

## LEGISLATIVE SUMMARY SHEET

Tracking No. 0023-20

**DATE:** January 16, 2020

**TITLE OF RESOLUTION:** PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF RIGHT-OF-WAY TO EMERY TELECOM/TRANSCON ENVIRONMENTAL LOCATED ON NAVAJO NATION TRUST LANDS IN ANETH CHAPTER VICINITY (SAN JUAN COUNTY, UTAH)

**PURPOSE:** Approving the Grant of Right-of-Way to Emery Telecon/Transcon Environmental, Inc. for the Utah Education Network (UTEN) San Juan Phase 1 Fiber Optic Project on Navajo Nation Trust Lands in Aneth Chapter vicinity (San Juan County, Utah).

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

5-DAY BILL HOLD PERIOD: 2800  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 1/28/20  
Eligible for Action: 1/29/20

PROPOSED STANDING COMMITTEE RESOLUTION  
24<sup>th</sup> NAVAJO NATION COUNCIL -- Second Year, 2020

INTRODUCED BY



(Prime Sponsor)

TRACKING NO. 0023-20

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT  
OF RIGHT-OF-WAY TO EMERY TELECOM/TRANSCON ENVIRONMENTAL  
LOCATED ON NAVAJO NATION TRUST LANDS IN ANETH CHAPTER  
VICINITY (SAN JUAN COUNTY, UTAH)

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. Pursuant to 2 N.N.C. § 500, the Resources and Development Committee was established as a standing committee of the Navajo Nation Council.
- B. Pursuant to 2 N.N.C. § 501 (B) (2) (a), the Resources and Development Committee grants final approval for all Rights of Way.

SECTION TWO. FINDINGS

- C. Emery Telecon/Transcon Environmental, Inc., Salt Lake City, has submitted a right-of-way (ROW) application for Utah Education Network (UTEN) San Juan Phase 1 Fiber Optic Project on, over and across Navajo Nation Trust Lands in Aneth Chapter vicinity (San Juan County, Utah). The application request is attached hereto and incorporated herein as **Exhibit E**.
- D. The proposed right-of-way is described in map and description attached hereto and

1 incorporated herein as **Exhibit B**.

- 2 E. State of Utah Department of Transportation, which is the right-of-way permit holder,  
3 "has agreed to approve the permit application to install fiber along UDOT's right-of-  
4 way (ROW) through the Navajo nation, along SR 162, in the vicinity of Montezuma  
5 Creek. The State of Utah Department of Transportation memorandum dated May 2,  
6 2019 is attached hereto as **Exhibit C**.
- 7 F. The environmental studies and archaeological clearances, including the Finding of No  
8 Significant Impact (FONSI), are attached as **Exhibit D**.
- 9 G. Aneth Chapter resolutions supporting the Utah Education Network (UTEN) San Juan  
10 Phase 1 Fiber Optic Project are attached as **Exhibit F**.
- 11 H. The application for the Right-of-Way as submitted by the Emery Telecon/Transcon  
12 Environmental, Inc., has been reviewed Executive Official Review process, including  
13 review by the Department of Justice and "Approved" or found "Sufficient.". See  
14 documents included in Executive Official Review Document No. 013152, attached as  
15 **Exhibit G**.

16  
17 SECTION THREE. APPROVAL

- 18 A. The Resources and Development Committee of the Navajo Nation Council hereby  
19 approves the Grant of Right-of-Way to Emery Telecon/Transcon Environmental, Inc.  
20 for the Utah Education Network (UTEN) San Juan Phase 1 Fiber Optic Project on  
21 Navajo Nation Trust Lands in Aneth Chapter vicinity (San Juan County, Utah). The  
22 location is more particularly described on the survey map attached hereto as **Exhibit**  
23 **B**.
- 24 B. The Resources and Development Committee of the Navajo Nation Council hereby  
25 approves the right-of-way subject to, but not limited to, the following terms and  
26 conditions incorporated herein and attached as **Exhibit A**.
- 27 C. The Resources and Development Committee of the Navajo Nation Council hereby  
28 authorizes the President of the Navajo Nation to execute any and all documents  
29 necessary to affect the intent and purpose of this resolution.  
30





EXHIBIT " D "

NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS

Emery Telecom / Transcon Environmental (GRANTEE)

1. The term of the right-of-way shall be for twenty (20) years, beginning on the date the right-of-way is granted by the Secretary of Interior.
2. Consideration for the right-of-way is assessed at \$ 61,568.53 and shall be paid in full to the Controller of the Navajo Nation, in lawful money of the United States, and a copy of the receipt for such payment provided to the Navajo Nation Minerals Department, or its successor, within 10 days of approval of and consent to the grant of the right-of-way by the Navajo Nation.

If consideration has been waived, the Navajo Nation contributes the amount listed above to the project because the project serves a public purpose and will benefit Navajo residents.

3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of construction, maintenance, and operation of a fiber optic cable. The Grantee may not develop, use or occupy the right-of-way for any other purpose, nor allow others to use or occupy the right-of-way for any other purpose, without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation. The Grantee may not develop, use or occupy the right-of-way for any unlawful purpose.
4. In all activities conducted by the Grantee within the Navajo Nation, 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 hereafter may come into force and effect, including but not limited to the following:
  - a. Title 25, Code of Federal Regulations, Part 169; subject to the terms of this right-of-way.
  - b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the 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 archaeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices;
  - c. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., and the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq.; and
  - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq. Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.

6. 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 any surface disturbance activities.
7. The Grantee shall reclaim all surface lands disturbed related to the right-of-way, as outlined in a restoration and revegetation plan, which shall be approved by the Navajo Nation Environmental Protection Agency (NNEPA) prior to any surface disturbance. The Grantee shall comply with all provisions of such restoration and revegetation plan and shall notify the Director of the NNEPA immediately upon completion of the surface disturbance activities so that a site inspection can be made.
8. 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 subject to the right-of-way and all improvements located thereon and make all necessary and reasonable repairs.
9. The Grantee shall obtain prior written permission to cross existing rights-of-way, if any, from the appropriate parties.
10. The Grantee shall be responsible for and promptly pay all damages when they are sustained.
11. The Grantee shall indemnify and hold harmless the Navajo Nation and the Secretary of the Interior and their respective authorized agents, employees, landusers and occupants, against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of right-of-way by the Grantee.
12. The Grantee shall not assign, convey, transfer or sublet, in any manner whatsoever, the right-of-way or any interest therein, or in or to any of the improvements on the land subject to the right-of-way, without the prior written consent of the Navajo Nation and the Secretary of the Interior. 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.
13. The Navajo Nation may terminate the right-of-way for violation of any of the terms and conditions stated herein. In addition, the right-of-way shall be terminable in whole or part by the Navajo Nation for any of the following causes:
  - a. Failure to comply with any term or condition of the grant or of applicable laws or regulations;
  - b. A non-use of the right-of-way for the purpose for which it is granted for a consecutive two year period; and
  - c. The use of the land subject to the right-of-way for any purpose inconsistent with the purpose for which the right-of-way is granted.
  - d. An abandonment of the right-of-way.
14. At the termination of this right-of-way, the Grantee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. Upon the written request of the Navajo Nation, the Grantee shall provide the Navajo Nation, at the Grantee's sole cost and expense, with an environmental audit assessment of the premises at least sixty (60) days prior to delivery of said premises.
15. 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 subject to the right-of-way or to any improvements located thereon.



16. The Navajo Nation and the Secretary of the Interior 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 improvements located thereon.
17. By acceptance of the grant of right-of-way, the Grantee consents to the full territorial legislative, executive and judicial jurisdiction of the Navajo Nation, including but not limited to the jurisdiction of the Navajo Nation, including but not limited to the jurisdiction to levy fines and to enter judgments for compensatory and punitive damages and injunctive relief, in connection with all activities conducted by the Grantee within the Navajo Nation or which have a proximate (legal) effect on persons or property within the Navajo Nation.
18. By acceptance of the grant of right-of-way, the Grantee covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision shall be construed to negate or impair federal responsibilities with respect to the land subject to the right-of-way or to the Navajo Nation.
19. Any action or proceeding brought by the Grantee against the Navajo Nation in connection with or arising out of the terms and conditions of the right-of-way shall be brought only in the Courts of the Navajo Nation, and no such action or proceeding shall be brought by the Grantee against the Navajo Nation in any court of any state.
20. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.
21. Except as prohibited by applicable federal law, the law of the Navajo Nation shall govern the construction, performance and enforcement of the terms and conditions contained herein.
22. 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.
23. 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 public, and all activities conducted or otherwise 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.
24. The Navajo Nation reserves the right to grant rights-of-way within the right-of-way referenced herein for utilities, provided that such rights-of-ways do not unreasonably interfere with the Grantee's use of the right-of-way.

