

7a) Are there any federally listed threatened or endangered species with potential to occur in the project area? This list is obtained from the USFWS Ecological Services Field Office website.

☐ Yes ☒ No

If yes, is there any potential suitable habitat located within or near the project area? If NO, please provide FHWA with a brief rationale of this determination for the project file.

☐ Yes ☒ No

Will the proposed action affect any federally threatened or endangered species or protected critical habitat? If YES ("may affect"), FHWA will NEED to consult with USFWS for concurrence. If NO ("no effect"), please provide FHWA with a brief rationale of this determination for the project file.

☒ No, "No effect"

☐ Yes, "May affect, but not likely to adversely affect"

If YES, and it was previously a BIA project, please provide a summary of the informal consultation with the USFWS. Please attach USFWS concurrence letters of effect determination.

USFWS Concurrence, Date Received: _____

☐ Yes, "May affect, and is likely to adversely affect"

If a determination was made that adverse impacts may occur, contact FHWA for further guidance.

NOTE: Summary of project commitments need to be described in Block 18b-Environmental Commitments.

7b) Will the proposed action affect any of the following:

Birds or bird nesting areas?

☐ Yes ☒ No

Water that is important for fish or wildlife?

☐ Yes ☒ No

Bald or Golden Eagles or potential habitat?

☐ Yes ☒ No

If YES, please describe any measures to avoid or minimize impacts:

NOTE: Action Agency will need to complete all Section 7 consultation & documentation separately from the CE Process with Navajo Fish & Wildlife Department (NFWD).

Block 8. Farmland

8) Does the proposed action involve acquisition of prime, unique, statewide or local important farmland or use of farmland that would be converted to non-agricultural use?

☐ Yes ☒ No

If YES, Indicate the size of area impacted:

Farmland: _____ acres

Describe or attach:

- Farmland conversion impacts or coordination with the Natural Resources Conservation Service (NRCS)
- Farmland Conversion Impact Rating Sheet (Form AD-1006).

Block 9. Wetlands / Waters of the U.S.																																																										
<p>9a) If there are no wetlands or waters of the U.S. located within the study area, check "N/A":</p> <p style="margin-left: 40px;">Individual/Organization that made the determination: <u>Ecosystems Inc</u></p> <p style="margin-left: 40px;">Date of Field Visit: March 2009</p> <p style="margin-left: 40px; color: blue;">Please provide FHWA with a memo documenting the absence of waters of the U.S.</p> <p>Are wetlands/waters of the U.S. <u>present</u> within the study area <u>but will be avoided</u> by construction?</p> <p style="margin-left: 40px;">Discussion: There are no wetlands on this project and the NRDOT Contractor will implement a SWPPP with permanent erosion control features installed at the outlet of drainage structures that drain to the Kaibeto creek waters of the U.S. an ephemeral wash.</p>				<input type="checkbox"/> N/A																																																						
<p>9b) Does the proposed action involve impacts to wetlands?</p> <p style="margin-left: 40px;">If YES, what is the total wetland area impacted: _____ acre(s)</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-left: 40px;"> <thead> <tr> <th rowspan="2"></th> <th colspan="2">Presence</th> <th colspan="2">Impacts</th> </tr> <tr> <th>Not Present</th> <th>Present</th> <th>No</th> <th>Yes</th> </tr> </thead> <tbody> <tr><td>Wetlands</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>Open Water</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>Vegetated</td><td></td><td></td><td></td><td></td></tr> <tr><td> Emergent</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td> Scrub Shrub</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td> Forested</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>Rain Water Basin</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>Saline</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>Western Alkaline</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> </tbody> </table> <p style="margin-left: 40px;">Discussion:</p> <p style="margin-left: 40px; color: blue;"><u>Documentation</u></p> <p style="margin-left: 40px;">Wetland Delineation Report (if wetlands in project area anticipated)</p> <p style="margin-left: 40px;">USACE Jurisdictional Determination, if applicable NA</p> <p style="margin-left: 40px;">Mitigation Plan, if applicable NA</p> <p>Attach aerial photo map or plan showing wetland areas for the study area.</p>					Presence		Impacts		Not Present	Present	No	Yes	Wetlands	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Open Water	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Vegetated					Emergent	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Scrub Shrub	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Forested	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Rain Water Basin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Saline	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Western Alkaline	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<div style="margin-bottom: 20px;"> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </div> <div> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </div>
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<p>9c) Are stream(s) present within the project area?</p> <p>If YES, will the stream(s) be impacted? (i.e., work will occur below ordinary high watermark)</p> <p>Name stream(s) impacted: Kaibeto Creek</p> <p>Is the stream(s) identified as wild and scenic, national recreation, or listed on the National Rivers Inventory (NRI)?</p> <p>Is there impact(s) to navigable waters of the U.S?</p> <p>Is the stream(s) intermittent, ephemeral or perennial?</p> <p>Discussion: ephemeral</p> <p>Are there other surface waters present within the project area?</p> <p>If YES, will the water body (s) be impacted?</p> <p>Name of water body:</p> <p>What type of water body (lake, pond, sand pit, or reservoir):</p> <p>What is the size of the water body impact:</p> <p>Discussion:</p> <p>Provide measures evaluated or proposed to avoid or minimize impacts to waters of the U.S:</p> <p>NOTE: Attach photos and plan sheets that show the location of the stream channel or water bodies. The photos should be taken up and down the impacted stream channel and of any adjacent ditches.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>9d) Will the proposed action require the following permits under the Clean Water Act?</p> <ul style="list-style-type: none"> • Section 404 Nationwide Permit (USACE) • Section 404 Individual Permit (USACE) • Section 401 Individual Water Quality Certification <p>Has coordination with USACE been initiated?</p> <p>If YES, attach any coordination with USACE or other applicable resource agency.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Water related permits such as Section 404 and 401 are typically acquired after approval of the CE during final design. This is typically handled by the Tribe/BIA and ACOE. Tribes/BIA would be responsible for determining appropriate mitigation and developing mitigation and monitoring plans if necessary.</p>	

Block 10. Floodplains	
10a) Is the proposed action located within the 100-year base floodplain?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10b) Will the proposed action cause an encroachment or impacts to the 100-year Zone A floodplain? If YES, describe potential impacts and include the Federal Emergency Management Agency (FEMA) map with the project location identified. Include any consultation with the floodplain administrators for the project area: If there is encroachment to the 100-year floodplain, FHWA should be contacted to determine appropriate level of documentation.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Block 11. Regulated Materials	
11a) Is there any known or potential contamination at the project site (e.g., previous land uses with possible hazardous waste involvement), or additional remediation work that has to be done regarding hazardous or contaminated material? Will a building (age) or insulated pipe possibly containing asbestos or lead based paint be removed as part of this project? If a bridge replacement is part of the proposed action, is there the potential that lead paint was used on the structure? Discussion: NOTE: If YES, and there is the potential for CERCLA, SARA, RCRA, TSCA, UST/LUST, lead, or asbestos issues on the project, notify and coordinate with FHWA.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
11b) Will the project action impact any registered or known groundwater monitoring wells? If Yes, identify any groundwater monitoring wells in the right of way, in the adjacent right of way, and the owner of said wells.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Block 12. Air Quality / Noise	
12a) Is the proposed action in an air quality non-attainment or maintenance area?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
12b) Will the project involve the addition of one or more through lanes? Will the project involve a change in vehicle mix or speed? Will the project involve a change in vertical or horizontal alignment? Will the project involve new roadways or change the shielding effect of existing roadways? If YES to any of the questions above, then a noise analysis is warranted, provided there are noise sensitive land uses in the project area. Attach Noise Analysis to CE Form.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
12c) If yes to any of the questions in 12b, are there possible sensitive noise receptors present? If Yes, how many noise sensitive receptors are within the proposed action area? ____ If Yes, what type(s) of noise sensitive receptors are present? List below: Attach a map of the sensitive noise receptors.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
12d) If a noise analysis was performed, are the predicted noise levels approaching or exceeding noise abatement criteria stated in 23 CFR 772 Table 1 for the appropriate land use activity category?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Will there be a substantial increase in decibels over existing level? If YES, describe impacts and mitigation measures, if applicable.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
NOTE: Mitigation for noise impacts has a public information component.		
Block 13. Water Quality		
13a) Indicate if any of the groundwater resources, drinking and/or non-drinking water resources listed below are present in the project area: <u>Groundwater Resources:</u> Well Head Protection Area Community Wells Residential Wells Sole Source Aquifer(s) <u>Drinking Water:</u> Surface water intake structures <u>Non-Drinking water:</u> Agricultural groundwater wells and surface water intake structures Irrigation re-use pit; Irrigation canal; Storm water detention impoundments; Agricultural waste impoundments; Ground water connected wetlands & surface water		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<u>Water Quality Impacts:</u> For the resources marked Yes above, discuss the following. If the resource is present but will not be impacted, state how the impact will be avoided. There is one community well within the area that pumps water from an aquifer but will not be impacted due to its depth and distance from the construction area If an impact to water quality will occur, indicate which water resource will be impacted and list any mitigation measures proposed to minimize impacts.		
13b) Does the proposed action require a NPDES storm water permit? Only a CWA 402 for disturbing more than one acre		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Note: Water related permits such as NPDES can be acquired by the Tribe/BIA and it's Contractor after approval of the CE and final PS&E design.		
Block 14. Wild and Scenic Rivers / Nationwide Rivers Inventory		
14a) Will the project involve construction in, across, or adjacent to a river designated as a component of, or proposed for inclusion in the Wild and Scenic River System? (i.e. Is the project is within 1/2 mile of a protected river area)		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

If YES, discuss or attach record of consultation with the responsible agency for managing the listed or study river:	
14b) Will the project cross over a river or portion of river that is listed on the Nationwide Rivers Inventory (NRI)? If Yes, list in Block 18b the Best Management Practices or recommendations by NPS to be implemented to reduce impacts to these rivers.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Block 15. Construction Impacts	
15a) Will the proposed action involve construction-related impacts such as detours, lane/road closures, loss of parking, air quality impacts (dust), etc.? If YES, provide details of proposed measures to minimize impacts (erosion control, Best Management Practices, dust abatement). The NRDOT & its Contractor will use the NRDOT's best management practices provided in the contract documents.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
15b) Will the proposed action require temporary channel crossing structures such as shoofly, work platform, causeway, or crossing? If YES, provide details on temporary structure alternatives (type of structure, temporary impacts involved, how long needed, etc): Are impacts caused by the: Installation before or during active aquatic life migration periods? Impacts to streambed or width of channel? Flow characteristics of the stream – frequency and duration of flow? If impacts are YES, provide mapping and photos showing following information: <ul style="list-style-type: none"> • Identify maximum limits of impacts below the ordinary high water mark. Identify ordinary high water mark on photos. • Identify maximum limits of impacts within the floodway. • Identify any fringe or adjacent wetlands. Discussion: flow only during and after storm events see pictures or OHWM	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No

<p>15c) Maintenance of Traffic During Construction (if applicable)</p> <p>Is a temporary bridge proposed?</p> <p>Is a temporary roadway proposed?</p> <p>Will the project involve the use of a detour or require a ramp closure?</p> <p>Will provisions be made for access by emergency services?</p> <p>Will provisions be made for access by local traffic and so posted?</p> <p>Will provisions be made for through-traffic dependent of businesses?</p> <p>Will provisions be made to accommodate any local special events or festivals?</p> <p>Will the proposed Maintenance of Traffic substantially change the environmental consequences of the action?</p> <p>Is there controversy associated with the proposed method for maintenance of traffic?</p> <p>Are there impacts to bicycles or pedestrian routes?</p> <p>If YES to any of the above questions, provide additional discussion. Traffic control per MUTCD to accommodate turns into businesses and flaggers and vehicle escort to control emergency vehicles will be provided.</p> <p>List in Block 18b the commitments or recommendations for maintenance of traffic to be implemented to reduce impacts.</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>15d) Detours Attach a detour map.</p> <p>Approximate length of detour: <u>Attached</u></p> <p>Select the best description of the planned detour:</p> <p><input type="checkbox"/> Detour will use local roads with no improvements.</p> <p><input checked="" type="checkbox"/> Detour will involve improvements to local roads with no resulting impacts on safety or the environment.</p> <p><input type="checkbox"/> Detour will involve improvements to local roads and will impact safety and/or the environment.</p> <p><input type="checkbox"/> Detour will use only state owned road</p> <p>Describe impacts: The only impacts that will occur is during culvert installation which will require one lane to be closed for a few hours at a time resulting in minor traffic delays.</p>	
<p>Block 16. Public Involvement</p>	
<p>16a) Will the project involve controversy concerning community and /or natural resource impacts?</p> <p>Discussion:</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>

<p>16b) Is a public information meeting held or tentatively planned?</p> <p>If YES, give Date & Location: August 22, 2007 at the Chapter house and project site.</p> <p>Discussion: Issue that the Chapter had with the project which included fixing the chapter parking lot, ROW fencing, drainage issues along N6331/N6330, traffic issues at the N6631/N21(3A) intersection. Both the Chapter and community were in full support of the project.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Block 17. Aesthetics and other values</p>	
<p>17a) Will the project be visually intrusive to the surrounding environment?</p> <p>If Yes, discuss.</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>17b) Will the project provide multiple use opportunities?</p> <p>If Yes, discuss. The new paved shoulders and sidewalk will accommodate bike and pedestrian path use in the future.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>

Block 18. Permitting and Environmental Commitments

18a) Indicate whether the proposed action is likely to require actions by agencies listed above or by other Agencies (e.g., permits, approval) and attach correspondence.

USACE Section 404 Permit	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Floodplain Development Permit	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Section 401 Water Quality Certificate	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
NPDES / SWPPP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Section 106 – Historic and Culturally Significant Properties	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Section 4(f) – Parklands, Recreation Areas, Refuges, Historic	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Section 6(f) – Land & Water Conservation Funds	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Coast Guard Permit	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Local Building or Site Development Permits	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Local Clearing and Grubbing Permit	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Erosion and Sediment Control Plan	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Others (list below):	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

18b) Environmental Commitments: Describe any measures, including Best Management Practices, recommended by resource agencies through informal consultation or those measures to be taken to mitigate project impacts. Include any environmental commitments agreed upon or those resources to be avoided. All commitments made and documented in this form are to be listed here.

Attached are the NRDOT's BMPs, and a contractor prepared temporary traffic control plan to be implemented during construction.

ENCLOSED ATTACHMENTS

- ☒ Project Vicinity Map (State, local, and project maps)

SUPPORTING DOCUMENTATION/COORDINATION/CONSULTATION (submit separately to FHWA)—

In Project Files, unless indicated as “Attached”

- ☒ State Historic Preservation Office (SHPO) letter(s) of concurrence
- ☐ FHWA Section 4(f) approval documentation
- ☒ U.S. Fish and Wildlife Service letter(s) of concurrence
- ☐ Wetland Determination Memorandum
- ☒ U.S. Army Corps of Engineers / Clean Water Act correspondence
- ☐ Natural Resource Conservation Service Farmland Conversion Form AD1006
- ☒ Tribal consultation letter(s)
- ☐ Other Agencies (e.g., USEPA, NPS, BIA, USCG)

INSERT Tribe Name/Project Name & Number: Navajo Nation/ Kaibeto N6330(1), N6331(1-20(2) & N21(3A)

19. Environmental Documentation Recommendation

19a. The Project is listed as a CE, per FHWA 23 CFR 771.117(c), and is recommended for FHWA/BIA approval.

☐ Yes ☒ No ☐ N/A

The Project is listed as a CE, per FHWA 23 CFR 771.117(d), and is recommended for FHWA/BIA approval.