# UTILITY EASEMENT

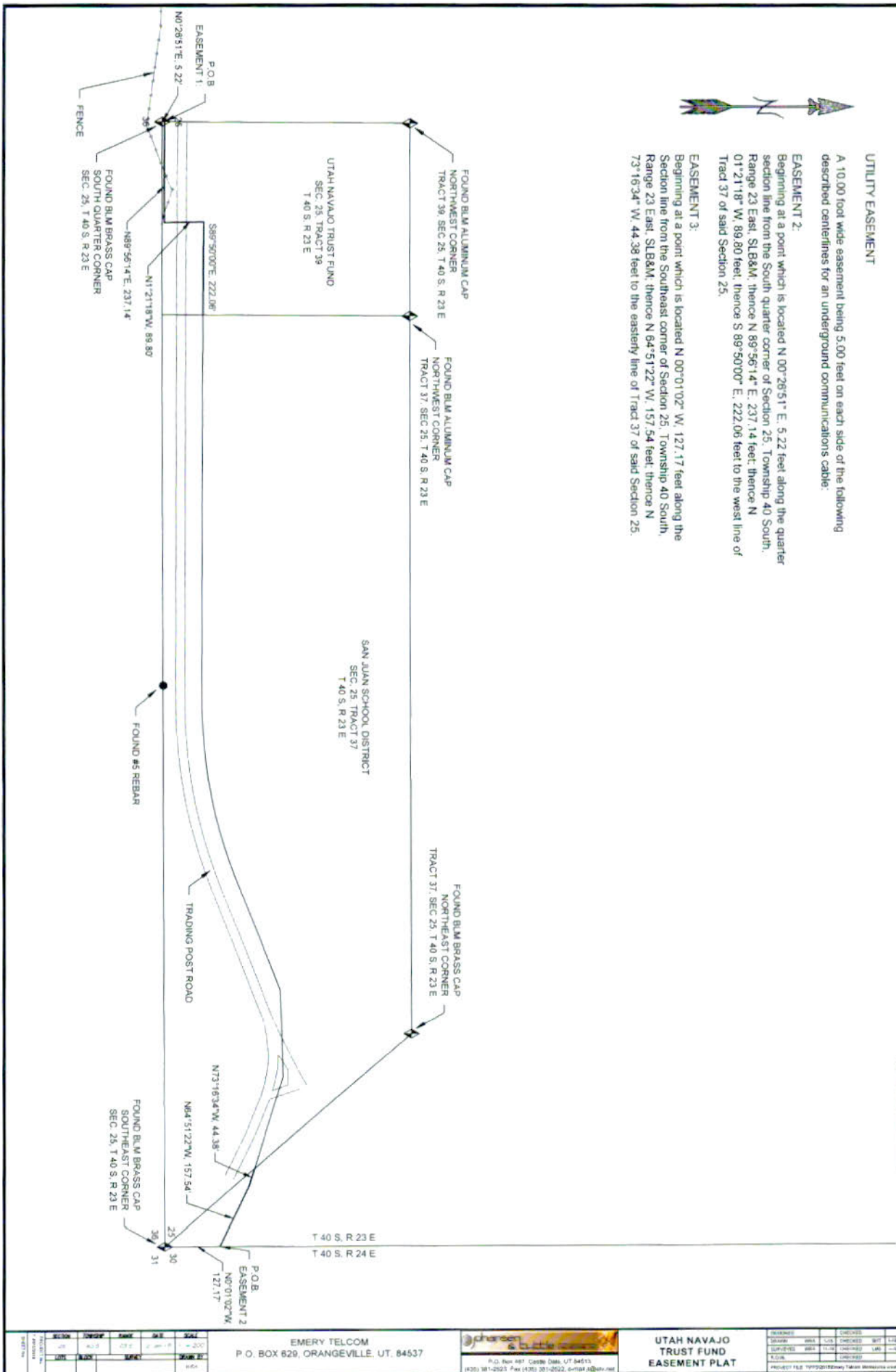
A 10.00 foot wide easement being 5.00 feet on each side of the following described centerlines for an underground communications cable:

## EASEMENT 2:

Beginning at a point which is located N 00°26'51" E, 5.22 feet along the quarter section line from the South quarter corner of Section 25, Township 40 South, Range 23 East, S.L.B.M. thence N 89°56'14" E, 237.14 feet; thence N 01°21'18" W, 89.80 feet; thence S 89°50'00" E, 222.06 feet to the west line of Tract 37 of said Section 25.

## EASEMENT 3:

Beginning at a point which is located N 00°01'02" W, 127.17 feet along the Section line from the Southeast corner of Section 25, Township 40 South, Range 23 East, S.L.B.M. thence N 64°51'22" W, 157.54 feet; thence N 73°16'34" W, 44.38 feet to the easterly line of Tract 37 of said Section 25.



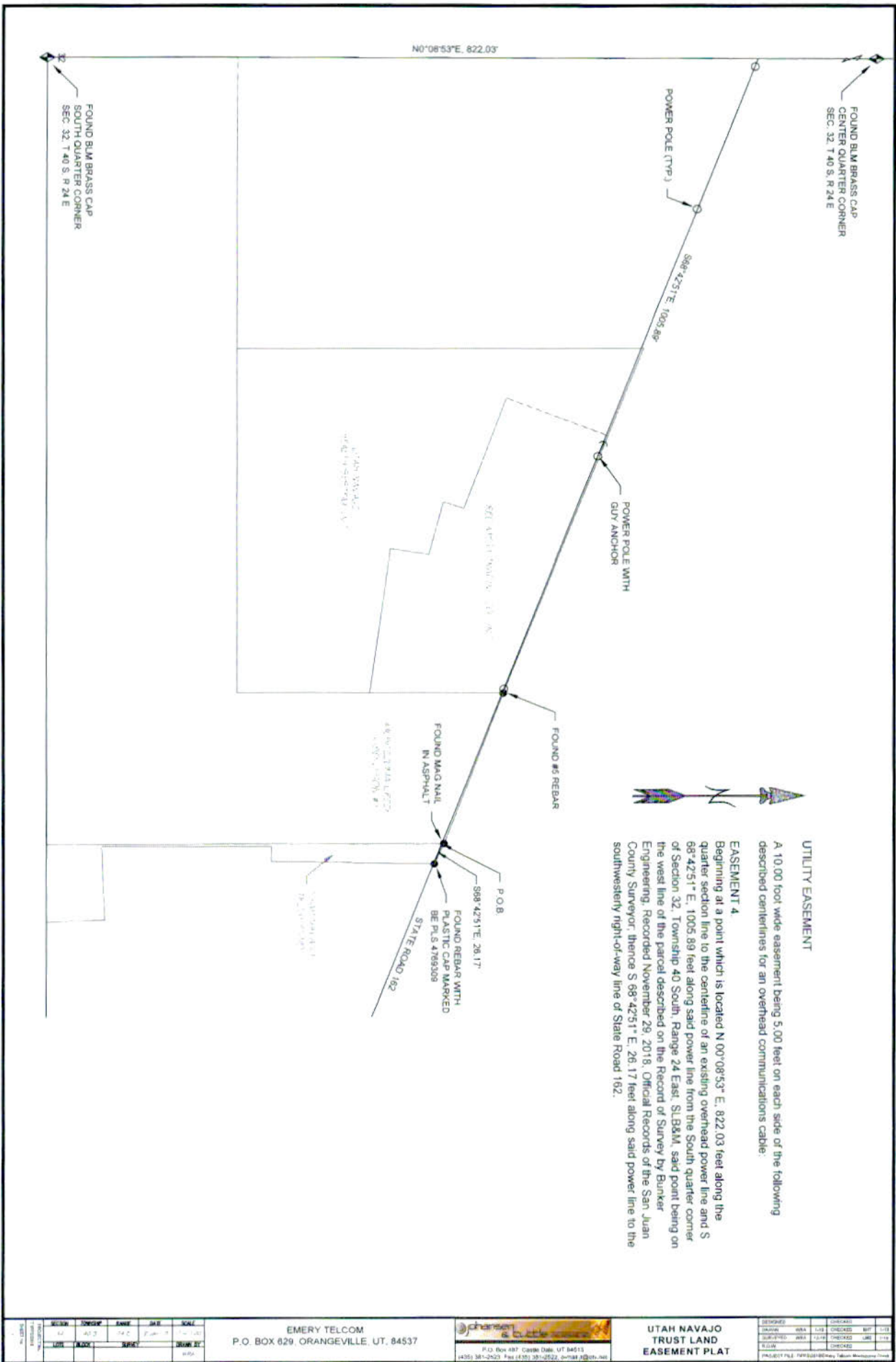
REVISION	DATE	BY	CHKD	REASON
1	08/11/2023	EMERY	EMERY	INITIAL
2	08/11/2023	EMERY	EMERY	INITIAL
3	08/11/2023	EMERY	EMERY	INITIAL

UTAH NAVAJO  
TRUST FUND  
EASEMENT PLAT

Emery Telcom  
P.O. Box 629, Orangeville, UT. 84537  
P.O. Box 629, Orangeville, UT. 84537  
(435) 881-2023 Fax (435) 881-2022 emerytelcom@utah.gov

EMERY TELCOM  
P.O. BOX 629, ORANGEVILLE, UT. 84537

REVISION	DATE	BY	CHKD	REASON
1	08/11/2023	EMERY	EMERY	INITIAL
2	08/11/2023	EMERY	EMERY	INITIAL
3	08/11/2023	EMERY	EMERY	INITIAL



# UTILITY EASEMENT

A 10.00 foot wide easement being 5.00 feet on each side of the following described centerlines for an overhead communications cable:

## EASEMENT 4

Beginning at a point which is located N 00°08'53" E, 822.03 feet along the quarter section line to the centerline of an existing overhead power line and S 68°42'51" E, 1005.89 feet along said power line from the South quarter corner of Section 32, Township 40 South, Range 24 East, SLB&M, said point being on the west line of the parcel described on the Record of Survey by Bunker Engineering, Recorded November 29, 2018, Official Records of the San Juan County Surveyor, thence S 68°42'51" E, 26.17 feet along said power line to the southwestern right-of-way line of State Road 162.

REVISION	DATE	BY	SCALE
1	11/15/2018	EMERY TELCOM	AS SHOWN

EMERY TELCOM  
P.O. BOX 629, ORANGEVILLE, UT, 84537



UTAH NAVAJO  
TRUST LAND  
EASEMENT PLAT

REVISION	DATE	BY	SCALE
1	11/15/2018	EMERY TELCOM	AS SHOWN





A 10.00 foot wide easement being 5.00 feet on each side of the following described centerline for an underground and overhead communications cable

Beginning at a point which is located N 00°01'02" W, 122' 17" feet along the Section line from the Southwest corner of Section 30, Township 40 South, Range 24 East, SLB&M, thence S 64°51'22" E, 297' 37" feet to the south line of Range 24 East, SLB&M, thence S 64°51'22" E, 552' 64" feet, thence S 35°13'11" E, 50' 00" feet, thence S 64°39'15" E, 434' 14" feet, thence N 83°28'14" E, 50' 00" feet, thence S 64°51'22" E, 303' 64" feet to the beginning of a circular curve to the right having a radius of 3669' 00" feet and a central angle of 5°23'30", thence Southwesterly, 345' 28" feet along the arc of said curve (chord bears S 61°59'41" E, 345' 14" feet), thence S 57°45'30" E, 743' 95" feet, thence S 45°55'49" E, 50' 81" feet, thence S 58°37'00" E, 399' 27" feet to the east line of Section 31 of said Township and Range, thence continuing S 58°37'00" E, 2257' 93" feet, thence S 69°58'41" E, 271' 30" feet, thence S 26°24'45" W, 258' 53" feet, thence S 17°47'21" W, 148' 02" feet, thence S 69°46'56" E, 142' 44" feet, thence S 36°25'16" E, 30' 00" feet to an existing power pole, thence going overhead S 68°41'07" E, 781' 88" feet along existing overhead power line to the west line of the parcel described in the Special Warranty Deed recorded as Entry No. 137307, Bk. 999, Pg. 117, Official Records of the San Juan County Recorder.

INTERVIEW		CHECKED	
SURVEYED	WBA	1-19	(CHECKED) DIT 1-18
SURVEYED	WBA	1-18	(CHECKED) LMS 1-19
R.O.W.		CHECKED	

PROJECT FILE TYPED 2018 February Tatum Montezuma Creek

MATCH SHEET 1



TRADING POST ROAD

R=3668.00  
Δ=5723.07  
L=345.28  
CH=6817.5941'E  
CL=345.14

SIDEWALK

FENCE (TYP.)

S48°37'00"E 399.27'

S45°55'49"E 50.81'

FENCE (TYP.)

SECTION LINE

MATCH SHEET 3

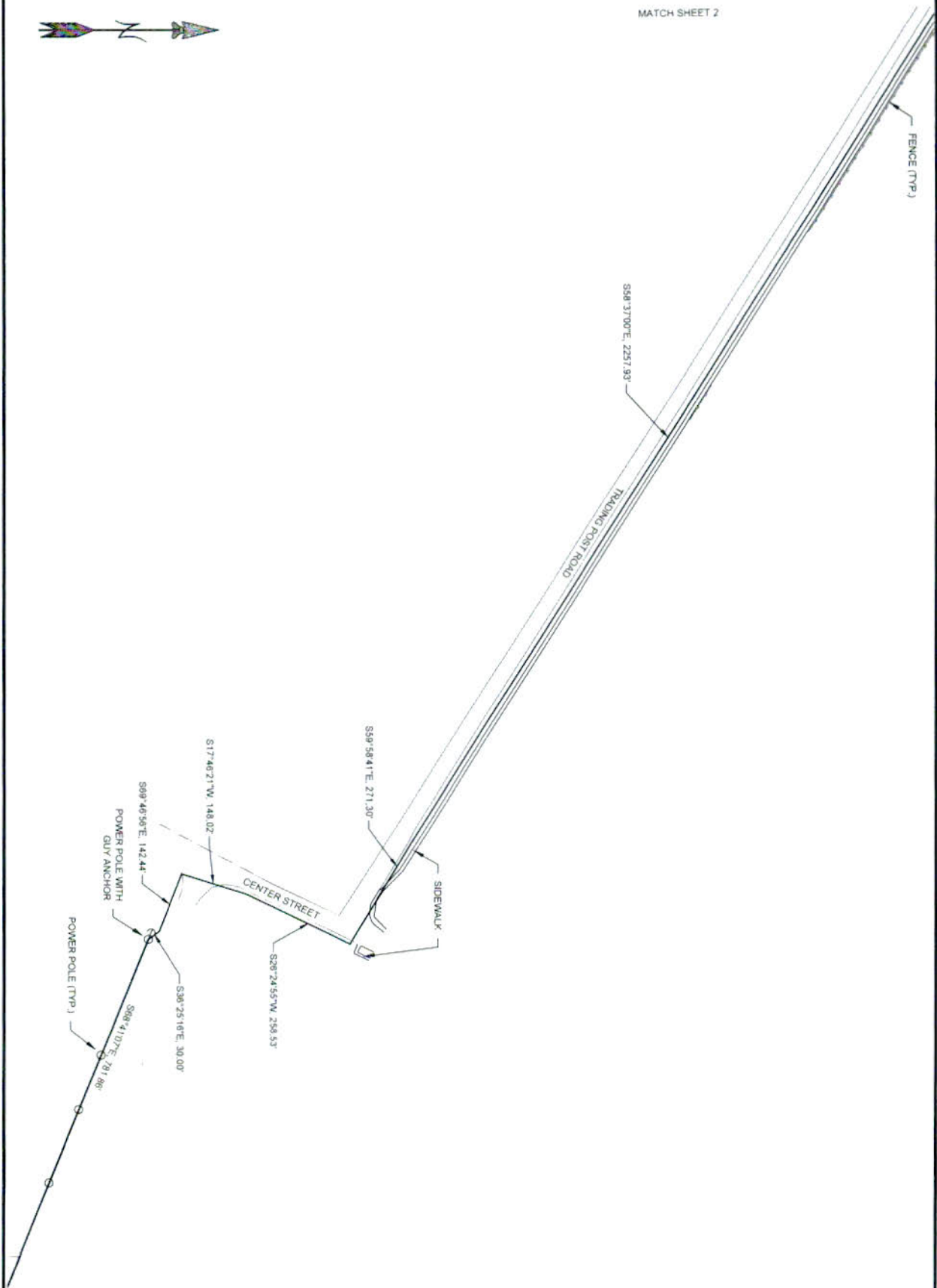
REVISION	DATE	BY	CHKD	SCALE
1	10/1/11	JK	JK	AS SHOWN
2	10/1/11	JK	JK	AS SHOWN

EMERY TELCOM  
P.O. BOX 629, ORANGEVILLE, UT. 84537



UTAH NAVAJO  
TRUST LAND  
EASEMENT PLAT

DESIGNED	CHECKED	DATE
JOHNSON	WBA	1/12
SURVEYED	CHECKED	DATE
JOHNSON	WBA	1/12
PLANNED	CHECKED	DATE
JOHNSON	WBA	1/12



NO.	DATE	BY	CHKD	APP'D
1	10/1/11	J. HANSEN		
2	10/1/11	J. HANSEN		
3	10/1/11	J. HANSEN		
4	10/1/11	J. HANSEN		
5	10/1/11	J. HANSEN		
6	10/1/11	J. HANSEN		
7	10/1/11	J. HANSEN		
8	10/1/11	J. HANSEN		
9	10/1/11	J. HANSEN		
10	10/1/11	J. HANSEN		

EMERY TELCOM  
P.O. BOX 629, ORANGEVILLE, UT. 84537



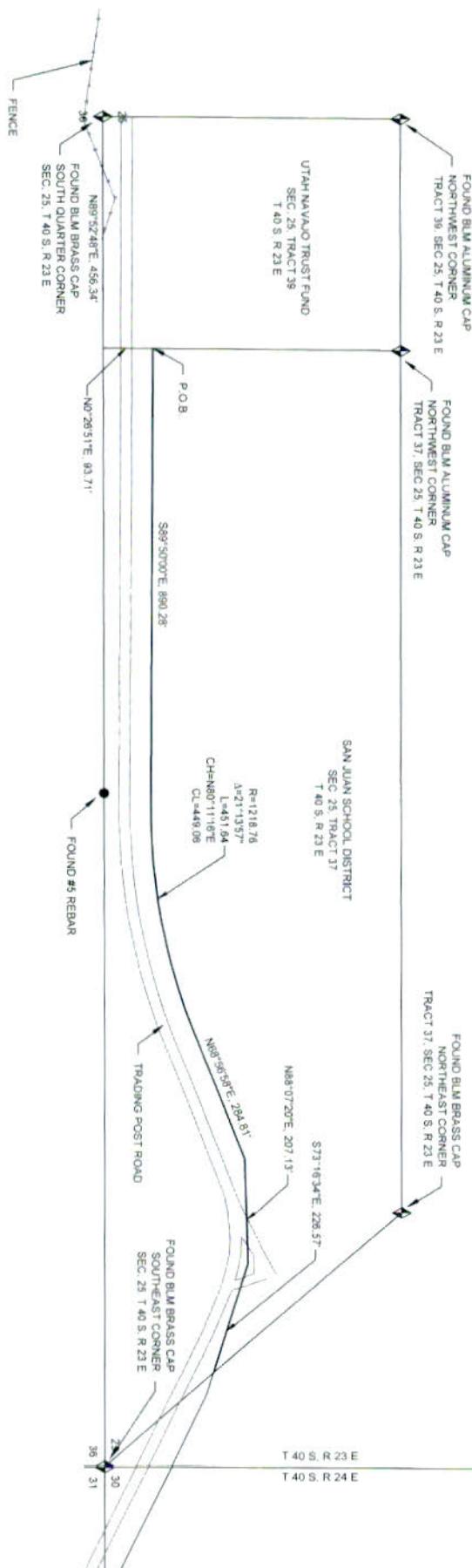
UTAH NAVAJO  
TRUST LAND  
EASEMENT PLAT