☒ Yes ☐ No ☐ N/A

Prepared by: Ray Lucero Date: 9/21/2016
(print) (sign)

Title & Organization*: P&D Branch ROW Engineer

Phone & email: 505-863-8305 raymond.lucero@bia.gov

Reviewed by**: Harold Riley-PE Date: 9/21/2016
(print) (sign)

Title & Organization*: P&D Chief BIA NRDOT

Phone & email: 505-863-8281 harold.riley@bia.gov

Tribe Review/Concurrence of Environmental Documentation Recommendation:**

(BIA NEPA Compliance)

Reviewed/Concurred by: N/A Date: _____
(print) (sign)

Title & Name of Organization: _____

Phone & email: _____

*Organization refers to a Contractor, Tribe, or Action Agency, depending on who prepared the Form.

**Add additional "Reviewed by" and "Concurred by" as necessary, per Tribal/BIA processes.

Attachment 2- BEST MANAGEMENT PRACTICES

Project: N6330(1)/N6331(1-2)(2)/N21(3A)1,2&4
Best Management Practices
Navajo Regional Division of Transportation

In order to avoid, reduce, or mitigate potentially adverse impacts during the construction of this project, the Navajo Regional Division of Transportation Contractor will incorporate the following best management practices (to the fullest extent).

1. Construct the project in accordance with the Manual for Standard Specifications for Construction of roads on Federal Highway Projects (FP-03), and in compliance with all applicable Navajo Tribal and Federal laws, codes, safety regulations, and executive orders.
2. The BIA Contractor will avoid any increase in sedimentation of bodies of water on or near the project by preparing and implementing a Storm Water Pollution Prevention Plan (SWPPP) in accordance with the contract requirements. The Contractor will implement the SWPPP prior to any ground-disturbing activities. Adjustments in the SWPPP, during construction, shall be coordinated with the COR to insure compliance with the Clean Water Act.
3. The BIA Contractor shall stockpile the existing topsoil for uses in re-vegetation of borrow pits and roadway slopes, where feasible in accordance with the FP-03 and contract specifications.
4. The cut and fill volumes will be balanced as much as possible to avoid the use of borrow sources and all slopes shall be rounded to blend into the existing terrain. All disturbed ground on the project will be disked, seeded, mulched, and re-vegetated as described in section 625 of the supplemental specifications.
5. The following BMPs will be followed for all structural improvements, including any water pipelines, storage tanks, and troughs:
 - The pipeline would be ripped in the ground approximately 30 inches below the surface using a dozer or some other heavy equipment. All construction trash and debris would be removed from project site.
 - All equipment brought in from off the site will be power washed before entering the site to avoid the possible introduction and invasion of noxious and invasive weeds. All construction trash and debris would be removed from project site.
 - Ground disturbance from the heavy equipment would be re-seeded with a certified weed free seed mix. The seed would be suitable to area and match existing native species.
 - Existing Water sources used by wildlife would be left on yearlong.
 - Adequate wildlife escape ramps would be mandatory in the troughs to prevent entrapment and drowning of wildlife if the troughs are modified by the Contractor during construction.

- Any water storage would be with closed tops and any adequate wildlife escape ramps would be mandatory in the trough to prevent entrapment and drowning of wildlife.
- The storage tank and troughs would be painted with natural colors to match the surroundings for visual resource management (VRM) if they are highly visible from highway.
- If an archeological site is encountered, construction must cease in the area, and the COR and BIA Regional DOT office must be notified immediately.
- All water pipelines used on the project shall be placed along a flagged route in consultation with the COR; any deviation from the above stated stipulations and or specifications will require further consultation with the COR.
- Water bars shall be installed along the proposed route, where necessary, to reduce erosion.

6. Construction hours will be between 6:00 am and 8:00 pm, Monday through Saturday, (weather permitting) or as stated in the Special Contract Requirements. In high wildlife use areas, an alternate construction schedule may be used in consultation with the Navajo Fish and Wildlife Department and/or U.S. Fish and Wildlife Service.

7. The Contractor's camp and equipment storage area will be kept clean and free of oils, waste materials, and other litter at all times, to prevent such materials from entering bodies of water. All trash will be disposed of in accordance with EPA regulations and all camp sites and equipment storage areas will be restored to their natural condition at project completion (in accordance with Navajo Tribal permit requirements).

8. The Contractor will inspect daily all construction equipment for leaks and notify the BIA COTR/Project Manager on the removal of leaking equipment from the project site until the leaking equipment is repaired and spills cleaned up to the satisfaction of the Project Manager and Environmental Quality Office. Equipment will be washed down in a designated area to prevent transport of mud, noxious weeds, and other debris from leaving the project limits when transporting equipment off the project site. Such debris will be collected and hauled off to a disposal site by the Contractor. The Contractor must have a spill prevention plan in place to contain spills, mitigate the spills, and remove all the pollutants off the project to an approved waste repository.

9. **Noxious weed control Standard Operating Procedures** for work on Navajo Nation will be as follows:

- Ensure equipment involved in land disturbing actions, be clean of noxious weed seeds or propagative parts prior to entry on site. When working in areas with noxious weeds equipment should be cleaned prior to moving off site.
- Survey and inventory proposed work areas for noxious weeds; take reasonable measures to avoid spread of noxious weeds found (ie - cleaning equipment with pressure washers, stockpiling overburden material for later treatment, avoiding driving through weed patches). Consult with the BIA regional DOT office on any known species of noxious weeds in the project area before construction begins.

- Use only certified weed free erosion control and re-vegetation materials (eg. mulch, seed, natural fiber mats).
- If fill dirt or gravel will be required, the source needs to be noxious weed free to the fullest extent possible.
- The site should be monitored for the life of the project for the presence of noxious weeds (includes maintenance & construction activities). If weeds are found the COR will be notified who will determine the best method for the control of the particular weed species in consultation with the NRDOT office.
- If at any time, populations of noxious weeds are encountered, construction must cease and measures must be taken to clear the right of way. The problem area would be sprayed with the appropriate herbicide. By law, the target weed must be listed on the label of the herbicide being applied, and the rate applied must be in accordance with the manufacturer's recommendations in accordance with section 109.02(m) of the supplemental specifications for this project. Known noxious weed sites within the project ROW should be monitored for the life of the project for the presence of noxious weeds (includes maintenance & construction activities). If weeds are found the COR will be notified and the COR will determine the best method for the control of the particular weed species and its control in accordance with section 109.02m of the contract specifications.
- It would be the Contractor's and COR's responsibility to have a weed control contractor monitor, control, and eradicate all invasive, non-native plant species within the proposed project construction limits as may be called for in the project contract documents. The weed-control contractor would contact the COR regarding acceptable weed-control methods plan. The Contractor would be required to submit a current Pesticide Use Proposal for the location prior to any pesticide application. The weed-control contractor must carry a current pesticide applicator' license and only use pesticides authorized for use on Navajo Nation lands. The use of pesticides would comply with federal and tribal laws, and used in accordance with their registered use and limitations. The weed-control contractor would contact the COR prior to using these chemicals and provide quarterly Pesticide Use Reports (PURs).
- Reclamation and re-vegetation of the work site will use species specified by the specifications. All seed should be certified weed free. The area will be monitored to determine the success of the re-vegetation, and re-vegetation may have to be continued until successful.
- Any need for noxious weeds treatment shall be in accordance with section 109.02(m) of the FP-2003.

10. All oils, fuels, lubricants, and hydraulic fluids will be kept in sealed storage containers and or facilities that meet EPA regulations for preventing contamination of the environment. Again a spill prevention plan must be in place.

11. Damage to trees and shrubs outside of the construction limits will be replaced by the Contractor at his expense as directed by the COR.

12. Parking and staging areas will be limited to the construction limits. Existing roads will be used for detours, storage of equipment, and the hauling of materials and water to the fullest extent possible. Storage areas within the construction limits will utilize existing disturbed areas and be kept as small as possible.

13. The installation of drainage structures will be undertaken in such fashion so as to minimize soil erosion and to provide for a minimum of 610 mm of cover over the pipe as measured from the roadway shoulder.

14. Structural replacements will be performed during periods of low- or no-flow periods to minimize water quality impacts. The Contractor shall install Lined waste pits for concrete or asphalt on the project in a level ground at least 100 feet away from any drainage and outside the construction limits. No dumping of waste concrete will be allowed on the project site except in the lined pits which will immediately be removed from the project once the concrete or asphalt work is finished. Any and all excess concrete and asphalt materials will be disposed of (off site) in accordance to EPA regulations and the FP-2003.

15. The Contractor will acquire Navajo water-use and aggregate material permits through the BIA and Navajo Tribal process, and follow all requirements of such permits, including royalties and environmental protection.


16. The Navajo Regional Division of Transportation and construction Contractor will acquire and comply with the following regulations regarding the Federal Clean Water Act:

- a) Section 404 permit
- b) Water Quality (Section 402) Certification
- c) National Pollution Discharge Elimination System (NPDES) permit and the Storm Water Pollution Prevention Plan (see attached SWPPP details)

A Notice to Proceed with work that may impact the waters of the US or Navajo Nation will NOT be issued until the 401, 402, 404 and other project permits are in place and the requirements are reviewed and discussed with the contractor.

17. Comply with all mitigation requirements concerning archaeological sites on or near the project site as defined in the compliance and contract documents.

Attachment 3- Project FHWA Approved TTP-TIP Sheet

 Office of Federal Lands Highway US Department of Transportation - Federal Highway Administration		Tribal Transportation Program Transportation Improvement Program				
Consortium: <u>Western</u>		Tribe Code: <u>N00780</u>				
Tribe: <u>Navajo Nation</u>		Date: <u>7/2/2013</u>				
Funding Source: <u>TTP</u> (examples: IRR, IRRBP, 1% Planning, PLH-D)		Current FY: <u>2016</u>				
PROJECT INFORMATION		STIP Amount: <u>\$530,000</u>				
Project Name: <u>N6331(2)2&4/N6330(1)/N21(1A)1,2,4 Trading Post Brdg Rehab-N310</u>						
Location: <u>Kaibeto Chapter</u>						
Type of Work: <u>Grade, Drain, Pavement and Bridge Construction</u>						
Route Number: <u>N6331/N6330/N21</u>		Project Number: <u>N6331(2)2&4/N6330(1)/N21(1A)1,2,4</u>				
Length: <u>2.29</u> Miles		County: <u>Coconino</u>				
State: <u>AZ</u>		Construction Year: <u>2016</u>				
Comments: <u>Project under design by BIA and is 95% complete. PE funds expended = \$378,917. Bid advertisement by December 2015.</u> <u>Total construction funds committed = \$10,500,000 (FY 2015).</u>						
Activity	2016	2017	2018	2019	2020	TOTAL
Administration	\$0	\$0	\$0	\$0	\$0	\$0.00
Planning	\$0	\$0	\$0	\$0	\$0	\$0
Preliminary Engineering	\$30,000	\$0	\$0	\$0	\$0	\$30,000
Construction	\$0	\$0	\$0	\$0	\$0	\$0
Construction Engineering	\$200,000	\$300,000	\$0	\$0	\$0	\$500,000
Transit	\$0	\$0	\$0	\$0	\$0	\$0
Maintenance	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$230,000	\$300,000	\$0	\$0	\$0	\$530,000

Attachment 4- Tribal Support Resolutions

04/01/2011 09:35 19288717987

NAVAJO DOT WIN RK

PAGE 03/05

THE WESTERN NAVAJO AGENCY ROADS COMMITTEE RESOLUTION

#WNARC030311-02

THE WESTERN NAVAJO AGENCY ROADS COMMITTEE FULLY SUPPORTS THE K'AI'BII'TO CHAPTER REQUEST TO INCLUDE FOUR (4) DRIVEWAY AND ONE CATTLEGUARD IMPROVEMENTS TO EXISTING N6331(1) UNDER THE IRR ROAD AND BRIDGE PROJECT; N6331(2)1,2,&4/N6330(1)1,2,&4 TRADING POST BRIDGE REHAB-N310 IN THE INTEREST OF THE PUBLIC SAFETY.

WHEREAS:

1. The Western Navajo Agency Roads Committee was established by the Western Navajo Agency Council to analyze needs, goals and determine relevant road/bridge developments and/or improvements consistent with Navajo Nation Laws, rules and regulation as specified in 25 CFR 170; And
2. In accordance to 25 CFR Section 170, 4a, the Agency Roads Committee is entrusted to select, authorize and prioritize roads/bridge activities concerning Indian Reservation Roads activities as it pertains to the Navajo Nation; And
3. Since the construction of N6331(1) (aka N22(6)), numerous K'AI'BII'TO community members have withdrawn homelands leases and now reside along N6331; And
4. As a result of this residential development, numerous unpermitted access exist on N6331(1); And
5. Livestock routinely gain access to the fenced N6331(1) Rights-of-Way endangering vehicular traffic; And
6. The K'AI'BII'TO Chapter is requesting improvements to these residential driveways and the installation of a cattle guard at the end of N6331(1) project by resolution KB4ATR-142-09/08 (attached).

NOW THEREFORE BE IT RESOLVED THAT:

1. The Western Navajo Agency Roads Committee hereby fully supports the K'AI'BII'TO Chapter's request to the Navajo Nation Resource and Infrastructure Committee and the Bureau of Indian Affairs, Navajo Region Division of Transportation Office to include four (4) driveways and one cattle guard improvements to existing N6331(2)2&4/N6330(1)1,2&4 Trading Post Bridge Rehab-N310 in the interest of the public safety; And
2. The Western Navajo Agency Roads Committee hereby fully supports the K'AI'BII'TO Chapter's request to improve residential driveways for local tribal members and asphalt pavement from the roadway to the cattle guards.

THE WESTERN NAVAJO AGENCY ROADS COMMITTEE RESOLUTION

Page 2 - #WNARC030311-02

THE WESTERN NAVAJO AGENCY ROADS COMMITTEE FULLY SUPPORTS THE K'AP'BI'TO CHAPTER REQUEST TO INCLUDE FOUR (4) DRIVEWAY AND ONE CATTLEGUARD IMPROVEMENTS TO EXISTING N6331(1) UNDER THE IRR ROAD AND BRIDGE PROJECT; N6331(2)1,2,&4/N6330(1)1,2,&4 TRADING POST BRIDGE REHAB-N310 IN THE INTEREST OF THE PUBLIC SAFETY.

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

I hereby certify the foregoing resolution was duly considered by the Western Navajo Agency Roads Committee membership at which a quorum was present and same was passed by a vote of 04 in favor, 00 opposed and 01 abstained, this 03rd day of March, 2011 at the Bureau of Indian Affairs Conference Room, Navajo Nation, ARIZONA.

MOTION BY: Lola Smith
SECOND BY: Chester Claw

Supporting resolution Attached

Stanley Clitso
Stanley Clitso Vice-Chair

Resolution of K'ai'Bii'Tó Chapter



KB4Q1K-14-09/08

P.O. Box 1761 * Kaibeto, AZ * 86053

Ph#: (928) 673-5850/5851

Fax#: (928) 673-5853

REQUESTING THE NAVAJO NATION TRANSPORTATION AND COMMUNITY DEVELOPMENT COMMITTEE, NAVAJO NATION DEPARTMENT OF TRANSPORTATION, AND THE BUREAU OF INDIAN AFFAIRS - DIVISION OF TRANSPORTATION, TO DESIGN AND MAKE IMPROVEMENTS TO N 6331 DURING THE DESIGN AND CONSTRUCTION OF N21; BY ADDING FOUR RESIDENTIAL TURNOUTS AND INSTALLING A CATTLEGUARD AT THE END OF THE PROJECT

WHEREAS:

1. The K'ai'bii'tó Chapter is recognized and established as a local government entity of the Navajo Nation Government (2 N.N.C.) to enhance and foster the best interest of the community membership; and
2. Pursuant to 26 N.N.C., Chapter 1; Navajo Nation Chapter, Section 1. (B) (1) & (2), the Navajo Nation Council delegated to Chapter governmental authority with respect to local matters consistent with Navajo law, including custom and tradition and allows the chapter to make decisions to govern with responsibility and accountability to community membership; and
3. The K'ai'bii'tó Chapter recognizes the deficiency of N6331; and
4. The K'ai'bii'tó Chapter recognizes the tremendous need for road and bridge improvements on the Navajo Nation and, in particular, within the K'ai'bii'tó Chapter; and
5. The K'ai'bii'tó Chapter supports the Navajo Nation Transportation and Community Development Committee, Navajo Nation Department of Transportation, and the Bureau of Indian Affairs - Division of Transportation to implement the necessary activities and funds to make improvements to Navajo Route N 6331.