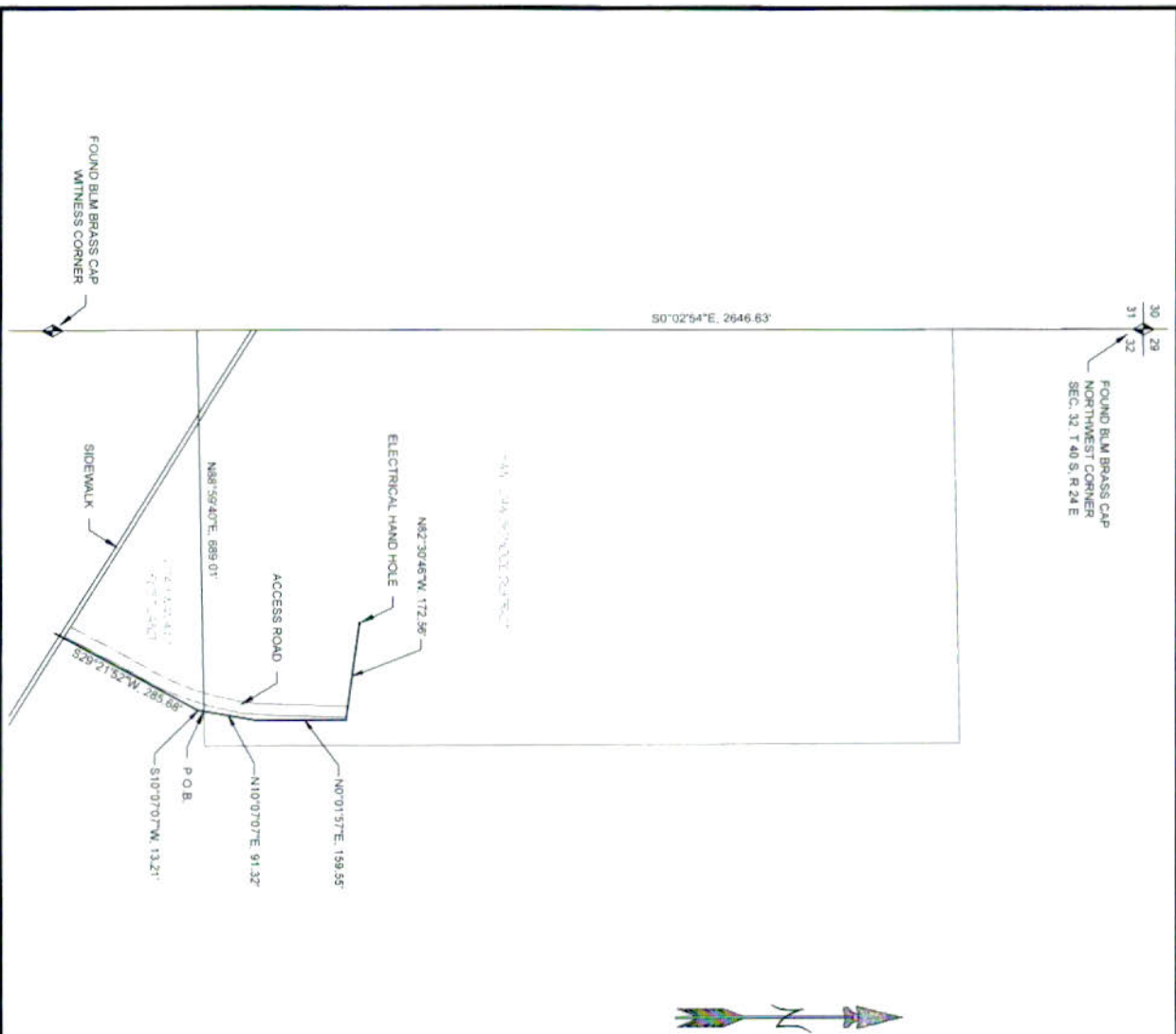
DESIGNED	DATE	BY	CHKD	APP'D
DRAWN	10/1/11	J. HANSEN		
SURVEYED	10/1/11	J. HANSEN		
PLANNED	10/1/11	J. HANSEN		
PROJECT FILE	TYPED: J. Hansen, Emery Telcom, Orangeville, Utah			



### EASEMENT 1:

Beginning at point which is N 89° 52' 48" E, 456.34 feet along the section line and N 00° 26' 51" E, 83.71 feet from the South quarter corner of Section 25, Township 40 South, Range 23 East, S1/4B&M, said point being on the west line of Tract 37 of said Section 25; thence S 89° 50' 00" E, 890.28 feet to the beginning of a circular curve to the left having a radius of 1218.76 and a central angle of 21° 13' 57"; thence Northwesterly, 451.64 feet along the arc of said curve (Chord bears N 80° 11' 16" E, 449.06 feet; thence N 68° 56' 56" E, 284.81 feet; thence N 88° 07' 20" E, 207.13 feet; thence S 73° 16' 34" E, 226.57 feet to the east line of said Tract 37.

[illegible]



# UTILITY EASEMENT

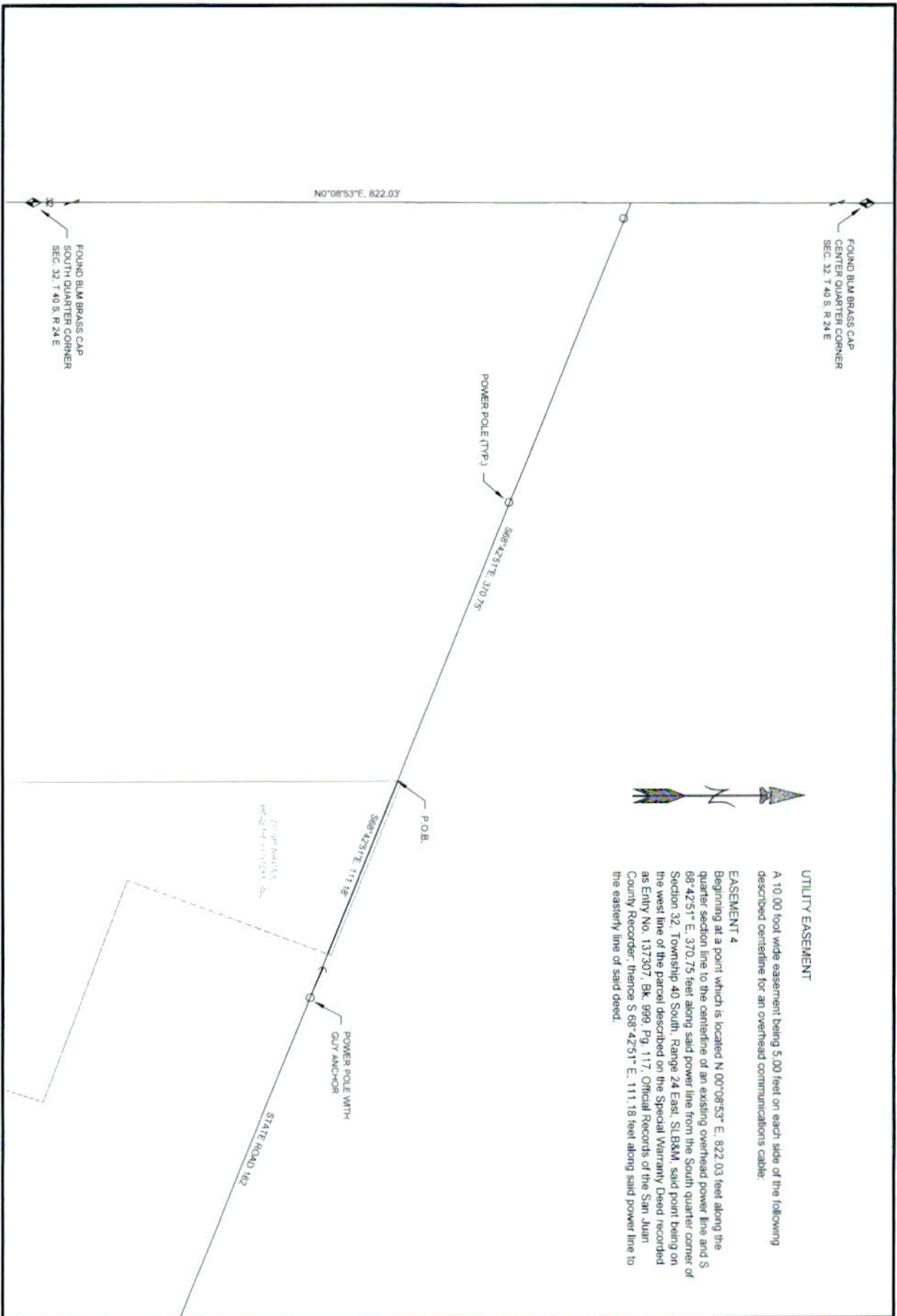
A 10.00 foot wide easement being 5.00 feet on each side of the following described centerlines for an underground communications cable:

## SAN JUAN SCHOOL DISTRICT EASEMENT 2:

Beginning at a point which is located S 00°02'54" E, 2646.63 feet along the Section line to the Southwest corner of the parcel described on the Special Warranty Deed recorded as Entry No. 122202, BK. 964, Pg. 583, Official Records of the San Juan County Recorder, and N 88°59'40" E, 689.01 feet along the south line of said deed from the Northwest corner of Section 32, Township 40 South, Range 24 East, SLB&M, thence N 10°07'07" E, 91.32 feet, thence N 00°01'57" E, 159.55 feet, thence N 82°30'46" W, 172.56 feet to an existing electrical hand hole.

## UTAH NAVAJO TRUST LAND EASEMENT 5:

Beginning at a point which is located S 00°02'54" E, 2646.63 feet along the Section line to the Southwest corner of the parcel described on the Special Warranty Deed recorded as Entry No. 122202, BK. 964, Pg. 583, Official Records of the San Juan County Recorder, and N 88°59'40" E, 689.01 feet along the south line of said deed from the Northwest corner of Section 32, Township 40 South, Range 24 East, SLB&M, thence S 10°07'07" W, 13.21 feet, thence S 29°21'52" W, 285.68 feet.