NOW THEREFORE BE IT RESOLVED THAT:

1. The K'ai'bii'tó Chapter hereby respectfully requests the Navajo Nation Transportation and Community Development Committee, Navajo Nation Department of Transportation, and the Bureau of Indian Affairs - Division of Transportation to design and make improvements to N6331 during the design and construction of N21(3); by adding four residential turnouts and installing a cattleguard at the end of the project.

Resolution of K'ai'Bii'Tó Chapter



KB4QTR-14-09/08

P.O. Box 1761 * Kaibeto, AZ * 86053

Ph#: (928) 673-5850/5851

Fax#: (928) 673-5853

REQUESTING THE NAVAJO NATION TRANSPORTATION AND COMMUNITY DEVELOPMENT COMMITTEE, NAVAJO NATION DEPARTMENT OF TRANSPORTATION, AND THE BUREAU OF INDIAN AFFAIRS - DIVISION OF TRANSPORTATION, TO DESIGN AND MAKE IMPROVEMENTS TO N 6331 DURING THE DESIGN AND CONSTRUCTION OF N21; BY ADDING FOUR RESIDENTIAL TURNOUTS AND INSTALLING A CATTLEGUARD AT THE END OF THE PROJECT

CERTIFICATION

We, here by, certify that the foregoing resolution was duly considered by the K'ai'bii'tó Chapter at a duly called Regular Chapter meeting at K'ai'bii'tó, (Navajo Nation) Arizona, at which a quorum was present and that same was passed by a vote of 46 in favor, 0 opposed, and 0 abstaining, with motion by

Kelsey A. Begaye, and second by Ernest Goatson, this 14th day of September 2008.

Kelsey A. Begaye
Kelsey A. Begaye, President

Ernest Goatson
Ernest Goatson, Vice-President

Adolph June, Jr.
Adolph June, Jr., Sec'y/Treasurer

Ree Y. Mann
Ree Y. Mann, Council Delegate

Elroy Martin
Elroy Martin, DGCM

EXHIBIT "A"

INTERIM
TERMS AND CONDITIONS
Right-of-Way for BIA
Concerning Road Projects

- a. The term of the right-of-way shall be for 75 years.
- b. Consideration for the grant of the right-of-way is hereby waived, because the project will benefit Navajos living in the area.
- c. The Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or may be hereafter in force and effect, including but not limited to the following:
 - i. Title 25, Code of Federal Regulations, Parts 162 and 169;
 - ii. All applicable Federal and Tribal antiquities law and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices; and
 - iii. The Navajo Preference in Employment Act, 15 N.N.C. §§601 et. seq., and the Navajo Nation Business Preference Law, 5 N.N.C. §§201 et. seq.;
- d. The Grantee shall clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during construction and maintenance of the project.
- e. The Grantee shall at all times during the term of the right-of-way and at the Grantee's sole cost and expense, maintain the land and all improvements thereon and make all necessary and reasonable repairs.
- f. The Grantee shall obtain permission to cross existing rights-of-way from the appropriate parties before constructing the proposed projects.

- g. The Grantee shall be responsible for and promptly pay all damages when they are sustained.
- h. The Grantee shall not assign, convey or transfer, in any manner whatsoever, the right-of-way or any interest therein, or in or to any of the improvements on the land, without the prior written consent of the Navajo Nation and the Secretary. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation.
- i. Holding over by the Grantee after the termination of the right-of-way shall not constitute a renewal or extension thereof or give the Grantee any rights hereunder or in or to the land or to any improvements located thereon.
- j. The Navajo Nation and the Secretary shall have the right, at any reasonable time during the term of the right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any buildings and other improvements erected or placed thereon.
- k. Nothing contained herein shall be construed to affect or be deemed a waiver of the Navajo Nation's sovereign immunity from suit.
- l. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of the Grantee, and the term "Grantee," whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.
- m. Grantee shall retain as much of the natural vegetation within the right-of-way as possible.
- n. Grantee shall re-vegetate all disturbed areas.
- o. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the right-of-way and all lands burdened by the right-of-way, including without limitation over all persons, including the traveling public, and all activities conducted or otherwise occurring within the right-of-way, and specifically including, but not limited to, jurisdiction to enforce speed limits and compliance with traffic control devices, jurisdiction to enforce Navajo Nation laws applicable to the operation of motor vehicles and jurisdiction to adjudicate disputes arising from motor vehicle accidents or other conduct or activities occurring within the right-of-way, and the right-of-way and all lands burdened by the right-of-way shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction, consistent with federal law.

Attachment 5- Archaeological Compliance

374 AS file

**CULTURAL RESOURCES COMPLIANCE FORM
NAVAJO NATION HISTORIC PRESERVATION DEPARTMENT
P.O. BOX 4950, WINDOW ROCK, ARIZONA 86515**

ROUTING: COPIES TO
AZ SHPO
X ACHP
X BIA Real Estate Services
X BIA-NRO-DOT
X NNHPD-RPP
X Kaibeto Chapter
X Pueblo of Acoma, Governor's Office
X Pueblo of Laguna, Governor's Office
X Pueblo of Zia, Governor's Office
X Pueblo of Zuni, Governor's Office
X The Hopi Tribe, Chairman's Office
X San Juan Southern Paiute Tribe, President's Office

NNHPD NO. 08-450
OTHER PROJECT NO. BIA-NR-DOT N00102
RPP 07-005

PROJECT TITLE: A Cultural Resources Assessment of Navajo Routes 6330(1)1,2&4 and 6331(1)2&4 and Replacement of Bridge N310 in Kaibeto Chapter, Coconino County, Arizona.

LEAD AGENCY: Bureau of Indian Affairs, Navajo Region (BIA)

SPONSOR: BIA, Division of Transportation (DOT)

PROJECT DESCRIPTION: The BIA-DOT proposes to improve and pave Navajo Routes 6330 (1)1,2&4 and 6331(1)2&4 and replace Bridge 310. Construction activity will be both extensive and intensive.

LAND STATUS: Tribal Trust

CHAPTER: Kaibeto

LOCATION: (NAD 83, Zone 12)

<u>Designations</u>	<u>Northing</u>	<u>Easting</u>	<u>T.</u>	<u>R. (G&SRM)</u>	<u>Section</u>
N6330 Centerline at BOP	4051213	493248	37N	12E	26 projected
Centerline at EOP	4050912	493743	37N	12E	14 projected
Assessment Boundary (Left) at BOP	4051249	493247	37N	12E	27 projected
Assessment Boundary (Right) at BOP	4051182	493270	37N	12E	26 projected
Assessment Boundary (Left) at EOP	4050940	493772	37N	12E	14 projected
Assessment Boundary (Right) at EOP	4050893	493718	37N	12E	14 projected
N6331 Centerline at BOP	4048684	492503	37N	12E	14 projected
Centerline at EOP	4051540	493198	37N	12E	14 projected
Assessment Boundary (Left) at BOP	4048686	492458	37N	12E	14 projected
Assessment Boundary (Right) at BOP	4048602	492541	37N	12E	14 projected
Assessment Boundary (Left) at EOP	4051531	493118	37N	12E	14 projected
Assessment Boundary (Right) at EOP	4051558	493194	37N	12E	14 projected

CULTURAL RESOURCE PROFESSIONALS: Judith Touchette

NAVAJO ANTIQUITIES PERMIT NO.: Navajo Tribal Code

DATE INSPECTED: August 22, 23, and November 28, 2007

DATE OF REPORT: June 19, 2008

TOTAL ACREAGE INSPECTED: The ROW area is 19.47ha (48.08 ac) and the assessment area is 30.33ha (74.94 ac).

METHOD OF INVESTIGATION: Parallel pedestrian transects 15 meters apart.

LIST OF CULTURAL RESOURCES FOUND: IO-1, IUP-1, and IUP-2

LIST OF ELIGIBLE PROPERTIES: None

LIST OF POTENTIALLY ELIGIBLE PROPERTIES: None

LIST OF NON-ELIGIBLE PROPERTIES: IO-1, IUP-1, and IUP-2

LIST OF ARCHAEOLOGICAL RESOURCES: None

EFFECT/CONDITIONS OF COMPLIANCE: In accordance of Stipulation 3 of the document entitled "A Programmatic Agreement Among the Navajo Nation, the Bureau of Indian Affairs-Navajo Area Office, the Advisory Council on Historic Preservation, the Arizona State Historic Preservation Officer, the New Mexico State Historic Preservation Officer, and the Utah State Historic Preservation Officer for Cultural Resource Management Projects Conducted Under the Auspices of the Navajo Nation Historic Preservation Department, Roads Planning Section, Within the Boundaries of the Navajo Nation," the Navajo Nation Historic Preservation Department has determined that the undertaking will have no adverse effect on historic properties, provided that construction activities are confined to the assessed area.

The BIA shall also insure that all borrow areas, material source areas, staging areas, access routes, and any other such areas are inventoried for cultural resources prior to any ground disturbance associated with the project. Prior determinations made by any federal agency that use of an area would have no effect on historic properties, or that an area contained no historic properties are sufficient to meet the terms of this condition, unless and until historic properties are discovered, as indicated below. Areas not previously inventoried must be assessed by BIA or its agents or contractors prior to any ground disturbing activities.

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 928/871-7148.

FORM PREPARED: Nina Swidler

FINALIZED: June 19, 2008

Notification to Proceed

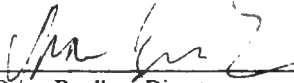
Recommended: Yes X No

Conditions: Yes No X


Alan S. Downer
Navajo Nation Historic Preservation Officer

6-19-08
Date

Agency Approval: Yes X No
7-1-08


Omar Bradley, Director
Bureau of Indian Affairs-Navajo Region

7-1-08
Date

NS:jt FLG-08 223

Taft Blackhorse

From: david.cremer@dot.gov
Sent: Wednesday, April 20, 2016 10:45 AM
To: Oramm@navajo-nsn.gov
Cc: tblackhorse@navajodot.org
Subject: Kaibeto Road Improvement Project (HPD-15-478) Concurrence

Good Morning Dr. Marek-Martinez

FHWA TTP sent consultation materials to your office (Navajo THPO) regarding the Navajo DOT project Kaibeto Road Improvement Project (N21) (HPD-15-478) on May 5, 2015. The Section 106 for this project was completed by EMI and determined *No Historic Properties Affected* by FHWA. We received a response from your office dating to 7/23/15 requesting further information. I was informed by EMI (and copied on emails) that the required information was sent to your office on 8/6/15 and followed-up with an email on 3/29/16. At this point we have not heard anything from your office or received any correspondence regarding this project.

Given that no response was received from the THPO within the 30-day review period FHWA TTP will assume THPO concurrence with its determinations per 36 CFR part 800.3 (c)(4) . If you (Navajo THPO) respond to consultation at a later date, FHWA will make a good faith effort to address your concerns.

Thank you for your time.

David Cremer
Environmental Coordinator
FHWA-Tribal Transportation Program
12300 West Dakota Ave.
Lakewood, CO 80228
Phone: (720) 963-3528
Cell: (850) 556-5327
david.cremer@dot.gov
<http://flh.fhwa.dot.gov/programs/ttp/>

Attachment 6- Biological Compliance

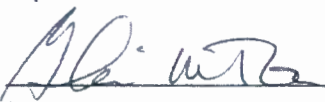


THE NAVAJO NATION

RUSSELL BEGAYE
JONATHAN NEZ

MEMORANDUM

TO : David Mikesic, Zoologist
Department of Fish and Wildlife

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

DATE : January 12, 2016

SUBJECT : DELEGATION OF AUTHORITY

I will be on travel beginning Tuesday, January 12 to Wednesday, January 13, 2016. I am hereby delegating you to act in the capacity of the Director, Department of Fish and Wildlife, effective 4:00 p.m. on Tuesday, January 12, 2016. This delegation shall end at 5:00 p.m. on Wednesday, January 13, 2016.

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



David Mikesic, Zoologist
Department of Fish and Wildlife

**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.: Navajo Routes N6330(1), N6331 (1-1)(2) & N21 (3A) 1, 2, & 4

DESCRIPTION: The NRDOT proposes to conduct road improvements on N6330, N6331, and N21 (3A).

Improvements would consist of grading, drainage improvements, aggregate base & concrete surfacing, traffic signs & striping, installation of new guard rails, and the replacement of an existing TEE intersection with a round-about intersection and the installation of solar lighting.

LOCATION: Kaibeto, Coconino County, Arizona

REPRESENTATIVE: Raymond Lucero, Planning Engineer, NRDOT

ACTION AGENCY: Bureau of Indian Affairs, Navajo Regional Division of Transportation

B.R. REPORT TITLE / DATE / PREPARER: BE-Navajo Routes N6331 (1) & N6330 (1) Road Projects/MAY 2009/EMI.

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3. Existing roads within the community of Kaibeto.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

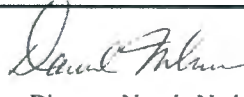
AVOIDANCE / MITIGATION MEASURES: NA

CONDITIONS OF COMPLIANCE*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/22 AUG 2014; addendum to include N21 on 13 JAN 2016

COPIES TO: (add categories as necessary)

☐
☐

<u>2 NTC § 164 Recommendation:</u>	Signature	Date
<input checked="" type="checkbox"/> Approval		1/13/16
<input type="checkbox"/> Conditional Approval (with memo)		
<input type="checkbox"/> Disapproval (with memo)		
<input type="checkbox"/> Categorical Exclusion (with request letter)		
<input type="checkbox"/> None (with memo)		
Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife		

*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

Attachment 7- Biological Evaluation

**Biological Evaluation for Proposed Navajo
Routes N6331 (1) & N6330 (1) Road Projects
Navajo Nation
Coconino County, Kaibeto, Arizona**

May 2009



**Prepared for:
Bureau of Indian Affairs
Navajo Regional Division of Transportation
P. O. Box 1060
Gallup, NM 87305-1060**

**Prepared by:
Ecosystem Management, Inc.
4004 Carlisle Blvd NE, Ste. C-1
Albuquerque, New Mexico 87107**



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1.0 INTRODUCTION

The proposed action is to conduct road improvements for Navajo Routes N6331 (1) and N6330 (1). N6331 (1) begins where it intersects N21 (3) and extends north approximately 2.2 miles to where it intersects with Arizona State Route 98. N6330 (1) begins where it intersects N6331 (1) and extends southeast approximately 0.41 miles. The BIA Navajo Regional Division of Transportation (NRDOT) proposes to pave Navajo Route N6331 (1) and N6330 (1) with hot asphalt concrete pavement, to widen the existing roadways on both sides from the centerline, to realign parts of the roads for longer curves that would improve sight distances, and to install signs and traffic pavement markings, and drainage structures. The drainage structures would be placed where existing natural water crossings occur and constructed furrow ditches along long tangent gradients. The furrow ditches will serve to reduce flow velocity and to disperse water into vegetated areas. A box culvert will be installed along N 6330 (1) where the road crosses Kaibeto Wash. Disturbed areas would be reclaimed with a native seed mixture.

Navajo Route N6331 (1) and N6330 (1) are located in Sections 14, 23, and 26 of Township 37 N, Range 12 E (BOP 492503 E, 4048684 N; EOP 493148 E, 4051540 N; BOP 493248 E, 4051213 N; EOP 493743 E, 4050913 N; NAD 83 UTM Zone 12N, Trimble GeoXT) in Coconino County, Kaibeto, Arizona on the Navajo Nation (Figure 1). The project sites are located within the jurisdiction of Kaibeto Chapter and the Western Navajo Agency.

2.0 METHODOLOGY

On 6 May 2009 a pedestrian survey was conducted by Stephanie Lee (EMI biologist) of Navajo Routes N6331 (1) and N6330 (1) (Figure 2). The N6331 (1) and N6330 (1) survey areas included 75 feet on both sides of the proposed center line and 165 feet for the proposed wash crossing on N6330 (1). A letter was sent to the Navajo Fish and Wildlife Department (NFWD) to obtain a list of protected species that may occur within the project area. The response letter is included as Appendix B. The EMI biologist searched for protected animal species as well as raptors and passerine birds, and suitable habitat for protected plants and animals within the project area. Photos were taken of the project area (Appendix A). The biologist also recorded the dominant plants in the project area.

Figure 1. Vicinity map of Navajo Routes N 6331 (1) and N6330 (1) road projects.

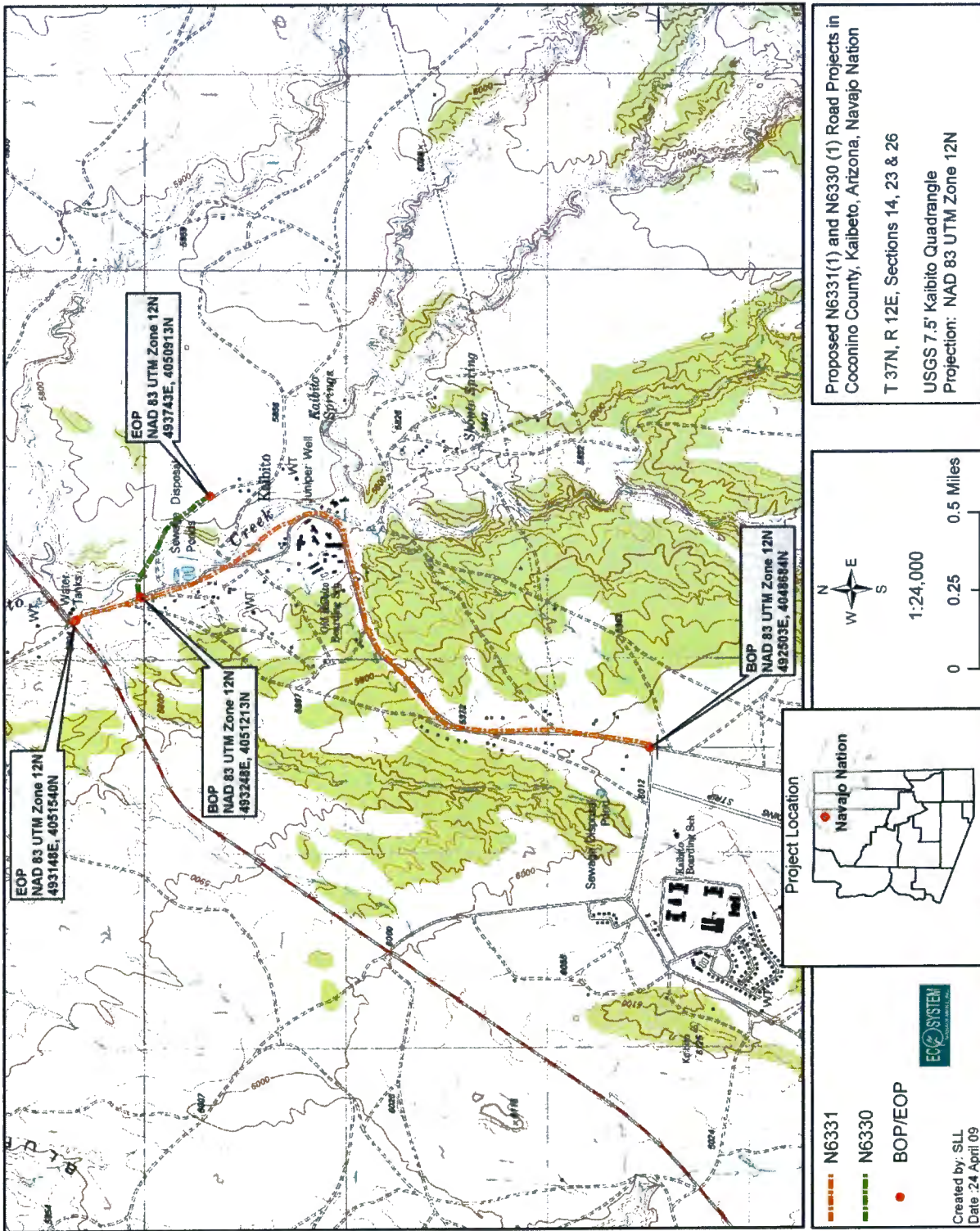
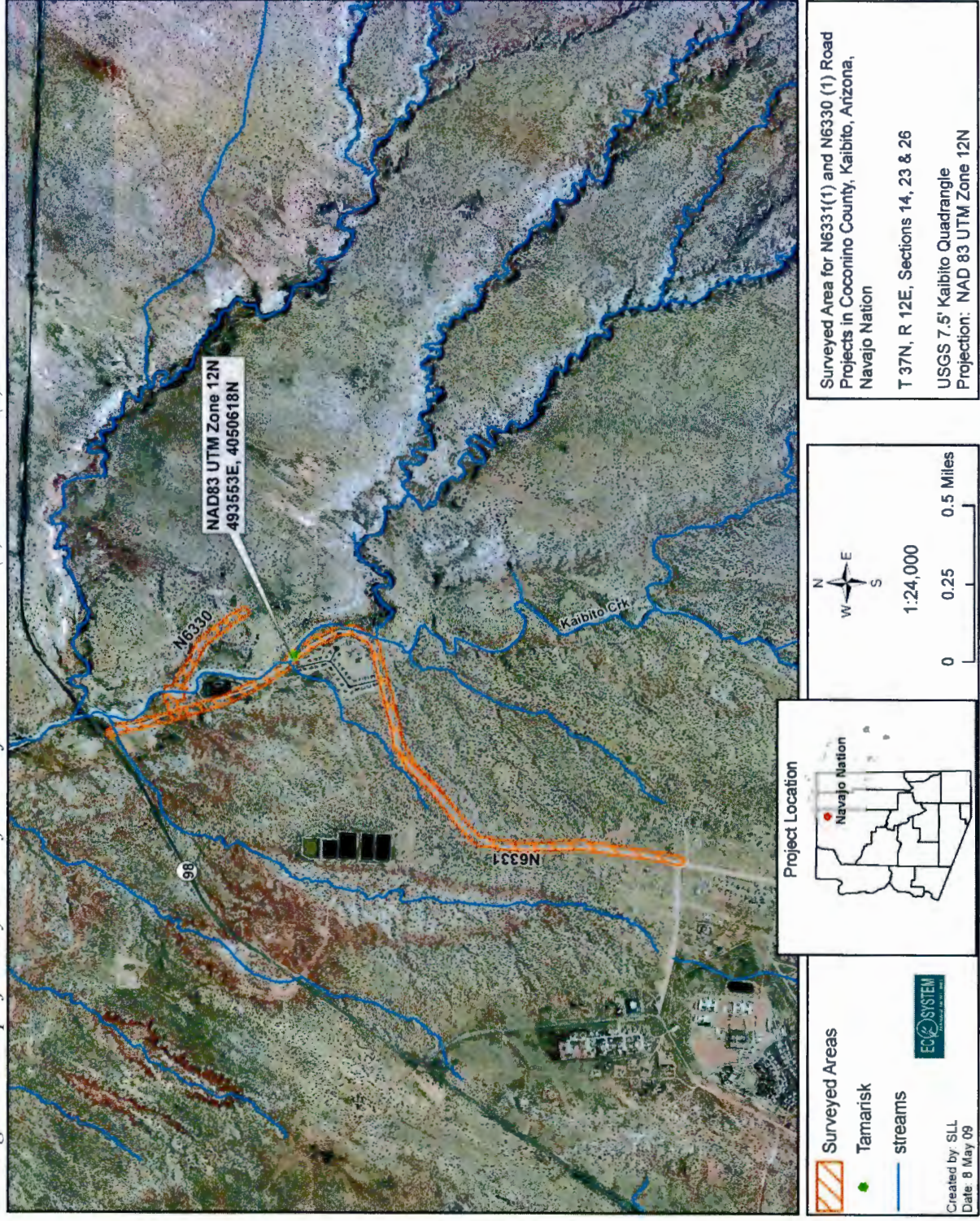


Figure 2. Map of surveyed area for Navajo Routes N 6330 (1) and N6331 (1).



2.1 Description of the project area

The topography of the project area is fairly level, and the elevation is approximately 6,000 feet (1,829 meters). The soils within the project areas are rock outcrop-Mido-Mido, loamy substratum complex and Urban land-Ustic Haplocambids complex, which exceed a depth of 20 inches and are eolian sands derived from sandstone (USDA NRCS 2008). The ephemeral water body, Kaibeto Creek, located within the project area was dry. There was no surface water or wetlands present within the project area. The N6331 project site drains to the northeast, while the N6330 project site drains to the northwest.

The project areas fall within the Great Basin conifer woodland and the Great Basin desert scrub plant communities as defined by Brown (1994). The dominant plants were broom snakeweed (*Gutierrezia* spp.), mormon tea (*Ephedra viridis*), one-seed juniper (*Juniperus monosperma*), Indian ricegrass (*Oryzopsis hymenoides*), globe mallow (*Sphaeralcea* spp.), scattered pinyon pine (*Pinus edulis*), antelope bush (*Purshia tridentata*), rabbitbrush (*Chrysothamnus* spp.), pale wolfberry (*Lycium pallidum*), big mountain sagebrush (*Artemisia tridentata*), tumbleweed (*Salsola* spp.), blue grama (*Bouteloua gracilis*), alkali sacaton (*Sporobolus airoides*), and prickly pear (*Opuntia* spp.).

The noxious weed observed was salt cedar (*Carduus nutans*), which is a BIA Navajo Regional Office Class C noxious weeds. Class C weeds are weeds that are widespread and well established. Control efforts for Class C weeds would be costly. Management tools emphasized are education, awareness, identification/monitoring, and management.

3.0 SURVEY RESULTS

A list of protected species with the potential to occur in the project area was obtained from NFWD on 31 March 2009 (Appendix B). The NFWD classified the proposed project site as a low sensitivity wildlife resource area. This means the area has a low, fragmented concentration or potential for rare, endangered, sensitive, and game species throughout the landscape. The NFWD had no record of species of concern occurring within or near the proposed project sites. However, the potential for 7 species of concern to occur within the project area needed to be evaluated.

Table 1. List of Protected Species with Potential to Occur in the Project Area

COMMON NAME	SCIENTIFIC NAME	STATUS*
Animals		
black-footed ferret	<i>Mustela nigripes</i>	NESL G2; ESA E
ferruginous hawk	<i>Buteo regalis</i>	NESL G3; MBTA
golden eagle	<i>Aquila chrysaetos</i>	NESL G3; MBTA, EPA
peregrine falcon	<i>Falco peregrinus</i>	NESL G4; MBTA
Mexican spotted owl	<i>Strix occidentalis lucida</i>	NESL G3; ESA T; MBTA
Southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	NESL G2; ESA E; MBTA
Plants		
Welsh's milkweed	<i>Asclepias welshii</i>	NESL G4; ESA T

*E = Endangered; EPA = Eagle Protection Act; ESA = Endangered Species Act; G2 = Group 2; G3 = Group 3; G4 = Group 4; MBTA = Migratory Bird Treaty Act; NESL = Navajo Endangered Species Act; T = Threatened.

Black-footed ferrets are nocturnal mammals that inhabit abandoned burrows of prairie dogs that represent the primary prey species. Only prairie dog towns over approximately 200 acres in size and with a density greater than 20 burrows per 2.5 acres (1 hectare) are considered sufficient to support black-footed ferrets (USFWS BBF Survey guidelines 1989). There were no prairie dog towns observed within the project area. Therefore, due to lack of suitable habitat there will be no effect to the black-footed ferret population through implementation of the proposed actions.

Ferruginous hawks generally inhabit dry, open country. The large stick nests are usually built in trees, on hillsides, buttes, cliffs or rocky pinnacles. The rocky mesas within the project area were glassed and no white wash, ferruginous hawks, or nests were observed. There were no badland pinnacles or cliffs with trees within the project area. The rocky mesa located within the project area was located adjacent to the residential dwellings along N6330 and the juniper trees did not have any nests. Therefore, due to lack of suitable habitat there should be no effect to the ferruginous hawk population through implementation of the proposed actions.

The **golden eagle** primarily inhabits hilly or mountainous terrain and hunts over open country for birds, snakes, carrion, and small mammals. Golden eagles nest in trees 10 ft to 100 ft above ground or on rocky cliffs. There were no rocky cliffs located within or near the project area. The rocky mesa located within the project area was located adjacent to residential dwellings along N6330 and the juniper trees did not have any nests. No golden eagles or nests were observed during field surveys. Therefore, due to lack of suitable habitat there will be no effect to the golden eagle population through implementation of the proposed road project activities.

The **peregrine falcon** breeding territories are on cliffs, with large "gulfs" of air nearby in which these predators can forage. Water is often in close proximity. The nest sites are typically ledges or potholes, with the 3-4 eggs being laid directly on the bare substrate. No peregrine falcons or nests were observed during field surveys. There was no suitable habitat within or near the project area. Therefore, due to lack of suitable habitat there will be no effect to the peregrine falcon population through implementation of the proposed actions.

The **Mexican spotted owl** inhabits mature ponderosa pine and mixed conifer forest, typically associated with steep slopes and cliff/canyon complexes. The winter habitats of Mexican spotted owls include lower-elevation pinyon- juniper woodlands. There was no mature mixed conifer or ponderosa pine habitat within the project area. Therefore, due to lack of suitable habitat there will be no effect to the Mexican spotted owl.

The **southwestern willow flycatcher** is a neo-tropical migrant associated with dense riparian shrub habitats for nesting and foraging. Surface water or saturated soils are almost always associated with occupied habitats during the breeding season. The project area does not have dense riparian shrub areas or perennial water features. Therefore, due

to lack of suitable habitat there will be no effect to the southwestern willow flycatcher.

Welsh's milkweed is an herbaceous perennial found on active sand dunes in the Great Basin desert scrub at elevations of 4,700 – 6,250 feet (1430 – 1905 meters). Welsh's milkweed is known to occur in Coconino County north of Tuba City at elevations from 5,000 to 6230 feet (1,524 – 1,899 meters) in sand dunes derived from Navajo sandstone in sagebrush, juniper, and ponderosa pine plant communities (NNHP 2008). There were no active sand dunes observed within the project area during the field survey. Therefore, due to lack of suitable habitat there will be no effect to the Welsh's milkweed through implementation of the proposed project activities.