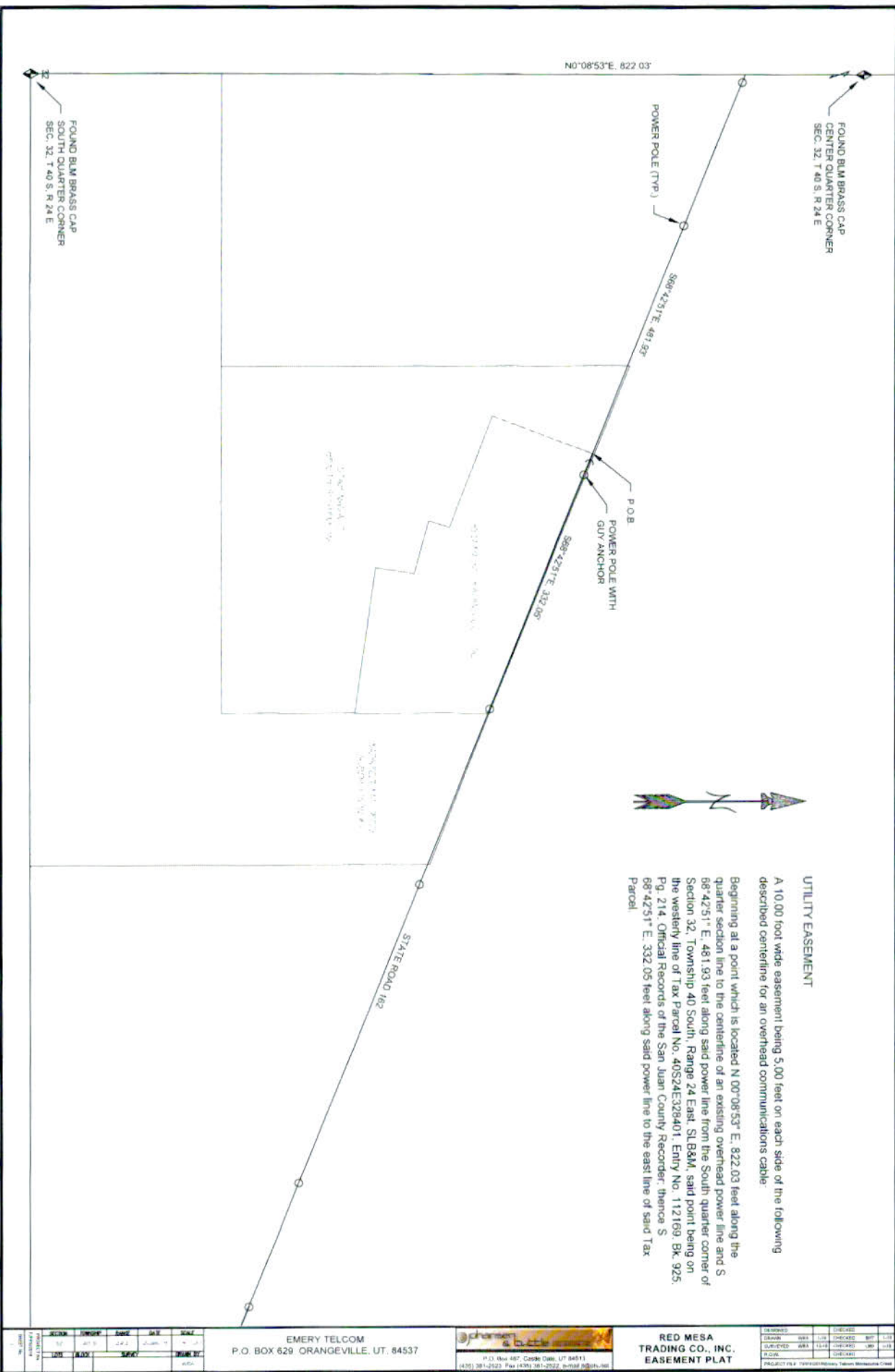
**UTILITY EASEMENT**

A 10.00 foot wide easement being 5.00 feet on each side of the following described centerline for an overhead communications cable:

**EASEMENT 4**

Beginning at a point which is located N 00°08'53" E., 822.03 feet along the quarter section line to the centerline of an existing overhead power line and S 68°42'51" E., 370.75 feet along said power line from the South quarter corner of Section 32, Township 40 South, Range 24 East, S1B&M, said point being on the west line of the parcel described on the Special Warranty Deed recorded as Entry No. 137307, Bk. 999, Pg. 117, Official Records of the San Juan County Recorder, thence S 68°42'51" E., 111.18 feet along said power line to the easterly line of said deed.





# UTILITY EASEMENT

A 10.00 foot wide easement being 5.00 feet on each side of the following described centerline for an overhead communications cable

Beginning at a point which is located N 00°08'53" E, 822.03 feet along the quarter section line to the centerline of an existing overhead power line and S 68°42'51" E, 481.93 feet along said power line from the South quarter corner of Section 32, Township 40 South, Range 24 East, SLB&M, said point being on the westerly line of Tax Parcel No. 40S24E32R40T, Entry No. 112169, Bk. 925, Pg. 214, Official Records of the San Juan County Recorder; thence S 68°42'51" E, 332.05 feet along said power line to the east line of said Tax Parcel.

EMERY TELCOM  
P.O. BOX 629 ORANGEVILLE, UT. 84537

**Johnson & Biddle**  
P.O. Box 487, Casper, WY 82413  
(307) 231-2323 Fax (307) 231-2322 www.jbassoc.com

**RED MESA**  
**TRADING CO., INC.**  
**EASEMENT PLAT**

REVISION	DATE	BY	REASON
1	08/11/11	JB	INITIAL DRAFT
2	08/11/11	JB	FINAL DRAFT
3	08/11/11	JB	FINAL PLAT



State of Utah

GARY R. HERBERT  
Governor

SPENCER J. COX  
Lieutenant Governor

## DEPARTMENT OF TRANSPORTATION

CARLOS M. BRACERAS, P.E.  
Executive Director

JASON E. DAVIS, P.E.  
Deputy Director of Engineering and Operations

TERIANNE S. NEWELL, P.E.  
Deputy Director of Planning and Investment



May 2, 2019

Navajo Land Department  
P.O. Box 2249  
Window Rock, AZ 86515

To Whom it May Concern:

SUBJECT: UTEN Fiber Optic Project from Blanding to Bluff and Montezuma Creek

Emery Telcom has partnered with Utah Education and Telehealth Network (UETN) to install a fiber route from Blanding, UT to Bluff, UT and Montezuma Creek, UT along SR 191, SR 162, and Cow Canyon Rd. This project will provide broadband internet connection to the White Mesa Library, Bluff Elementary School, White Horse High School, and Montezuma Creek Elementary School.

The Utah Department of Transportation (UDOT) has helped expand Utah's fiber footprint by engaging in public private partnerships with telecom companies and seeks to support fiber projects like UETN's Blanding to Bluff and Montezuma Creek. By increasing the availability of fiber, especially within the ROW, UDOT can expand their traffic operations to increase the safety and efficiency of their systems.

This letter is to confirm that Emery Telcom (fiber operator) will apply for an encroachment permit prior to construction. UDOT (right-of-way permit holder) has agreed to approve the permit application to install fiber along UDOT's right-of-way (ROW) through the Navajo Nation, along SR 162, in the vicinity of Montezuma Creek.

Please call Karyn Kerdolff at 801-649-5141 x318 or email [kkerdolf@transcon.com](mailto:kkerdolf@transcon.com) with any questions or concerns.

Sincerely,

Monte Aldridge  
Deputy Director, Region Four

RT/MA/jg



NNDFW Review No. 18tran101

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.: Blanding to Bluff and Montezuma Creek Fiber Optic Cable

DESCRIPTION: Emery Telcom is applying for a grant of right-of-way for the construction, operation, and maintenance of a buried and aerial fiber optic cable to provide service to the rural communities. The length of the fiber optic cable would be 2.25 miles on Navajo Tribal lands and would require a ROW of 2.73 acres

LOCATION: T40S R22E Section 29, T40S R23E Section 25, T40S R24E Sections 30, 31, 32, and T41S R24E Section 05, Montezuma Creek, San Juan County, Utah

REPRESENTATIVE: Karyn P Kerdolff, Transcon Environmental for Emery Telcom

ACTION AGENCY: Bureau of Indian Affairs and Navajo Nation

B.R. REPORT TITLE / DATE / PREPARER: 2018 Plan of Development for Blanding to Bluff and Montezuma Creek/10 JAN 2019/Karyn P Kerdolff

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 2 & 3. Project is located within UDOT's existing road easement corridor.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: Emery Telcom will follow mitigation measures outlined in the Resource Values and Environmental Concerns for migratory birds in the 2018 Plan of Development for Blanding to Bluff and Montezuma Creek

CONDITIONS OF COMPLIANCE\*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/15 JAN 2019

COPIES TO: (add categories as necessary)



2 NTC § 164 Recommendation:

Signature

Date

☒ Approval

☐ Conditional Approval (with memo)

☐ Disapproval (with memo)

☐ Categorical Exclusion (with request letter)

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



☐ None (with memo)

\*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



THE NAVAJO NATION  
HERITAGE & HISTORIC PRESERVATION DEPARTMENT

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

**CULTURAL RESOURCES COMPLIANCE FORM**

ROUTE COPIES TO:

☒ DCRM

NNHPD NO.: **HPD-18-959**

OTHER PROJECT NO.: **T26-07**

**PROJECT TITLE:**

Cultural Resources Inventory Report, Emery Telcom's Blanding to Bluff and Montezuma Creek Telecommunications Project San Juan County, Utah

**LEAD AGENCY:**

BIA/NR

**SPONSOR:**

Emery Telcom, Price Office, 625 East 100 North, Price, Utah 845011

**PROJECT DESCRIPTION:**

Emery Telcom proposes to install approximately 43.55 miles of fiber-optic telecommunications cable and facilities to upgrade existing services across Bureau of Land Management and State (Utah Department of Transportation and Utah School and Institutional Trust Lands Administration)-managed lands, privately owned lands, and Tribal lands (Navajo Nation and Ute Mountain Ute) along U.S. Route 191, Utah State Route 162, and Cow Canyon Road from Blanding to Bluff and Montezuma Creek in San Juan County, Utah. The new cable will be either buried or attached to existing aerial power poles throughout the project alignment. The segment of the project in the Navajo Nation land measures approximately 2.3 miles long, with a 15-meter-wide project area of potential effects (APE), and totals approximately 13.9 surveyed acres. The area of disturbance on Navajo land is a 15-foot-wide temporary easement along the project corridor which totals 3.79 acres.