Wildlife observed at the project area included common ravens (*Corvus corax*), house finches (*Carpodacus mexicanus*), house sparrows (*Passer domesticus*), Brewer's sparrow (*Spizella breweri*), and birds using the sewage ponds included cinnamon teal (*Anas cyanoptera*), mallard (*Anas platyrhynchos*), red-winged blackbird (*Agelaius phoeniceus*), spotted sandpiper (*Actitis macularia*), and green-winged teal (*Anas crecca*). There were no active nests observed during the field survey.

4.0 CUMULATIVE IMPACTS

The proposed action will result in temporary and/or minor impacts to wildlife due to an increase in noise and dust. Local residents will be temporarily affected through increases in noise, traffic, and dust. Paving of Navajo Routes N6331 and N6330 would benefit the chapter and community by implementing an all weather route for the Kaibeto community residents on the Navajo Nation.

Foreseeable effects of the proposed action will be a temporary increase in noise and suspended dust during the construction. The following best management practices will be incorporated into the project design plans to the fullest extent possible:

- Construction equipment will be inspected daily for leaks. Leaking equipment will be removed from the project site until repaired and spills are cleaned.
- All fuels, oils, lubricants, and hydraulic fluids will be kept in sealed, storage containers or facilities that are located within the construction area.
- Parking and staging areas will be located within close proximity of the construction area.
- Existing roads will be used for detours, storage of equipment and hauling of materials and water to the fullest extent possible.
- Drainage structures will be installed in a manner that minimizes soil erosion and provides for a minimum of 12 inches of cover over the pipe.
- Silt fences, straw bales, or water turnouts should be installed to serve as sediment diversions.

- Structural replacements will be performed during periods of low-or-no flow periods to minimize water quality impacts.
- Any asphalt or concrete materials will be disposed of offsite in accordance with applicable federal and tribal regulations.

The 1987 amendments to Section 402(p) of the Clean Water Act (CWA) clarifies that storm water discharges associated with industrial activity to waters of the United States must be authorized by a National Pollutant Discharge Elimination System (NPDES) permit. Industrial activity includes storm water discharge associated with construction activities that involve clearing, grading, and excavation that result in the disturbance of more than or equal to one acre of total land area. Because the construction activities in the proposed action would disturb approximately 48 acres (20 hectares) of total land, section 402(p) of the CWA requires the contractor to file with the Navajo Nation Environmental Protection Agency a “Notice of Intent” and comply with the terms of this permit. The construction contractor will prepare a Storm Water Pollution Prevention Plan and obtain the necessary permits before work commences.

Based on preliminary research, it appears that there may be impacts to “Waters of the U.S.” from the proposed action, because Kaibeto Wash is a tributary of Lake Powell, a jurisdictional “Waters of the U.S.” To determine if Kaibeto Wash is in fact a jurisdictional “Waters of the U.S.,” then a formal jurisdictional determination request to the US Army Corps of Engineers will have to be made. Therefore, a Clean Water Act Section 401, Water Quality Certification, and a Clean Water Act Section 404 permit may be required.

A Clean Water Act Section 404 permit would be obtained from the Army Corps of Engineers (ACOE) to conduct the work along Navajo Route N6331 and N6330 along Kaibeto Wash. Nationwide permit 14 authorizes the discharge of dredged or fill material into waters of the U.S. for linear transportation projects. The proposed action would impact approximately less than one-tenth of an acre to Kaibeto Wash, as of the current footprint.

A Clean Water Act Section 401 Certification will be obtained from the Navajo Nation Environmental Protection Agency. The general permit conditions include implementing best management practices to prevent degrading water quality. These practices include the following measures.

- Inspect construction equipment daily for leaks

- Remove leaking equipment from the project site until repaired and spills are cleaned
- Store fuels, oils, lubricants, and hydraulic fluids in sealed storage containers or enclosed facilities within the construction area
- Locate parking and staging areas within the boundaries of the construction area
- Use existing roads for detours, equipment storage, and material and water hauling to the fullest extent possible
- Dispose of asphalt or concrete materials offsite in accordance with applicable federal and tribal regulations

The proposed action would not affect the flow of surface water or the volume of groundwater in the project area. Water would be required for construction activities. Although this water may be obtained from trust land, it is unknown at this time as to where the water would be obtained. Permits to use water would be obtained from the appropriate agencies or persons as required. If water is obtained from the Navajo Nation, then the construction contractor would obtain a permit from the Department of Water Resources Management at least thirty days prior to construction. The contractor would notify the Navajo Nation of the location of water resources to be used during construction.

5.0 LIST OF PREPARERS

Stephanie Lee, Biologist, Ecosystem Management, Inc.

6.0 CONCLUSION

The proposed action would result in temporary and/or minor impacts to vegetation, wildlife, and soils. Wildlife habitat may suffer short-term degradation due to loss of vegetation, which may provide forage and cover. No major or long-term effects on wildlife are anticipated. Incidental mortality or displacement among small animals may occur on the site during clearing and preparation of the site. However, the plant community is widespread and those animals are expected to move into adjacent habitats. Therefore, this project will result in no effect to any protected species. No wetlands are within the proposed road construction area. Kaibeto Wash is a tributary to Lake Powell, jurisdictional waters of the U.S. Based on preliminary research, it appears there may be impacts to "Waters of the U.S." from the proposed action. To determine if Kaibeto Wash

is in fact a jurisdictional "Waters of the U.S.," then a formal jurisdictional determination request to the US Army Corps of Engineers will have to be made.

The shrubs located around the road and within the construction area should be checked for nesting birds before construction commences if during breeding season, March to July. All birds

and their parts (including feathers, eggs, nests), except house sparrows, European starlings (*Sturnus vulgaris*), and rock doves (*Columba livia*) are fully protected under the Migratory Bird Treaty Act. If construction is to take place during the breeding season, it is recommended a biologist conduct a nest survey before work commences. If active nests are observed during construction, then a biologist will be contacted in order to remove the nests. The biologist will obtain a Migratory Bird Treaty Act Permit prior to removal.

7.0 REFERENCES CITED

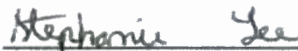
Brown, D. 1994. Biotic communities: Southwestern United States and northwestern Mexico. University of Utah Press, Salt Lake City, Utah, USA.

Navajo Nation Natural Heritage Program [NNHP]. 2008. Species Accounts. http://www.navajofishandwildlife.org/p_comname.htm. Accessed 1 May 2009.

US Department of Agriculture Natural Resources Conservation Service [USDA NRCS]. 2008. Survey of Navajo Mountain Area, Arizona, Parts of Apache, Coconino, and Navajo Counties. United States Department of Agriculture, Natural Resource Conservation Services, Washington D.C., USA.

CERTIFICATION

It is believed by Ecosystem Management, Inc. that the proposed action would not violate any of the provisions of the Endangered Species Act of 1973, as amended, or Navajo Nation code requirements for endangered species (17NNC507). Conclusions of this report are based on actual field examination and are correct to the best of my knowledge. I certify that I have conducted field surveys for the proposed **Biological Evaluation for proposed road improvements on Navajo Route N6331 (1) and N6330 (1) in Coconino County, Arizona.**



Stephanie Lee, M.S. Wildlife and Fisheries Sciences

Title: Biologist

Ecosystem Management, Inc.

APPENDIX A

PHOTOGRAPHS OF THE PROJECT AREA



Photo 1. North view of Navajo Route 6331 and ROW.



Photo 2. Southeast view of Kaibeto Wash.



Photo 3. Southwest view of N6331 and surrounding vegetation.



Photo 4. East view of existing N6330 and surrounding vegetation.



Photo 5. East view of proposed Kaibeto Wash crossing.



Photo 6. West view of proposed N6330 new alignment and right-of-way.

APPENDIX B

NAVAJO FISH AND WILDLIFE DEPARTMENT REQUEST and RESPONSE LETTERS



March 17, 2009

Data Manager
Navajo Nation Department of Fish & Wildlife
Natural Heritage Program
P.O. Box 1480
Window Rock, AZ 86515

RE: Data Request for Proposal to Reconstruct Navajo Route 6331 and N6330 within the vicinity of Kaibeto, Coconino County, Arizona, Navajo Nation

The Navajo Regional BIA Office Division of Transportation is proposing to reconstruct 6331 and N6330 within the vicinity of Kaibeto, Coconino County, Arizona, Navajo Nation. The entire existing road length of N6331 is approximately 3.6 km (2.22 miles) and traverses from south to north. The south end of the route is the beginning of the project where it intersects N21 (3) and extends north to its terminus where it intersects with Arizona State Route 98. The drainage will be managed by placing culver pipes at natural water crossings and by constructing furrow ditches. The entire surface will have an asphalt concrete surface. The project includes a segment that crosses Kaibeto Wash for a length of 0.42 miles.

The project area is mapped on the 7.5 minute USGS quad Kaibeto, AZ. The quad is unplatted. The project area extends from about the road to Kaibeto Trading Post to north of Kaibeto near the Water Tanks (see attached map).

Please forward a list of protected species that may occur in the project area and any concerns.

Regards,



Mike Tremble

Ecosystem Management Inc



THE
NAVAJO
NATION

JOE SHIRLEY, JR.
PRESIDENT
Ben Shelly
VICE PRESIDENT

Dept of Fish & Wildlife • P.O. Box 1480 • Window Rock, AZ 86515 • (928) 871-6451 • Fax (928) 871-7069

31 March 2009

File#09EM01

Mike Tremble
Ecosystem Management, Inc.
4004 Carlisle Blvd. NE
Suite C1
Albuquerque, NM 87107

SUBJECT: PROPOSED RECONSTRUCTION OF NAVAJO ROUTE 6331 AND N 6330
WITHIN THE VICINITY OF KAIBETO, COCONINO COUNTY, NAVAJO NATION, AZ

Mr. Tremble:

The following information on species of concern¹ is provided in response to your 17 March 2009 request concerning the subject project, which consists of the proposed reconstruction of N6331 and N6330 within the vicinity of Kaibeto, Coconino County, AZ. The entire existing road length of N6331 is approximately 3.6 km (2.22 miles) and traverses from south to north. The south end of the route is the beginning of the project where it intersects N21 (3) and extends north to its terminus where it intersects with Arizona State Route 98. The drainage will be managed by placing culvert pipes at natural water crossings and by constructing furrow ditches. The entire surface will have an asphalt concrete surface. The project includes a segment that crosses Kaibeto Wash for a length of 0.42 miles.

Although the Navajo Fish and Wildlife Department (NFWD) has no record of species of concern occurring on or near the project site(s) at this time, the potential for certain species of concern to occur needs to be evaluated.

Species of concern with potential to occur on the 7.5-minute *Kaibeto, AZ* quadrangle(s) containing the project boundaries include the following. Potential is based primarily on quadrangle-wide coarse habitat characteristics and species range information. Your project biologist should determine habitat suitability at the project site(s).

1. *Aquila chrysaetos* (Golden Eagle); NESL group 3; MBTA; EPA.
2. *Buteo regalis* (Ferruginous Hawk); NESL group 3; MBTA.
3. *Empidonax traillii extimus* (Southwestern Willow Flycatcher); NESL group 2; ESA endangered; MBTA.
4. *Falco peregrinus* (Peregrine Falcon); NESL group 4; MBTA.

¹"Species of concern" include protected, candidate, and other rare or otherwise sensitive species, including certain native species and species of economic or cultural significance. For each species, the following tribal and federal statuses are indicated: Navajo Endangered Species List (NESL), federal Endangered Species Act (ESA), Migratory Bird Treaty Act (MBTA), and Eagle Protection Act (EPA). No legal protection is afforded species with only ESA candidate or NESL group 4 status; please be aware of these species during surveys and inform the NFWD of observations. Documentation that these species are more numerous or widespread than currently known, and addressing these species in project planning and management is important for conservation and may contribute to ensuring they will not be uplisted in the future. Species without ESA or NESL legal protection (e.g., NESL group 4 species) are only included in responses on a regular basis and may not be included in this response. Please refer to the NESL for a list of group 4 species; contact me if you need a copy.

5. Mustela nigripes (Black-footed Ferret); NESL group 2; ESA endangered.
6. Strix occidentalis lucida (Mexican Spotted Owl); NESL group 3; ESA threatened; MBTA.
7. Asclepias welshii (Welsh's Milkweed); NESL group 4; ESA threatened.

AREA 3: LOW SENSITIVITY WILDLIFE RESOURCES

Potential for the black-footed ferret should be evaluated if prairie-dog towns of sufficient size (per NFWD guidelines) occur in the project area.

Potential for Puccinellia parishii should be evaluated if wetland conditions exist that contain white alkaline crusts.

Biological surveys need to be conducted during the appropriate season to ensure they are complete and accurate please refer to NN Species Accounts.⁴ Further questions pertaining to surveys should be referred to Species Account. Surveyors on the Navajo Nation must be permitted by the Director, NFWD. Contact Jeff Cole at (928) 871-7068 for permitting procedures. Questions pertaining to surveys should be directed to the NFWD Zoologist (David Mikesic) for animals at 871-7070, and Botanist (Daniela Roth) for plants at (928) 523 8445. Questions regarding biological evaluation should be directed to Jeff Cole (Acting Environmental Reviewer) at 871-7060.

Potential impacts to wetlands should also be evaluated. The U.S. Fish & Wildlife Service's National Wetlands Inventory (NWI) maps should be examined to determine whether areas classified as wetlands are located close enough to the project site(s) to be impacted. In cases where the maps are inconclusive (e.g., due to their small scale), field surveys must be completed. For field surveys, wetlands identification and delineation methodology contained in the 'Corps of Engineers Wetlands Delineation Manual' (Technical Report Y-87-1) should be used. When wetlands are present, potential impacts must be addressed in an environmental assessment and the Army Corps of Engineers, Phoenix office, must be contacted. NWI maps are available for examination at the NFWD's Natural Heritage Program (NHP) office, or may be purchased through the U.S. Geological Survey (order forms are available through the NHP). The NHP 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.

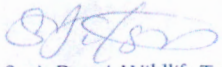
The information in this report was identified by the NFWD's biologists and computerized database, and is based on data available at the time of this response. If project planning takes more than two (02) years from the date of this response, verification of the information provided herein is strongly recommended. It should not be regarded as the final statement on the occurrence of any species, nor should it substitute for on-site surveys. Also, because the NFWD's information is continually updated, any given information response is only wholly appropriate for its respective request.

For a list of sensitive species on the Navajo Nation in addition to the species listed on the Navajo Endangered Species List (NESL) please refer to our website at www.nndfw.org.

An invoice for this information is attached.

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

Available free of charge on our website at <http://nnhp.navajofishandwildlife.org/>


Sonja Detsoi, Wildlife Tech.
Natural Heritage Program
Department of Fish and Wildlife

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

COMPLIANCE ☒
CONDITIONAL COMPLIANCE ☐

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.: N6331 (1) and 6330 (1)

DESCRIPTION: Road Improvements

LOCATION: Kaibeto, AZ

REPRESENTATIVE: Ecosystems Management

ACTION AGENCY: BIA

B.R. REPORT TITLE / DATE / PREPARER: BE/May 2009/Ecosystems Management

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: NA-Categorical Exclusion per RCP

POTENTIAL IMPACTS

TRIBAL ENDANGERED SPECIES (G2 & G3) TAKEN: 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: J. Cole 08/19/09

COPIES TO: (add categories as necessary)

- ☐ Navajo Environmental Protection Agency
☐ U.S. Fish and Wildlife Service, NM Field Office
☐ U.S. Fish and Wildlife Service, AZ Field Office

- ☐ BIA Navajo Region, Environmental Services
☐ U.S. Fish and Wildlife Service, UT Field Office
☐ (Other)

2 NTC § 164 Recommendation:

Signature

Date 8-19-09

- ☒ Approval
☐ Conditional Approval (with memo)
☐ Disapproval (with memo)
☐ None (with memo)

Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife

*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

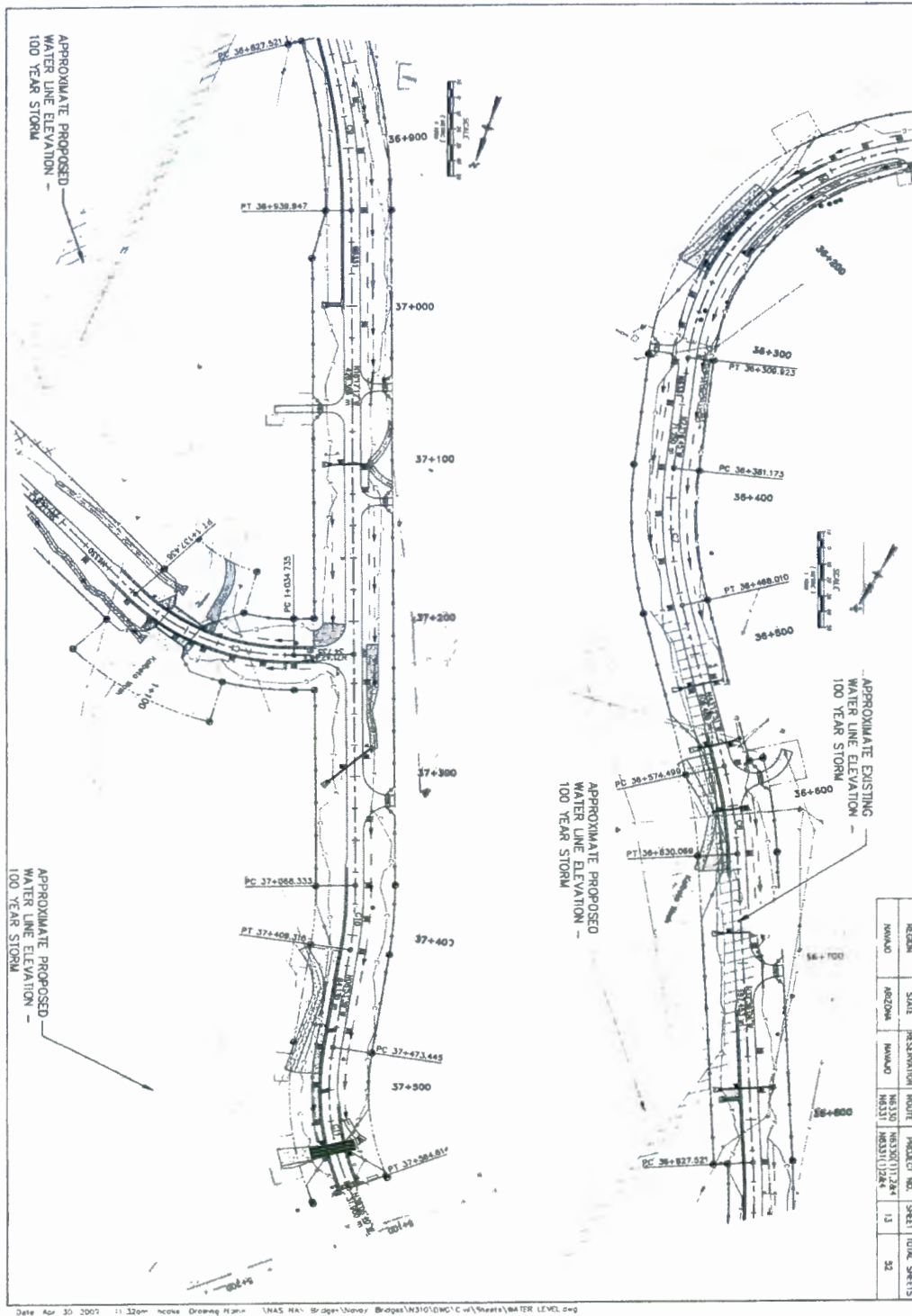
Date

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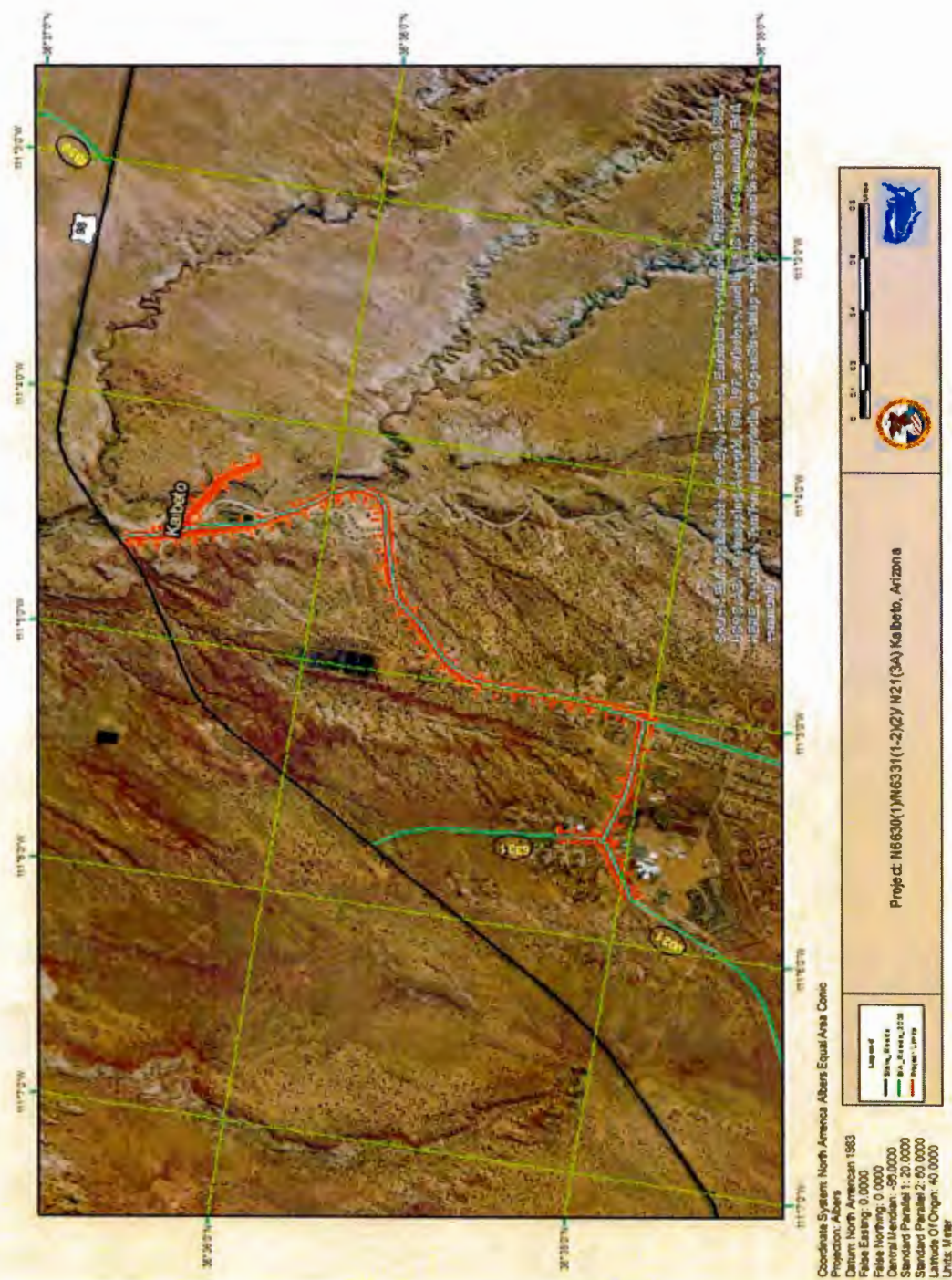
FORM REVISED 17 OCT 2002

Page 1 of 2

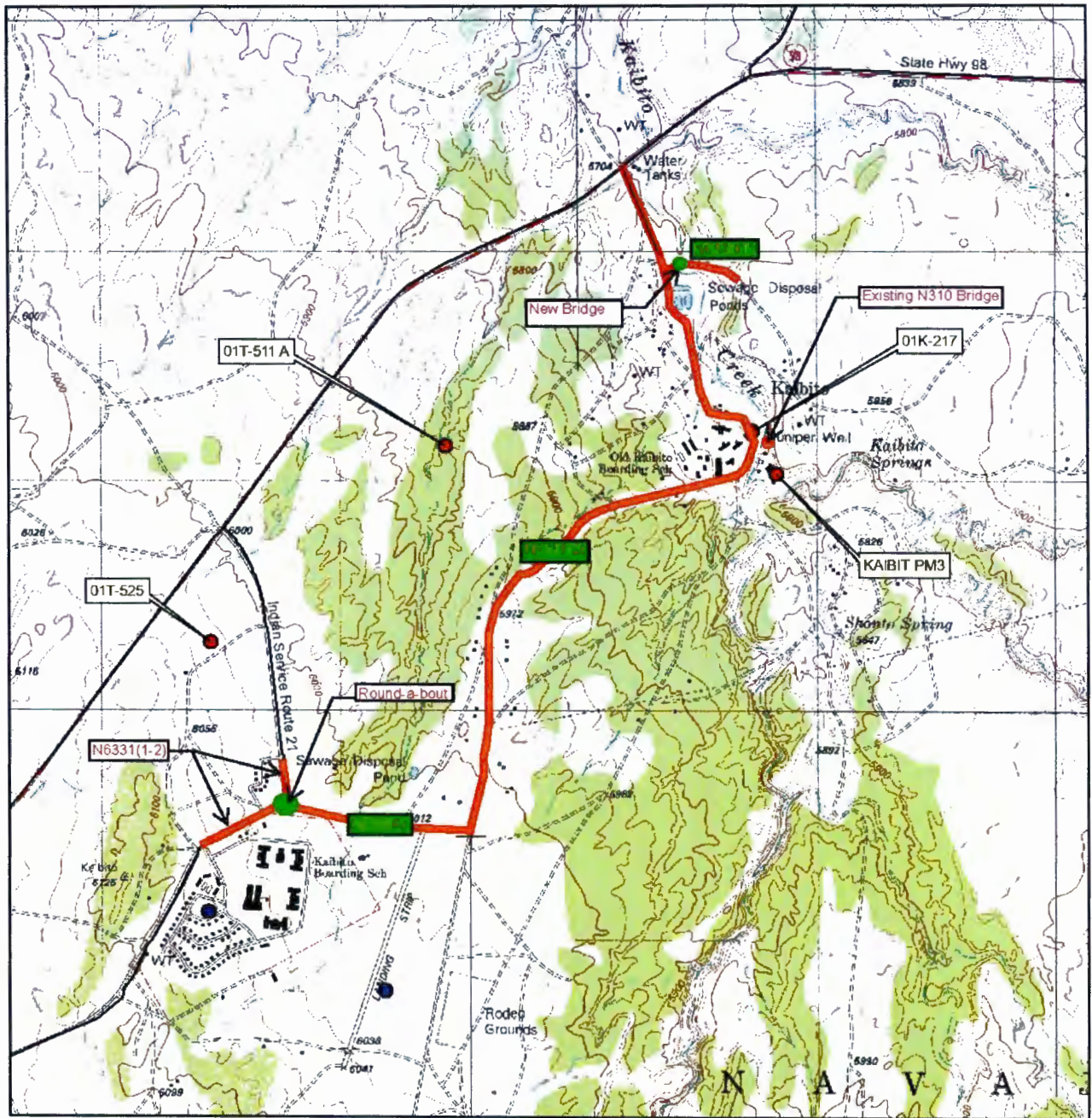
Attachment 8- Kaibeto Creek 100 Year Flood Map



Attachment 9- Project Map

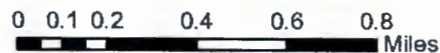


Attachment 10- Water Well Locations



Legend

- Road Project
- wells within 2.0 miles
- other wells
- major roads



WELL LOCATION MAP
Kaibito, AZ.

Water Management Branch
Fort Defiance, AZ 86504

Attachment 11- Project Reclamation Specification

SECTION 625 -TURF ESTABLISHMENT

625.02 **Material.**

Add the following:

The seed shall be delivered to the project site in standard, sealed, undamaged containers. Each container shall be labeled in accordance with the U.S. Department of Agriculture rules and regulations under the Federal Seed Act. Labels shall indicate the variety or strain of seed, the percentage of germination, purity and weed content, and the date of analysis which shall not be more than nine (9) months prior to the delivery date.

Seed shall consist of the type shown in section 625.07 below. Application rates of seed as specified are for Pure Live Seed (PLS). PLS is determined by multiplying the sum of the germination and hard or dormant seed by the purity.

Weed content shall not exceed 0.5%.

625.03 **Turf Establishment Season.**

Add the following:

Seeding and mulching shall be performed immediately following final slope grading to the fullest extent possible. If seeding cannot be performed at final grading, then refer to section 157.04, subparagraph (H.2) for further requirements. In no case shall permanent non-dormant seeding and mulching be performed during the months of November 15 through March 15. Dormant seeding may take place during November 1st to December 15th.

625.04 **Preparing Seedbed.**

The second sentence of the first paragraph is superseded with the following:

Remove all weeds, sticks, high stone concentration areas with stones of 75mm in size or larger, and other debris detrimental to application, growth, or maintenance of the turf. If there is a substantial amount of rock/stone larger than 75mm in size that requires removal prior to seeding, then this additional work shall be compensable in accordance with section 109.02(m).

Add the following:

Seedbed preparation shall be accomplished with a disc harrow, chiseling tool or with other equipment, which will provide an even mixture of fertilizer into the soil.

Tillage will not be required on slopes of 2:1 or steeper. However, such slopes shall be fertilized, seeded and mulched as required. Tillage operation shall be performed so as to produce a soil surface that is rough, firm and free of clods.

Tillage shall be performed across the slope when practical. No work shall be done when the moisture content of the soil is unfavorable.

In areas, which, in the opinion of the COR/COTR, are too rocky to till without drastically disturbing the completed roadway sections, the COR/COTR will approve a reduction of tillage accordingly.

625.05 Watering.

This section is superseded with the following:

Watering is not required for the seeding on this project.

625.06 Fertilizing.

Add the following:

All areas to be seeded shall have ammonium phosphate, at a rate of 56 kg per Ha, uniformly applied to the surfaces to be seeded and tilled into a minimum of 76mm of the surface.

625.07 Seeding.

Add the following:

Seeding shall be accomplished by the Dry Method.

After the tillage is completed and accepted by the COR/COTR, seed shall be planted by drill, except that on slopes too steep or rocky, seed may be broadcast provided that it is covered by dragging, hand raking or other approved methods. The type of seed and pure live seed rate is as follows:

<u>Species</u>	<u>Cultivar</u>	<u>Kg PLS per Hectares</u>
Western Wheatgrass	Arriba	3.37
Crested Wheatgrass	Hycrest	3.37
Pubescent Wheatgrass	Luna	3.37
Indian Ricegrass	Paloma	2.25
Blanketflower	Red, Yellow	0.56
<u>Red Mexican Hat</u>	<u>Red w/Yellow Tips</u>	<u>0.56</u>

Total: 13.48

Seed shall be planted approximately 6mm deep, with a maximum depth of 13mm. The distance between the drilled furrows shall not be more than 203mm. If the furrow openers on the drill exceed 203 mm, the area shall be drilled twice. Seeding shall be done with grass seeding equipment with double disc openers, depth bands, packer wheels or drag chains, rate control attachments, seed boxes with agitators and separate boxes for small seed.

Seed of different sizes shall be sowed from at least two separate boxes adjusted or set to provide the seeding rate specified above.