**LAND STATUS:**

Navajo Tribal Trust

**CHAPTER:**

Aneth

**LOCATION:**

Project is located on the Montezuma Creek Quadrangle, San Juan County, Utah SLPM

T. 40 S., R. 24 E- Sec. 31

UTM COORDINATES: Zone 12, NAD 83

	NORTHING	EASTING
Western Extent (Beginning)	647881	4126532
Central (Middle)	649386	4125791
Eastern Extent (End)	651056	4124906

**PROJECT ARCHAEOLOGIST:**

Joanne C. Tactikos

**NAVAJO ANTIQUITIES PERMIT NO.:**

B18630

**DATE INSPECTED:**

10/10/18 – 10/11/18

**DATE OF REPORT:**

11/2018

**TOTAL ACREAGE INSPECTED:**

13.9-ac total (**3.79-ac NNTL**)

**METHOD OF INVESTIGATION:**

Class III pedestrian inventory with transects spaced 10 m apart.

**LIST OF CULTURAL RESOURCES FOUND:**

**(1) SITE**  
UT-C-43-338

**LIST OF ELIGIBLE PROPERTIES:**

**(1) SITE**  
UT-C-43-338

**-DOCUMENT IS VOID IF ALTERED-**

LIST OF UNEVALUATED PROPERTIES:	NONE
LIST OF NON-ELIGIBLE PROPERTIES:	NONE
LIST OF ARCHAEOLOGICAL RESOURCES:	(1) SITE UT-C-43-338

EFFECT/CONDITIONS OF COMPLIANCE: NO ADVERSE EFFECT WITH THE FOLLOWING CONDITIONS:

SITE UT-C-43-338:

1. Site boundary will be flagged by a qualified archaeologist prior to any construction activity.
  2. No heavy equipment will be allowed inside the site boundary.
  3. Installation/construction of the fiber-optic line will be hung aerially on the southern side of the site, opposite the site.
  4. A qualified archaeologist will monitor ground disturbing activities within 50-ft of the site boundary.
  5. Monitoring stipulation: NNHHPD request a report of monitoring activities within 30-days of completed activity.
- If site cannot be avoided,**
6. Then archaeological testing to determine the subsurface extent of the site required before fiber installation.

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) 871-7198.

FORM PREPARED BY: Tamara Billie  
FINALIZED: February 7, 2019

Notification to Proceed  
Recommended

☒ Yes ☐ No

Conditions:

☒ Yes ☐ No

Richard M. Begay 02/08/2019  
Richard M. Begay, Dept. Mgr./THPO  
The Navajo Nation  
Heritage & Historic Preservation Department  
Date

Navajo Region Approval

☒ Yes ☐ No

BIA - Navajo Regional Office

2-11-19  
Date

-DOCUMENT IS VOID IF ALTERED-





Salt Lake City: (801) 649-5141

San Francisco: (415) 738-8497

[transconenvironmental.com](http://transconenvironmental.com)

March 3, 2019

General Land  
Development Department  
P.O. Box 69 St.  
Michaels, AZ 86511



**TRANSCON**  
environmental

RE: UEN project from Blanding to Bluff and Montezuma Creek

To Whom it may Concern:

Emery Telecom is proposing the Utah Education Network (UEN) San Juan Phase 1 fiber optic project. This project will provide broadband internet connection by extending fiber optic connection from Blanding, Utah to the White Mesa Library, Bluff Elementary School, White Horse High School, and Montezuma Creek Elementary School. The proposed fiber optic line would cross approximately 2.25 miles (1.75 miles buried and 0.5 miles aerial on existing utility poles) of Navajo Nation trust land totaling about 2.73 acres of disturbance.

The Utah Education Network (UEN) provides broadband Internet connections, application services, and support services to public schools, colleges, universities, libraries, head starts, and charter schools.

Funding for the project is provided by the State of Utah with matching federal funds provided by the Universal Service Administrative Company (USAC) which is an independent not-for-profit designated by the FCC, who administers the federal Universal Service Fund, available annually to the companies and institutions that make universal service possible.

Please call Karyn Kerdolff at 801-649-5141 x318 or email [kkerdolf@transcon.com](mailto:kkerdolf@transcon.com) with any questions/concerns.

Sincerely,

Osmer Beck, Project Manager  
Transcon Environmental, Inc.



Proposed Project: UETN Fiber Project from Blanding to Bluff and Montezuma Creek, Utah.

Date: March 8, 2019

Preparer Information Name: Transcon Environmental - Karyn Kerdolff

Title: Environmental Planner

Email: kkerdolff@transcon.com

Phone number: 801-649-5141

### 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)." The EA contains the minimum EA requirements found in 43 CFR 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.

**If you have questions as to whether the use of this form is appropriate for your project, please contact the Regional NEPA Coordinator or Environmental Protection Specialist BEFORE using this form.**

-----



**1. 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:**

*Emery Telcom (Emery) is proposing to construct a new fiber optic telecommunications line as part of the Utah Education and Telehealth Network (UETN) project. Implementation of this project would improve connectivity and redundancy and service to schools and health centers in the rural communities of White Mesa, Montezuma Creek, and Bluff, Utah.. Emery would install approximately 42.5 miles of single, non-electric fiber optic cable . Approximately 16.25 miles of line would be installed on public lands administered by the Bureau of Land Management's (BLM) Monticello Field Office, 5 miles on White Mesa Ute Tribal lands, 2.25 miles on Navajo Tribal lands, 8.75 miles on School and Institutional Trust Lands Administration (SITLA) lands, 11 miles on private lands, and 0.3 mile on Utah Department of Transportation (UDOT) lands.*

*This environmental assessment (EA) analyzes potential impacts to Navajo Tribal Lands that would result from the proposed action. The fiber optic line would be constructed on approximately 2.25 miles within the existing Highway 162 right-of-way ( ROW) extending from a little before mile marker 13 to a quarter mile past mile marker 15 (Figure \_\_). The line would run through the community of Montezuma Creek and terminate east of town near the San Juan River. The buried portion of the fiber optic line (approximately \_\_ miles) would be placed within a 1.25-inch, high-density polyethylene roll pipe that containing two micro duct conduits. The line would be installed using a tractor-mounted cable plow. The aerial fiber optic portion (approximately \_\_ miles) would be placed on new or existing transmission line poles 25 to 50 feet tall using a bucket truck. Any new poles would be installed using a tractor-mounted auger and boom truck. The line would be placed in a 10 feet wide permanent ROW. A 15-foot-wide temporary ROW would be required for construction purposes. Less than 10 workers and 10 vehicles or equipment would be on-site during construction. The ROW would be flagged prior to construction. No interruption of existing uses such as power or access would occur. Approximately 4 weeks would be required to install the line.*

**2. Project Purpose and Need:**

*There is currently a lack of telecommunication reliability within the project area. Therefore, the purpose and need of the proposed action would be to provide needed telecommunication speed, reliability, and redundancy to the community of Montezuma Creek, Utah. This project is part of a larger UETN effort to improve telecommunication service to local schools and health centers across the state of Utah.*

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

*The Navajo Tribal Lands portion of the project would be constructed entirely inside of the existing Highway 162 ROW. The ROW consists of mostly disturbed land resulting from highway use and maintenance. Existing land uses outside of the highway ROW vary and include agricultural, residential, commercial, and institutional uses. The project area is located in a desert environment. Vegetation in the area is sparse comprising of southwest*

shrubland and semi-desert grass. While much of the vegetation has been removed due to road construction and maintenance, some, native plant species, weeds and invasive plant species have become established in the ROW. Soils are primarily sandy loam. No permanent surface water resources are located within the project area. However, the intermittent flowing Montezuma Creek crosses Highway 162 and the San Juan River flows near the highway for a portion of the route. Animal species located within the project area are typical of the surrounding desert environment.

U.S. Fish and Wildlife Service identified 8 listed threatened or endangered plant or animal species that occur within San Juan County (Appendix \_\_\_\_). An analysis of the area determined that no listed species or their habitat are located within the project area.

- 4. 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):**

*No Action Alternative: The fiber optic line would not be installed. Any effects associated with the installation of the line would not occur. The increased telecommunication reliability for the community of Montezuma Creek would not be realized.*

*Other potential alternatives were studied and determined not to be feasible. These alternatives would involve building the fiber optic line outside of the highway ROW, which would increase the length of the proposed line resulting in increased environmental impacts (surface disturbance, vegetation removal, cultural resource, and other disturbances). It also would take longer to build the line so construction related impacts such as noise, and dust would be greater. Additionally, additional construction and permitting complications would increase overall project costs.*

**5. Environmental Consequences**

**(A) LAND RESOURCES**

Would the proposed project directly or indirectly impact land resources (topography, soils)? Briefly explain.

*Since the project would be built on disturbed soils within an existing UDOT right of way there would be minimal direct or indirect impact to land resources. Surface disturbance on Navajo Tribal Lands would not exceed 2.73 acres. Disturbed areas would gradually be reclaimed.*

**(B) WATER RESOURCES**

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

*The route would not directly impact nearby water resources. Within the highway right of way, the project crosses the intermittent flowing Montezuma Creek and parallels the San Juan river. Surface disturbance resulting from the project in this area would not occur within either of these water bodies. Additionally, implementation of applicant committed conservation and mitigation measures would ensure no indirect impacts, such as sediment entering the streams, would occur.*

**(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)

*Consultation was initiated with the Navajo Nation Department of Fish and Wildlife. The Agency determined that no potential impacts to wildlife species would result from the proposed action (Appendix A). Disturbance (approximately 2.73 acres) would be restricted to previously disturbed areas within the highway ROW. Therefore, potential impacts to native plant and wildlife resources would be limited. Applicant committed avoidance and mitigation measures, such as no surface disturbing activities occurring during the migratory bird nesting season (April 1 to August 31) would limit effects to any migratory birds in the area.*

#### **(D) CULTURAL RESOURCES**

Would the proposed project directly or indirectly impact cultural resources? Briefly explain.