625.08 Mulching:

The first sentence is superseded with the following:

Apply straw mulch at a rate of 4500kg/Ha after seeding by the following methods:

625.11

Method of Measurement.

The first sentence is superseded with the following:

Measure the seeding by the hectare, on the ground surface, or by the slurry. Fertilizer and mulching shall not be measured for payment but shall be considered a subsidiary obligation of the Contractor covered under the work for this section.

<u>Bid Item</u>	<u>Description</u>	<u>Units</u>
62510-1000	Seeding, dry method	Hectare

Attachment 12- Project Pictures



Kaibeto Wash next to Route N6331



Proposed crossing of Kaibeto Wash N6330 looking east



Existing N6331 roadway looking northwest



Section of N6331 washed out near Chapter House

Attachment 13-Tribes Consulted

Joann Secody, Kaibeto Chapter Staff Assistant, Kaibeto Arizona	Nelson Tom, Engineer Technician, NTUA, Fort Defiance, AZ
Ron Maldonado, Compliance Officer, Navajo Historic Preservation Department	Sonja Detsoi, acting Data Manager, Navajo Fish and Wildlife Department
John Blueeyes, Director, Navajo Department of Agriculture	Stephanie Lee, Wildlife Biologist, Eco Systems Management
Judith Touchette, Archeologist, Navajo Nation Historic Preservation Department	Caroline Harvey, Navajo Nation Department of Water Management
Warren Roan, Navajo Nation Underground Storage Tank Program	

Categorical Exclusion (CE) Determination /Approval

Name of Tribe: Navajo Nation

Road Ownership: BIA Navajo Region Division of Transportation

TTP (IRR) Route/Section Number(s):

N6330/N6331/N21(3A)

Project No./Name: N6330(1)/N6331(1-2)(2)/N21(3A)1,2&4

Kaibeto Reconstruction Project

CE Determination: Based on the Tribe's record of Environmental Compliance work performed for the project as documented in the attached "Environmental Documentation Form for TTP Projects," the Federal Lands Highway Office (FLHO) has determined this project: 1) will not have a significant effect on the human or natural environment as described in 23 CFR 771.117(a) (FHWA's CE regulations), and 2) falls within the category of actions covered by FHWA's CE regulations, and therefore meets the CE definition contained in 40 CFR 1508.4. The project is categorically excluded from further NEPA analysis because it falls within the following action(s) of 23 CFR 771.117:

23 CFR 771.117(c) (Identify appropriate (#) and description from 23 CFR 771.117 or N/A):
N/A

23 CFR 771.117(d) (Identify appropriate (#) and description from 23 CFR 771.117 or N/A): (d)(1)
Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g., parking, weaving, turning, climbing).

APPROVALS:

By:  Date: 1/26/17
FLH Senior Environmental Protection Specialist, FLH-FHWA

Attachments: "Environmental Documentation Form for Kaibeto Project"

Distribution (electronic) of Signed Copies (with Attachments):

Jaime Torres, FLHO-FHWA, Jamie.Torres-Gonzalez@dot.gov

Taft Blackhorse, Navajo Nation, tblackhorse@navajodot.org

Garrett Silversmith, gsilversmith@navajodot.org

Herby Larsen, herby.larsen@bia.gov

Harold Riley-PE, harold.riley@bia.gov

From: Cremer, David (FHWA) [<mailto:david.cremer@dot.gov>]
Sent: Thursday, January 26, 2017 9:42 AM
To: Riley, Harold (harold.riley@bia.gov) <harold.riley@bia.gov>
Cc: tblackhorse@navajodot.org; Torres-Gonzalez, Jaime <Jaime.Torres@dot.gov>
Subject: Cat Ex_N6330/N6331 Kaibeto_Navajo Nation_FHWA TTP

This e-mail documents compliance with NEPA and other environmental requirements for the project. Please keep a copy of it with your project files.

Regarding the following project: **Kaibeto Reconstruction Project: N6330(1)/N6331(1-2)(2)/N21(3A) 1.2 & 4**

Project Description:

The Navajo Regional Office, Division of Transportation (NRDOT) proposes to construct Navajo Route N6330(1), N6331(2)(1-2) & N21 (3A) with a paved surface, engineered drainage system and a round a-bout intersection for the existing three way intersection on the west end of N21(3A) that joins with N6331(1-2) within the vicinity of Kaibeto, Coconino County, Arizona.

The drainage and roadway will be improved to accommodate the latest geometric design parameters for safety and hydraulic flow management. Once the project is built maintenance to keep the infrastructure operational will include restriping, sign and guardrail replacement, cleaning drainage structures, erosion control, milling and resurfacing the pavement. The traffic count for N21(3A) in 2015 was 1622vpd with a projected 2035 year of 2717vpd. The traffic for N6330 in the year 2015 was 78 vehicles per day (vpd) and is projected to be 116 vpd in 2035. The traffic count for N6331 in the year 2015 was 509 vehicles per day (vpd) and is projected to be 685 vpd in 2035. The existing road is designed to deviate in certain areas from the existing graded roadway to accommodate smooth curves and increase sight distances that will enhance safety. In the areas where the proposed road will deviate from the existing roadway the road will be reclaimed by harrowing and planting of native seeds of grasses and plants. The drainage will be managed by two methods first by placing sized culvert pipes at natural water crossings and secondly by constructing furrow ditches on long tangent grades. The objective of the furrow ditches is to manage flow (reduce the velocity and to disperse flow into areas for vegetative growth). The final roadway prism will have two 3.3 meter driving lanes and 1.5 meter shoulders. The entire surface will have an asphalt concrete surface.

The roadway improvements would impact an additional 5.0 acres from what already is disturbed. Approximately 7.8 acres (3.16 hectares) for N6330, 40.46 acres (16.57 hectares) for N6331 (2), 0.153 acres (0.062 hectares) for N6331 (1-2) and 7.62 acres (3.08 hectares) for N21 (3A) with a total of 56.03 acres will be acquired for right-of-way (EA 9).

Purpose and Need:

The purpose of the action is to provide Kaibeto Chapter residences located in Township 37 North, Range 12 East, Sections 14, 22, 23, 26 & 27, with safer access and to improved unpaved roads across Navajo Tribal Trust land managed by the Bureau of Indian Affairs (BIA). The need for the action is established by the BIA's responsibility under 25 Code of Federal Regulation, Part 169 and 170 to respond to a request for a Right-of Way Grant for legal access to construct unpaved roads over existing BIA roads. The goal of the project is to improve the safety of the existing infrastructure. The existing dirt road is impassible during monsoon seasons and has sharp horizontal curves. The proposed action includes raising the grade of the existing road, paving with hot asphalt concrete pavement and improving the drainage by setting engineered sized pipes to manage the flows into the creek. The new alignment will closely follow the existing roadway.

Scope of Work

It is estimated that an additional five (5) acres of new soil will be disturbed or impacted along with the already disturbed 61.41 acres. In the areas where the proposed road deviates from the existing roadway the road will be reclaimed by harrowing and planting of native seeds of grasses and plants. The existing N6331 (1) is paved with asphalt concrete and the N6330 will have a concrete box culvert constructed to allow vehicles to cross the Kaibeto Creek, replacing the existing low water crossing and Bridge N310 upstream. There is also a proposed round a-bout that will accommodate the busy intersection of N21 (3A) and N6331 (1). From the intersection south is a high school and north of the intersection a trading post, post office gas station and laundromat. The radius of the round a-bout is 21 meters with one driving lane with an inner semi-truck lane. There are also raised medians called splitter islands before entering the round a-bout to control the direction of traffic flow and

to discourage motorists from making a wrong turn. The three tapered approach lanes to the roundabout will transition from fifty-one (51m) meters away from the center of the intersection, from 8.5 m to 21 m creating the taper or flare (EA 13).

The design for N6331(2) does not call for any major alignment improvements. The work will include clearing, grubbing and grading and the final surface will have a final driving surface of asphalt pavement. The proposed road is designed at 35 miles per hour (mph) and will be posted at 15-30 mph depending upon the location. The proposed roadway surface width will consist of one (1) driving lane in each direction each direction having a width of 7.3 m (24.0 ft) and two (2) shoulders of 1.5 m (6 ft.). The traffic count in the present year 2015 is 1,622 vehicles per day (vpd) and is projected to be 2,717 vpd in the year 2035 (EA 13).

NEPA

The FHWA has determined that this project meets the requirements of a Categorical Exclusion (CE) as defined in 23 CFR 771.117(c) and does not involve unusual circumstances as described in 23 CFR 771.117(b). The project is categorically excluded from further NEPA analysis because it meets these requirements and falls within the following action(s) of 23 CFR 771.117: (c)(23)— Federally-funded projects that receive less than \$5,000,000 of Federal funds. Therefore, no further NEPA approvals are required by FHWA.

Right of Way

The project will involve right of way acquisitions or easements of Trust Lands from the Bureau of Indian Affairs (BIA). The BIA may have additional environmental requirements to be able to complete the ROW action. Further consultation with BIA may be required.

Cultural Resources:

The site was surveyed by the Navajo Nation Historic Preservation Department (NHPD) to comply with Section 106 of the National Historic Preservation Act and Navajo Nation Cultural Resource Preservation Act (CRPA). NHPD issued cultural resources compliance NNHPD No 08-450 for the project with no conditions or restrictions within the assessed survey corridor (EA 7).

The project area was culturally surveyed by Judy Touchette. No historic properties were identified during the survey. Based on the information gathered during this survey, the Navajo Nation Roads Cultural Resource Management Office (RCRM) under NDOT determined the proposed project would result in "no historic properties affected" in compliance with Section 106 of the National Historic Preservation Act. The Navajo Tribal Historic Preservation Officer concurred with this determination through the issuance of a compliance document dated July 01, 2008 (EA 17).

After reviewing the project and the cultural resources survey, FHWA TTP sent a consultation letter to the NNTHPO on May 5, 2015 with the determination that the project will have no effect on any historic properties. On July 23, 2015, the NNTHPO responded that several corrections needed to be made to the cultural resources report. The report was modified to reflect the requested edits and sent to the NNTHPO on August 16, 2015. A follow-up consultation request was sent to the NNTHPO on February 11, 2016 and a response was received by email that a concurrence with the determination and conclusion to consultation was forthcoming. Another request for follow-up was sent by email to the NNTHPO on March 29, 2016.

A final email was sent to the NNTHPO on April 20, 2016 stating that : "Given that no response was received from the THPO within the 30-day review period FHWA TTP will assume THPO concurrence with its determinations per 36 CFR part 800.3 (c)(4) . If you (Navajo THPO) respond to consultation at a later date, FHWA will make a good faith effort to address your concerns".

Due to these findings, FHWA has determined that the proposed project will have *no effect* to any resources listed, or eligible for listing, in the NRHP.

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], the Contractor must immediately cease all operations in the immediate vicinity of the discovery and notify the Engineer. The Contractor should be aware of his/her responsibilities under the Historic Preservation Act of 1966 and the Archeological Resources Protection Act of 1979. Upon notification of a discovery by the Contractor, the Engineer must

immediately notify the Navajo Nation Tribe Tribal Historic Preservation Office (NNTHPO), and the FHWA Environmental Coordinator.

Biology:

The Navajo Fish and Wildlife Department was contacted for a list of species of concern that potentially occur within the project area. The field survey, conducted by Stephanie Lee, assessed the potential for the occurrence of threatened or endangered species based on the available habitat. The survey results revealed the habitat suitability for these species was determined to be low due to its previous disturbance and use of property and its proximity to nearby roads and homes. A letter from Navajo Fish and Wildlife Department indicated that they had no record of species of concern occurring at this site. Therefore, no impacts to TES species are anticipated as a result of the project activities (EA 6).

A review of the U.S. Fish and Wildlife Service's Wetlands Delineation Map for Central Arizona indicates no riparian or aquatic species for the project area. A reconnaissance of the area revealed no wetland areas.

Federally Listed Endangered, Threatened and Candidate Species:

According to a Biological Evaluation conducted by Eco Systems Management, the project will have no impact to species of concern, including federally-listed threatened or endangered species. Based on the information gathered for this Biological Evaluation, the Navajo Fish & Wildlife Department has determined the proposed project would have "no effect" on any federally-listed or tribal species under Section 7 of the Endangered Species Act (EA 17).

Due to this information, FHWA has determined that the project will have *no effect* on any federally listed species.

Migratory Birds:

Because migratory birds do occur in the project area, it is important to understand that the Migratory Bird Treaty Act (MBTA) prohibits the taking of migratory birds, nests, and eggs, except as permitted by the US Fish and Wildlife Service (USFWS).

If any project activities are proposed to take place during the nesting season, the project area should be surveyed for active or occupied bird nests. If active bird nests are found, there are two options: (1) These areas should be avoided until nesting is complete, or (2) Before any active nests can be removed, a permit from the USFWS will be required.

Preventative measures will be taken to reduce the likelihood of spreading noxious weeds in the project area. Additionally, construction crews will avoid transporting seeds of noxious plants from other to the project area.

Heavy equipment will be inspected and cleaned prior to entering the project area to remove any mud or soil adhering to the equipment, which may harbor seeds of noxious weeds, prior to construction and transportation of any heavy equipment to the project site.

Section 4(f):

The Section 4(f) regulation was considered as a part of the review for this project and it was determined that Section 4(f) does not apply. This Project does not use a Section 4(f) property.

Water:

The roadway site is located parallel along the southwest bank of Kaibeto Creek. Kaibeto Creek flows northward, northwest sides of White Mesa toward Lake Powell. The creek is an ephemeral stream, meaning that it generally flows only in response to intense precipitation events. Most of the year the creek has no water flowing. According to the field survey conducted by Stephanie Lee, biologist, no evidence of wetlands vegetation and wildlife were found within 200 feet of the project boundary (EA 3).

Water quality is primarily affected by land use practices within the watershed and associated urban runoff, storm water discharges, agricultural runoff, and effluent discharge from wastewater treatment plants. Kaibeto Creek receives runoff from the Navajo Housing site directly but no agricultural runoff and no effluent discharge directly or indirectly (through tributary inflow) although there is a sewage lagoon adjacent to the roadway right-of-way and the creek (EA 4).

Excavation of soils to accommodate the roads reconstruction will be needed. A Storm Water Pollution Prevention Plan (SWPPP) will be developed to avoid/minimize soil erosion and sediment transport to Laguna Creek (EA 15).

Foreseeable effects of the proposed action would be a temporary increase in surface water runoff from the project area until the disturbed ground stabilizes from establishing vegetation and mulching of the slopes. Best Management Practices (BMPs) would be incorporated into the project design plans to the fullest extent possible (see attachment). Construction equipment would be inspected daily for leaks. Leaking equipment would be removed from the project site until repaired and spills are cleaned. All fuels, oils, lubricants, and hydraulic fluids would be kept in sealed, storage containers or facilities that are located within the construction area. Parking and staging areas would be located within the boundaries of the construction area. Drainage structures would be installed in a manner that minimizes soil erosion and provides for a minimum of 12 inches (30 centimeters) of cover over the pipe. Structural replacements would be performed during periods of low-or-no flow periods to minimize water quality impacts. Any asphalt or concrete materials would be disposed of offsite in accordance with applicable federal and tribal regulations (EA 15).

Section 402(p) of the Clean Water Act (CWA) clarifies that storm water discharges associated with industrial activity to waters of the United States must be authorized by a National Pollutant Discharge Elimination System (NPDES) permit. Industrial activity includes storm water discharge associated with construction activities that involves clearing, grading, and excavation that result in the disturbance of more than one acre of total land area. Because construction activities in the proposed action would disturb more than 1 acre (0.4 hectare) of land, section 402(p) of the CWA requires that the BIA, Tribe and/or the contractor file with the United States Environmental Protection Agency (EPA) a "Notice of Intent" and comply with the terms of this permit. The construction contractor will prepare a Storm Water Pollution Prevention Plan (SWPPP) and obtain the necessary permits before work commences (EA 15).