*T.*

*One site has been located within the proposed project ROW. The identified cultural resource (UT-C-43-338) is a prehistoric artifact scatter with two thermal features. It retains the integrity of both location and materials. The site is not associated with a specific event that has contributed to the broad patterns of history (Criterion A), it is not associated with a significant person (Criterion B), and it does not embody distinctive characteristics of construction (Criterion C). However, the artifact assemblage on-site and the likelihood of sub-surface cultural deposits suggest the site does have potential to yield significant information regarding prehistoric technology and subsistence; regional resource exploitation; cultural affiliation with the Kayenta Anasazi; the site's relationship with the San Juan River Traditional Cultural Place; and cultural transmission, trade, or exchange within in the Four Corners region. Therefore, this site is recommended as Eligible for inclusion on the NRHP under Criterion D.*

1. 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 with the State or Tribal Historic Preservation Officer (S/THPO)).

*Site UT-C-43-388 is recommended Eligible for inclusion in the NRHP under Criterion D for its information potential. The Navajo Nation Heritage & Historic Preservation Department (NNHHPD) has concurred with this recommendation (see attached Cultural Resources Compliance Form) and have stipulated the following effect/conditions of compliance:*

##### ***No Adverse Effect with the following conditions:***

- *Site boundary will be flagged by a qualified archaeologist prior to any construction activity;*
- *No heavy equipment will be allowed inside the site boundary;*
- *Installation/construction of the fiber-optic line will be hung aurally on the southern side of the site, opposite the site;*
- *A qualified archaeologist will monitor ground disturbing activities within 50 feet of the site boundary; and*



- *Monitoring stipulation: NNHHPD request a report of monitoring activities within 30 days of completed activity.*

***If the site cannot be avoided,***

- *Archaeological testing must be conducted to determine the extent of subsurface cultural deposits before fiber installation.*

*The proposed fiber optic installation will be routed to avoid impacts to the site and a cultural monitor will be present during all construction-related ground disturbing activities within 50 feet of the site.*

2. Describe any impacts to archaeological 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 other archaeological resources were observed that would be impacted by implementation of the proposed project.*

#### **(E) RESOURCE USE PATTERNS**

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

*The proposed project would not directly or indirectly impact resource use patterns in the long term, as the fiber optic line will be installed inside the highway right-of-way. Some temporary delays may occur along Highway 162 during the 4-week construction process on Navajo Nation land but would cease upon completion of the project.*

#### **(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. Explain.

*This project would not have a disproportionate impact on minority or low-income communities.*

#### **(G) OTHER IMPACTS**

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

*There would be temporary increases of noise and dust during the one-month construction process, but the finished fiber optic line would mostly be buried underground and would not result in any adverse impacts to the health, safety, and welfare of humans or wildlife in the area. Installation of the fiber optic line would improve telecommunication reliability for local residents, schools, and health centers.*

Noise and dust may be noticeable to residents as construction activities progress through town. However, these impacts would be minor and short-term in duration. Installation of the proposed fiber optic line would result in a more reliable telecommunication system for local residents, particularly for Montezuma Creek schools and health center.

#### (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 project and 5 years for future foreseeable project.

*No cumulative impacts are anticipated as a result of this project.*

#### 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?

*Permits would be required from many different agencies along the entire project area. Coordination with proper entities has commenced and permits are expected to be in place within three months.*

##### **Navajo Nation Portion:**

*Navajo-ROW permit. (Submitting, within a month)*

##### **Other Project Permits:**

*BLM – Lead agency (aiming for Category exclusion)- Paleontology survey and Cultural survey. (Awaiting, within a month)*

*UDOT -encroachment permit. (Awaiting, within a month)*

*SITLA -encroachment permit. (Acquired)*

*Utes-ROW permit. (Awaiting, within two months)*

#### 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.

*All need mitigation measures have been discussed under the appropriate sections. No additional mitigation measures are needed. The project's proposed route was chosen because it minimized impact to resources.*

#### 8. LIST OF AGENCIES AND PERSON CONSULTED

Navajo Nation Consultations	
Navajo Nation Department Fish and Wildlife	Pamela A. Kyselka
Navajo Nation Department Fish and Wildlife	Sam Diswood
Navajo Nation Heritage and Historic	Tamara Billie

Preservation Department	
Navajo Nation General Land Development Department	Elerina Yazzie
Bureau of Indian Affairs - Navajo Region	Harrilene J. Yazzie, Justine Vaivai
Other Project Consultations	
BLM - Monticello Field Office	Norbert Norton
	John Chmelir
UDOT	Eric Hansen
STILA	Scott Bartlett
Ute Mountain Ute	Bernadette Cuthair
BIA – Ute Mountain Ute	Dean Fox
	Stephanie Tsosie
	Genevieve Benally

## 9. LIST OF ATTACHMENTS

(A) Biological Clearance Documents

(B) Cultural Clearance Documents

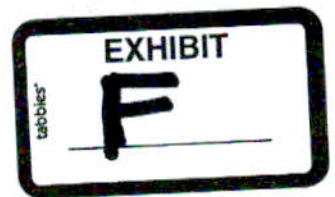
(C) Project Maps



**THE ANETH CHAPTER**  
**ANETH, (NAVAJO NATION) UTAH**



WESLEY JONES **PRESIDENT**  
ALFRED BEN **VICE PRESIDENT**  
BRENDA BROWN **SECRETARY/TREASURER**



**RESOLUTION OF  
THE ANETH CHAPTER**

AC- MAR-18-029

APPROVE TO SUPPORT FIBER OPTIC EXPANSION TO THE SOUTHEASTERN UTAH  
SCHOOLS AND COMMUNITIES FOR HIGH SPEED INTERNET WITHIN SAN JUAN  
COUNTY, UTAH AS PART OF THE UTAH EDUCATION AND TELEHEALTH NETWORK  
(UETN) PROGRAM

**WHEREAS:**

1. Pursuant to Navajo Tribal Council Resolution No. CMY-23-79, the Aneth Chapter is duly certified and recognized as an official local unit of the Navajo Nation Government with all duties, responsibilities, and authorities conferred according to 26 N.N.C. § 1 et seq. and has the power and authority to enact plans and development goals that are in the best interest of the community and to recommend, support, and approve community related projects); and
2. Aneth Chapter strives for improvement of educational standards of the Aneth Chapter population is a major priority that requires the participation, leadership of community leaders, and partnership with local, state, and national organization to assist with providing funds necessary for expansion of education for our local communities and families; and
3. Aneth Chapter supports Utah Education Network (UEN) San Juan Phase I Project, to provide broadband internet connection by fiber optic line from Blanding, Utah to White Mesa Library, Bluff Elementary School, Whitehorse High School and Montezuma Creek Elementary School; and
4. Utah Education and Telehealth Network Program provides funding for infrastructure projects in Rural Utah communities that will add to the education and telehealth network, funding for this project is provided by State with matching Federal Funds provided by Universal Service Administrative Company (USAC), which is an independent not-for-profit designated by FCC to make available to companies and institutions to make universal service possible; and

5. The Utah Education Network (UEN) provides broadband internet connections, applications services, and support services to public schools, colleges, universities, libraries, head start centers, and charter schools; and
6. Emery Telcom will provide fiber optic line along side of the Utah State Highways, South 191 and East 162 to Montezuma Creek, Utah; and

**NOW, THEREFORE BE IT RSOLVED THAT:**

1. The Aneth Chapter hereby approves for Fiber Optic expansion to the Southeastern Utah Schools and communities for High Speed Internet within San Juan County, Utah as part of the Utah Education and Telehealth Network (UETN) Program

**CERTIFICATION**

I hereby certify that this forgoing resolution was duly considered by the Aneth Chapter Membership at a duly called meeting at which a quorum was present and that the same was passed with a vote of 25 in favor, 0 opposed and 1 abstained this 18th day of February, 2018.

Motioned by: Bill Toachennie

Seconded by: Henry Lee



Wesley Jones, *President*  
**ANETH CHAPTER**

Alfred Ben, *Vice-President*  
**ANETH CHAPTER**



Brenda Brown, *Secretary/Treasurer*  
**ANETH CHAPTER**



**THE ANETH CHAPTER**  
**ANETH, (NAVAJO NATION) UTAH**



**WESLEY JONES** PRESIDENT  
**ALFRED BEN** VICE PRESIDENT  
**BRENDA BROWN** SECRETARY/TREASURER

**RESOLUTION OF  
THE ANETH CHAPTER**

AC-FEB-18-029

RESOLUTION OF THE ANETH CHAPTER TO THE NAVAJO NATION HUMAN RESEARCH REVIEW BOARD TO SUPPORT AND AUTHORIZE THE RESEARCH STUDY: "EAGER: MAKER: COLLABORATIVE RESEARCH: CULTURALLY RESPONSIVE MAKING: DEVELOPING HIGH-LOW TECH MAKER ACTIVITIES FOR LOCAL AND MOBILE MAKERSPACES FOR SUPPORTING AMERICAN INDIAN YOUTH" TO EXAMINE THE DESIGN OF MAKERSPACES AND ACTIVITIES FOR NAVAJO YOUTH, TEACHERS, AND FAMILIES

**WHEREAS:**

1. Pursuant to Navajo Tribal Council Resolution No. CMY-23-79, the Aneth Chapter is duly certified and recognized as an official local unit of the Navajo Nation Government with all duties, responsibilities, and authorities conferred according to 26 N.N.C. § 1 et seq. and has the power and authority to enact plans and development goals that are in the best interest of the community and to recommend, support, and approve community related projects); and
2. The Aneth Chapter supports various research studies requested by various entities and their representatives. Those studies approved are to improve the quality of education for Navajo/Indian people of the Navajo Nation; and
3. The Aneth Chapter is aware the Navajo Nation has a compelling interest to increase educational opportunities for Navajo youth, families, and teachers; and
4. The Aneth Chapter understands that Native American/Alaska Native youth lag behind their peers on almost every measure of educational success from standardized test scores to graduation rates to discipline referrals to postsecondary completion to presence in special education and gifted and talented programs. It is also understood that Native American youth graduate from high school at lower rates (46.6% on average) than all other segments of the population, and are underrepresented in all postsecondary science and engineering degrees. Research into culturally responsive making activities that includes Navajo youth, families, and teachers learning about science, technology, engineering, and math (STEM) can help address these serious educational issues; and
5. The Aneth Chapter understands that a makerspace is a gathering place (temporary or permanent) where people with shared interests, often (but not always) with a connection to computers and technology, come together to work on projects while sharing knowledge, tools, and ideas; and



6. The Aneth Chapter supports Dr. Bryan Brayboy, Dr. Breanne Litts, Dr. Yasmin Kafai, and Dr. Kristin Searle in working with Whitehorse High School Principal Kim Schaefer, her staff, youth, and community members to develop a mobile makerspace and culturally responsive making activities involving recyclable materials, sewable circuits, 3D printing, and place-based games. Other appropriate technologies and practices may be used in consultation with school staff and community members; and
7. The Aneth Chapter understands that making activities will include family nights at Whitehorse High School and professional development for teachers and para-professionals; and
8. The Aneth Chapter understands that this project includes research to investigate new ways to design spaces for making and making activities that expand opportunities for Navajo youth to engage in science, technology, engineering, and math learning AND make sense culturally; and
9. The Aneth Chapter understands this study will provide important science, technology, engineering, and math learning opportunities for Navajo youth, families, and teachers through hands-on making activities.

**NOW THEREFORE BE IT RESOLVED THAT:**

10. The Aneth Chapter hereby supports and authorizes the research study, "EAGER: MAKER: Collaborative Research: Culturally Responsive Making: Developing High-Low Tech Maker Activities in Local and Mobile Spaces for Supporting American Indian Youth."

**CERTIFICATION**

I hereby certify that this forgoing resolution was duly considered by the Aneth Chapter Membership at a duly called meeting at which a quorum was present and that the same was passed with a vote of 20 in favor, 0 opposed and 1 abstained this 18th day of February, 2018.

Motioned by: Bill Todachennie  
Seconded by: Robert Whitehorse

  
Wesley Jones, President  
**ANETH CHAPTER**

Alfred Ben, Vice-President  
**ANETH CHAPTER**

  
Brenda Brown, Secretary/Treasurer  
**ANETH CHAPTER**

Document No. 013152Date Issued: 08/15/2019**EXECUTIVE OFFICIAL REVIEW**Title of Document: UTEN Fiber Optic Prjt Blanding & Montez Contact Name: YAZZIE, ELERINA BProgram/Division: DIVISION OF NATURAL RESOURCESEmail: e\_yazzie@navajo-nsn.gov Phone Number: 9288716447

<input type="checkbox"/>	<b>Business Site Lease</b>			<b>Sufficient</b>	<b>Insufficient</b>
	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"/>
 	<b>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</b>				
	1. Division:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
 	<b>Fund Management Plan, Expenditure Plans, Carry Over Requests, Budget Modifications</b>				
	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"/>
 	<b>Navajo Housing Authority Request for Release of Funds</b>				
	1. NNEPA:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
 	<b>Lease Purchase Agreements</b>				
	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"/>
 	<b>Grant Applications</b>				
	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"/>
 	<b>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</b>				
	1. Division:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
 	<b>Relinquishment of Navajo Membership</b>				
	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:	<i>ICN/BLP/PH</i>	Date: <i>9/30/19</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. OPVP	<i>Slee</i>	Date: <i>10/8/19</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

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

☐ **Assignment of Mineral Lease**

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

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

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

☐ **OTHER:**

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





☐ RESUBMITTAL

# NAVAJO NATION DEPARTMENT OF JUSTICE

## DOCUMENT REVIEW REQUEST FORM



DOJ
9/12/19 @ 3:46p
DATE / TIME
<input type="checkbox"/> 7 Day Deadline
DOC #: 013152
SAS #:
UNIT: NM

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

### CLIENT TO COMPLETE

DATE OF REQUEST: Sept. 12, 2019 ENTITY/DIVISION: DNR  
 CONTACT NAME: Michelle Hoskie DEPARTMENT: General Land Develop. Dept.  
 PHONE NUMBER: (928) 871-6447 E-MAIL: michellehoskie@navajo-nm.gov  
 TITLE OF DOCUMENT: UTEN Fiber Optic Pigt Blanding & Montez

### DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 9-12-19 REVIEWING ATTORNEY/ADVOCATE: Iwini cluc  
4:30 PM 9-23-19  
 DATE/TIME OUT OF UNIT: 10-1-19 3:40

### DOJ ATTORNEY / ADVOCATE COMMENTS




Document is legally sufficient.

REVIEWED BY: (PRINT) <u>Impe Hlee</u>	DATE / TIME <u>9/30/19</u>	SURNAMED BY: (PRINT) <u>Blackhat</u>	DATE / TIME <u>9/30/19 3:35pm</u>
DOJ Secretary Called: <u>Marcellena</u> for Document Pick Up on <u>10-1-19</u> at <u>330</u> By: <u>R</u>			
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
Najamh Tariq (Navajo Land Title Data System - Windowrock AZ)	Approver	Department of Water Resources	Approved	no comments	No Reply	19-Aug-2019	
Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. 18tran101	1. No Reply	15-Aug-2019	
Rebecca Gilchrist MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Navajo Nation Minerals Management	Approved	1. This vote is contingent upon the uploaded revised Terms and Conditions, dated 9/05/2019, permanently being included in the application approval package. rkg	1. No Reply	05-Sep-2019	
Tamara Billie NNHP (Navajo Land Title Data System - Windowrock AZ)	HPD Reviewer	Historic Preservation Department	Approved	1. HPD-18-959. The sponsor will follow all stipulations for Site UT-C-43-338 as stated on the CRCF. The site number in the Environmental Assessment is incorrect. Site should be UT-C-43-338.	1. No Reply	27-Aug-2019	

### Tier 2 Document Voting Results

User Name	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
-----------	-----------	------------	-----------	----------	---------	-----------	-----------

**(Facilitator)**

Chad Smith - F&W (Navajo Land Title Data System - Windowrock AZ) Technical Review Fish and Wildlife Approved 1 Note Avoidance/Mitigation Measures in BRCF 18tran101. Resubmitting vote again after being added to Approver listing. 1 No 11-Sep-2019 Reply

*Chad Smith*

Leanna Begay (Navajo Land Title Data System - Windowrock AZ) Technical Review Fish and Wildlife Approved 1 Note Avoidance/Mitigation Measures in BRCF 18tran101. Resubmitting again after being added as approver. 1 No 11-Sep-2019 Reply

Richard Begay NNHP (Navajo Land Title Data System - Windowrock AZ) Navajo Nation Historic Preservation Department on Officer Historic Preservation Approved 1 Please note condition of archaeological clearance 1 No 06-Sep-2019 Reply

*Richard M Begay*


Robert Allan DNR (Navajo Land Title Data System - Windowrock AZ) Deputy Director DNR Administration Approved 1. CONDITIONAL- Application must include surface user/permittee consents, if any; 2) acceptable Navajo Nation Terms and Conditions; and 3) acceptable ROW easement indenture. 1 No 05-Sep-2019 Reply

*Robert O. Allan*

Steven Prince MIN (Navajo Land Title Data System - Windowrock AZ) Technical Review Navajo Nation Minerals Management Approved 1. This vote is contingent upon the uploaded Terms and Conditions, dated 9/10/2019, permanently being included in the application approval package. slp 1 No 10-Sep-2019 Reply

*Steven L Prince*



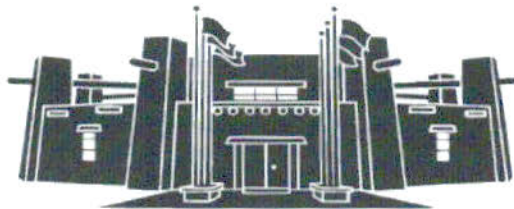
W. Mike Halona (NLTDS - Everytt)	DCD Division Director	Navajo Nation Approve d	1. BIA will want the a BIA ROW application for their review.	1. <i>No Reply</i>	05-Sep- 2019	
---	-----------------------------	----------------------------	---	------------------------	-----------------	---

© 2019 Prism eSolutions

Division of Andy Frain Services

761 Shoreline Drive, Aurora, IL 60504 - 1-(331)-208-5133

Version: [10,744](#) Click the Version Number to



## MEMORANDUM

**TO:** Honorable Charlaine Tso  
Mexican Water, To'likan, Teenospos, Aneth, Red Mesa Chapters

**FROM:** Mariana Kahn  
Mariana Kahn, Attorney  
Office of Legislative Counsel

**DATE:** January 16, 2020

**SUBJECT:** PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF RIGHT-OF-WAY TO EMERY TELECOM/TRANSCON ENVIRONMENTAL LOCATED ON NAVAJO NATION TRUST LANDS IN ANETH CHAPTER VICINITY (SAN JUAN COUNTY, UTAH)

Pursuant to your request, attached is the above-referenced proposed resolution and associated legislative summary sheet. Based on existing law, the resolution as drafted is legally sufficient. However, as with all legislation, it is subject to review by the courts in the event of a challenge.

The Office of Legislative Counsel confirms the appropriate review is with the Standing Committees and the Navajo Nation Council. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. § 164(A)(5).

Please review the proposed resolution to ensure it is drafted to your satisfaction. If this proposed resolution is acceptable to you, please sign it where it indicates "Prime Sponsor", and submit it to the Office of Legislative Services for the assignment of a tracking number and referral to the Speaker.

If the proposed resolution is unacceptable to you, or if you have further questions, please contact me at the Office of Legislative Counsel and advise me of changes you would like made to the proposed resolution. You may contact me at (928) 871-7166. Thank you.