If more than one-tenth of an acre of U.S. Waters is impacted, a Clean Water Act Section 404 permit is required from the Army Corps of Engineers (ACOE) to conduct the work in Kaibeto Creek. Nationwide permit 14 authorizes the discharge of dredged or fill material into waters of the U.S. for linear transportation projects which this project falls under. The NRDOT will submit for a Preconstruction Determination before any construction begins (EA 16).

A Section 401 pre-construction notice with application will be submitted to Navajo Nation EPA (NNEPA) for a 401 determination prior to construction activities taking place. The BIA Division of Transportation has initiated consultation with NNEPA in preparation for submitting 401 permits. The BIA within its specifications and drawings incorporates the requirements to the Nation Wide permits coordination with the Navajo Nation Environmental Protection Agency has been performed (EA 16).

The proposed action would not affect the volume of surface or groundwater in the project area. Water would be required for construction activities. It is unknown at this time as to where the water will be obtained. Permits to use water would be obtained from the appropriate agencies or persons as required. If water is obtained from the Navajo Nation, then the construction contractor would obtain a permit from the Department of Water Resources Management at least 30 days prior to construction. The contractor would notify the Navajo Nation of the location of water resources to be used during construction (EA 16).

No work shall occur within jurisdictional Waters of the United States until the appropriate Clean Water Act Section 401 and 404 permits are obtained. The permits are to be obtained prior to construction.

Nationwide Permits are scheduled to be modified, reissued or revoked prior to March 18, 2017. The contractor and the project engineer will remain informed of changes to Nationwide Permits. If work is commenced (or under contract to commence) before the activity date that the relevant Nationwide Permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the Nationwide Permit to complete this activity under the present conditions and terms of this Nationwide Permit.

As the project is projected to disturb more than an acre of ground, a Stormwater Pollution Prevention Plan (SWPPP) shall be prepared and submitted in accordance with the National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction Activities.

Best Management Practices (BMPs) for erosion control shall be implemented as appropriate in accordance with the SWPPP. Disturbed areas shall be revegetated with native vegetation in accordance with the seed mix designs presented in the SWPPP.

Floodplain:

A 100-year floodplain boundary for Kaibeto Creek near the proposed development was delineated by ASCG Incorporated Albuquerque, NM. The 100-year discharge for Kaibeto Creek was estimated using the United States Army Corps of Engineers Hydrologic Modeling System (HEC-HMS) (EA 3).

The foot print of the project clips the flood plain area by an average of three meters. To protect the roadway and public from the over topping water the roadway the roadway is designed to accommodate the extra water. The design is to provide an eighteen inch freeboard. Wire-enclosed rip-rap is being placed to protect the roadway prism from scour within the 100 year flood plain. Since homes are in close proximity (west) of the existing road and the proposed road is within the same foot print at these stations there are no alternatives to relocate the road to the west or east. The road could not be relocated to the east since the Kaibeto wash is located to the east. A one-hundred year storm is defined as an event that could occur at least once within the 100 year time and has a 1% chance to occur in a year (EA 4).

Because the proposed alignment follows within the same footprint of the existing road the project will not substantially modify the topography in the project area. Therefore, no impacts on floodplains are anticipated (EA 19).

The project will not impact wetlands or floodplains as no wetlands were identified within the project limits and the floodplain of the Kaibeto Wash meandering on the edge of the N6631 embankment toe. Riprap will be placed at outlets of new drainage structures and armoring of the embankments next to the wash will result in an overall beneficial impact to the waters of the U.S. (EA 16).

Air Quality:

The Navajo Nation Air Quality Program designates the project area as "unclassified assuming attainment". This designation is assigned to areas where no air quality monitoring occurs. Currently, the project area is within an attainment area (does not exceed Federal air quality standards) for priority pollutants: carbon monoxide, sulphur oxides, nitrogen dioxide, lead, ozone, and particulate matter. Air quality is generally good.

The proposed project is in an air quality attainment area based on the NAAQS. Due to the fact that the project will not result in increased traffic volume, long-term emissions increases will not occur. Thus, the proposed action will have no lasting adverse impacts on the air quality.

Some temporary impact on air quality is anticipated during construction activities, due in part to dust generated from earthwork. Short-term impacts from construction related activities will be controlled with regular applications of water to graded and exposed areas within the project. The project is not expected to contribute substantial quantities of dust that would result in the degradation of the general air quality in the surrounding area or to require air permitting from the EPA. The project will require that water be used for dust control.

Construction crews will limit unnecessary idle times on diesel-powered engines, implement dust control measures during land clearing and other related activities, and cover loads during transport.

Noise Quality:

Due to existing traffic of the project area, there are no sound or noise issues associated with the proposed action (EA 12).

Noise will temporarily be increased above current background noise, however, it is expected to be minor and work will occur during daytime hours and not on weekends or holidays. Also due to existing traffic of the project area, there are no sound or noise issues associated with the proposed action (EA 18).

Hazardous Materials:

There are no known hazardous waste or materials adjacent to the project area (personal communication, Rose Duweynie, Bureau of Indian Affairs, Navajo Regional Office 7-29-09) (EA 10).

There are no known non-hazardous solid waste sites within or adjacent to the project area (personal communication, Rose Duweynie, Bureau of Indian Affairs, Navajo Regional Office 7-29-09). The closest BIA closed landfill is located in Kaibeto approximately 3 mile south of the intersection of N21(3) (or the beginning of the project) and N6331 (personal communication, Rose Duweynie, Bureau of Indian Affairs, Navajo Regional Office 7-29-09) (EA 10).

There are no known underground storage tanks within or adjacent to the project area (personal communication, Rose Duweynie, Bureau of Indian Affairs, Navajo Regional Office 7-29-09) (EA 10). No underground storage tanks (USTs) are known to be present in the project area (personal communication Warren Roan Navajo Nation UST Program at (928) 871-7995) (EA 11).

Based on the site review performed there are no remains of structures that would lead to believe that any or there is a potential to have any control toxic substances with the project area (EA 11).

Construction equipment will be inspected daily for leaks. Leaking equipment will be removed from the project site until repaired and spills will be cleaned up.

All waste materials (asphalt, brush, concrete, steel, etc.) shall be disposed off-site in accordance with applicable local, state, federal and tribal regulations.

All fuels, oils, lubricants, and hydraulic fluids will be kept in sealed storage containers or facilities that are located within the construction area.

Leaking equipment will be removed from the project site until it is repaired. Spills will be properly addressed and cleaned.

Any contaminated soil encountered or caused by the construction activities should be temporarily stockpiled and sampled to determine disposal requirements.

Leaking equipment will be removed from the project site until it is repaired. Spills will be properly addressed and cleaned.

Farmland:

No agricultural activities were observed in the project area (EA 6).

Socio-Economic and Environmental Justice:

In 2000 the total population of Kaibeto Chapter was 2,020. Of this population, 1,951 are American Indian. About 1,607 people live within the main community and the remaining residents live in the outskirts. The total population for Kaibeto Chapter represented about 1.1% of the total Navajo Nation population (EA 7).

The median household income in Kaibeto Chapter is \$20,005, higher than the Navajo Nation at large, but significantly less than the U.S. at \$41,994. Similarly, the per capita income for Kaibeto Chapter is \$8,117, as compared to the Navajo Nation at \$7,269, and the U.S. at \$21,587 (EA 7).

The community relies on the existing roads to provide and obtain services. Since the N21, N6330 and N6331 roads are used on a daily basis the upgrading of these roads will only enhance the community's lifestyles (EA 7).

The proposed project would not have a disproportionate effect on both minority and low income populations. Effects are expected to include temporary increases in noise, dust, and truck traffic. Other impacts are loss of vegetation and diminished visual quality. The negative effects would be offset in the long term by safer travel route for the community.

The project area is composed of predominantly of a low-income and minority population. Existing land use and neighborhood characteristics along the wash alignment are predominantly open space uses, including grazing. Field investigations of the areas to be affected by construction activities did not reveal or suggest the presence of local residents' characteristics that were considered disproportionately minority and low-income neighborhoods.

With regard to socioeconomics, the proposed project would result in long-term beneficial impacts in the form of temporary employment opportunities for local contractors and or individual residents. Such opportunities would occur during the construction phase. Completion of the Preferred Alternative likewise represents a long-term positive impact for the local residents in the form of a modern bridge (eight barrel concrete box culvert) crossing (EA 9).

Public health and safety will be improved by the safety improvements to the infrastructure (EA 18).

Mitigations and Environmental Commitments:

The contractor will comply with all applicable environmental regulations.

Petroleum products used for operating the heavy equipment will not be stored on site.

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], the Contractor must immediately cease all operations in the immediate vicinity of the discovery and notify the Engineer. The Contractor should be aware of his/her responsibilities under the Historic Preservation Act of 1966 and the Archeological Resources Protection Act of 1979. Upon notification of a discovery by the Contractor, the Engineer must immediately notify the Navajo Nation Tribe Tribal Historic Preservation Office (NNTHPO), and the FHWA Environmental Coordinator.

If any project activities are proposed to take place during the migratory bird nesting season, the project area should be surveyed for active or occupied bird nests. If active bird nests are found, there are two options: (1) These areas should be avoided until nesting is complete, or (2) Before any active nests can be removed, a permit from the USFWS will be required.

Preventative measures will be taken to reduce the likelihood of spreading noxious weeds in the project area. Additionally, construction crews will avoid transporting seeds of noxious plants from other to the project area.

Heavy equipment will be inspected and cleaned prior to entering the project area to remove any mud or soil adhering to the equipment, which may harbor seeds of noxious weeds, prior to construction and transportation of any heavy equipment to the project site.

Construction equipment will be inspected daily for leaks. Leaking equipment would be removed from the project site until repaired and spills are cleaned.

All fuels, oils, lubricants, and hydraulic fluids will be kept in sealed, storage containers or facilities that are located within the construction area.

Parking and staging areas will be located within the boundaries of the construction area.

Drainage structures will be installed in a manner that minimizes soil erosion and provides for a minimum of 12 inches (30 centimeters) of cover over the pipe.

Structural replacements will be performed during periods of low-or-no flow periods to minimize water quality impacts.

Any asphalt or concrete materials will be disposed of offsite in accordance with applicable federal and tribal regulations

No work shall occur within jurisdictional Waters of the United States until the appropriate Clean Water Act Section 401 and 404 permits are obtained. The permits are to be obtained prior to construction.

Nationwide Permits are scheduled to be modified, reissued or revoked prior to March 18, 2017. The contractor and the project engineer will remain informed of changes to Nationwide Permits. If work is commenced (or under contract to commence) before the activity date that the relevant Nationwide Permit is modified or

revoked, you will have twelve (12) months from the date of the modification or revocation of the Nationwide Permit to complete this activity under the present conditions and terms of this Nationwide Permit.

Preventative measures will be taken to reduce the likelihood of spreading noxious weeds in the project area. Additionally, construction crews will avoid transporting seeds of noxious plants from other to the project area.

Heavy equipment will be inspected and cleaned prior to entering the project area to remove any mud or soil adhering to the equipment, which may harbor seeds of noxious weeds, prior to construction and transportation of any heavy equipment to the project site.

A Stormwater Pollution Prevention Plan (SWPPP) shall be prepared and submitted in accordance with the National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction Activities.

Best Management Practices (BMPs) for erosion control shall be implemented as appropriate in accordance with the SWPPP. Disturbed areas shall be revegetated with native vegetation in accordance with the seed mix designs presented in the SWPPP.

If water is obtained from the Navajo Nation, then the construction contractor will obtain a permit from the Department of Water Resources Management at least 30 days prior to construction. The contractor will notify the Navajo Nation of the location of water resources to be used during construction.

Construction crews will limit unnecessary idle times on diesel-powered engines, implement dust control measures during land clearing and other related activities, and cover loads during transport.

Short-term airborne pollutant impacts from construction related activities will be controlled with regular applications of water to graded and exposed areas within the project.

Construction equipment will be properly muffled.

Construction crews will limit unnecessary idle times on diesel-powered engines, implement dust control measures during land clearing and other related activities, and cover loads during transport.

Any buried utility alignments will be repositioned.

Permits Required:

- 404 permit
- 401 certification
- 402 permit (NPDES)
- Any other applicable Tribal, state, or local permits

Summary

With NEPA and other applicable environmental requirements completed, you are now approved to proceed with Final Design, any rights-of-way acquisition needed, Approval of Final PS&E, advertisement for construction, and construction once any rights-of-way (if needed) are acquired. You should maintain this documentation and any supporting project environmental documentation in your Official Project File for future reference during any Project or Process reviews.

If you have any questions or comments, please contact me.

Thank you.

David Cremer

Environmental Coordinator
FHWA-Office of Tribal Transportation
12300 West Dakota Ave.
Lakewood, CO 80228

Phone: (720) 963-3528
Cell: (850) 556-5327
david.cremer@dot.gov
<http://flh.fhwa.dot.gov/programs/ttp/>



TERMS AND CONDITIONS

Right-of-Way for BIA
Project No. N6330(1)/N6331(1-1)(2)/N21(3A)1,2&4
Kaibeto Road

- a. The term of the right-of-way shall be 75 years.
- b. Consideration for the grant of the right-of-way is hereby waived, because the project will benefit Navajos living in the area.
- c. The Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as may be hereafter in force and effect, including but not limited to the following:
 - i. Title 25, Code of Federal Regulations, Parts 162 and 169;
 - ii. All applicable Federal and Tribal antiquities laws and regulations, with the following additional condition: In the event of a discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices; and
 - iii. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., and the Navajo Nation Business Preference Law, 5 N.N.C. §§ 201 et seq.;
- d. The Grantee shall clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during construction and maintenance of the project.
- e. The Grantee shall at all times during the term of the right-of-way and at the Grantee's sole cost and expense, maintain the land and all improvements thereon and make all necessary and reasonable repairs.
- f. The Grantee shall obtain permission to cross-existing rights-of-way from the appropriate parties before construction the proposed project.
- g. The Grantee shall be responsible for and promptly pay all damages when they are sustained.
- h. The Grantee shall not assign, convey or transfer, in any manner whatsoever, the right-of-way or any interest therein, or in or to any of the improvements on the

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

- i. Holding over by the Grantee after the termination of the right-of-way shall not constitute a renewal or extension thereof or give the Grantee any rights hereunder or in or to the land or to any improvements located thereon.
- j. The Navajo Nation and the Secretary shall have the right, at any reasonable time during the term of the right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any buildings and other improvements erected or placed thereon.
- k. Nothing contained herein shall be construed to affect or be deemed a waiver of the sovereign immunity from suit of the Navajo Nation.
- l. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, contractors and subcontractors, of the Grantee, and the term "Grantee," whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.
- m. Grantee shall retain as much of the natural vegetation within the right-of-way as possible.
- n. Grantee shall re-vegetate all disturbed areas.
- o. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the rights-of-way and all lands burdened by the right-of-way, including without limitation over all persons, including the traveling public, and all activities conducted or otherwise occurring within the right-of-way, and specifically including, but not limited to, jurisdiction to enforce speed limits and compliance with traffic control devices, jurisdiction to enforce Navajo Nation laws applicable to the operation of motor vehicles and jurisdiction to adjudicate disputes arising from motor vehicle accidents or other conduct, or activities occurring within the right-of-way, and the right-of-way and all lands burdened by the right-of-way shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction consistent with federal law.