

**LEGISLATIVE SUMMARY SHEET**

Tracking No. 0033-23

DATE: February 27, 2023

TITLE OF RESOLUTION: PROPOSED NAVAJO NATION COUNCIL RESOLUTION; AN ACT RELATING TO RESOURCES AND DEVELOPMENT, HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; ESTABLISHING THE SAN JUAN RIVER MITIGATION FUND; DIRECTING THAT MONIES RECEIVED FROM IN RE: GOLD KING MINE RELEASE IN SAN JUAN COUNTY, COLORADO, ON AUGUST 5, 2015, NO. 1:18-md-02824 (D.N.M.) AND UNDERLYING AND RELATED ACTIONS BE DEPOSITED IN THE SAN JUAN RIVER MITIGATION FUND AFTER REIMBURSEMENT OF LITIGATION COSTS

PURPOSE: The purpose of this legislation is to approve the establishment of the Navajo Nation San Juan River Mitigation Fund and to approve its enabling legislation.

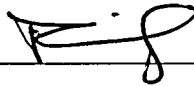
**This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.**

5-DAY BILL HOLD PERIOD: Johnson  
Website Posting Time/Date: 5:08pm; 03-06-23  
Posting End Date: 03-11-23  
Eligible for Action: 03-12-23

Resources & Development Committee  
Thence  
Health Education & Human Services Committee  
Thence  
Law & Order Committee  
Thence  
Budget & Finance Committee  
Thence  
Naabik'iyáti' Committee  
Thence  
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
25<sup>th</sup> NAVAJO NATION COUNCIL – First Year, 2023

INTRODUCED BY



(Prime Sponsor)

*Rick Allen*

TRACKING NO. 0033-23

AN ACT

RELATING TO RESOURCES AND DEVELOPMENT, HEALTH,  
EDUCATION AND HUMAN SERVICES, LAW AND ORDER, BUDGET AND  
FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO  
NATION COUNCIL; ESTABLISHING THE SAN JUAN RIVER  
MITIGATION FUND; DIRECTING THAT MONIES RECEIVED FROM *IN*  
*RE: GOLD KING MINE RELEASE IN SAN JUAN COUNTY, COLORADO, ON*  
*AUGUST 5, 2015, NO. 1:18-md-02824 (D.N.M.)* AND UNDERLYING AND  
RELATED ACTIONS BE DEPOSITED IN THE SAN JUAN RIVER  
MITIGATION FUND AFTER REIMBURSEMENT OF LITIGATION COSTS

BE IT ENACTED:

SECTION ONE. AUTHORITY.

- A. The Navajo Nation Council is the governing body of the Navajo Nation and empowered to enact positive law of the Navajo Nation. 2 N.N.C. §§ 102(A) and 164(A). The Council also has the statutory authority to designate deposit of additional revenues. 12 N.N.C. § 820(K) (“Funds received in excess of the initial or current revenue projection shall be deposited into the General Fund Unreserved, Undesignated Fund Balance unless otherwise designated by the Navajo Nation Council.”).

- 1 B. The Health, Education and Human Services Committee is a standing committee of the  
2 Navajo Nation Council and is empowered to review and recommend resolutions  
3 relating to social services, health, environmental health, education, veterans and  
4 veterans' services, employment and labor. 2 N.N.C. §§ 400(A) and 401(b)(6)(a).
- 5 C. The Resources and Development Committee is a standing committee of the Navajo  
6 Nation Council and is empowered to exercise oversight over water, land, environment,  
7 environmental protection, and agriculture, among other matters, and to make  
8 recommendations to the Navajo Nation Council for final approval of resolutions  
9 requiring Navajo Nation Council approval to accomplish or impact the Committee  
10 purposes. 2 N.N.C. §§ 500(A) and (C) and 501(B)(4)(f).
- 11 D. The Budget and Finance Committee of the Navajo Nation Council is empowered to  
12 review and recommend to the Navajo Nation Council the budgeting, appropriation,  
13 investment, and management of all funds and to approve Fund Management Plans  
14 pursuant to the recommendations of the appropriate oversight committee and affected  
15 Division or Branch. 2 N.N.C. §§ 301(B)(2) and (14).
- 16 E. The Law and Order Committee is a standing committee of the Navajo Nation Council  
17 and is empowered with the authority to review and make recommendations to the  
18 Navajo Nation Council on amendments to and enactments in the Navajo Nation Code.  
19 2 N.N.C. §§ 600(A), and 601(B)(14).
- 20 F. The Naabik'íyáti' Committee of the Navajo Nation Council is empowered to review  
21 all proposed legislation which requires final action by the Navajo Nation Council. 2  
22 N.N.C. § 164(A)(9).
- 23 G. The Navajo Nation Environmental Protection Agency, a regulatory agency within the  
24 Executive Branch of the Navajo Nation Government, is responsible for the protection  
25 of public health and the Navajo Nation environment. RDCMY-44-17. This includes  
26 the prevention, reduction, and elimination of pollution of the waters of the Navajo  
27 Nation, and the restoration, preservation, and enhancement of land and water resources  
28 within the Navajo Nation. 4 N.N.C. § 1303.

29  
30 **SECTION TWO. FINDINGS.**

- 1 A. On August 5, 2015, the United States Environmental Protection Agency ("U.S. EPA")  
2 and its contractors triggered a blowout of the Gold King Mine near Silverton, CO, while  
3 excavating the mine in preparation for a possible cleanup.
- 4 B. The blowout released at least three million gallons of toxic acid mine wastewater into  
5 Cement Creek, a tributary of the Animas River which flows into the San Juan River  
6 and through the Navajo Nation. At least 880,000 pounds of heavy metals poured out  
7 and coursed through downstream waterways, including approximately two hundred  
8 miles of the San Juan River.
- 9 C. Prior to the spill, the San Juan River provided water to many Navajo farmers and  
10 ranchers for irrigation of crops, livestock drinking water, and personal drinking water.  
11 The San Juan River is and remains not only an important water resource for agricultural  
12 use, but also of great cultural significance for the Diné people.
- 13 D. As a result of the spill, water utilities were forced to shut down intake valves, and  
14 farmers stopped drawing from the rivers as the plume moved downstream. One of the  
15 Navajo people's most important sources of water for life and livelihood was poisoned  
16 with some of the worst contaminants known to man, including lead and arsenic. The  
17 impact of this environmental disaster cannot be overstated. On August 8, 2015, the  
18 Navajo Nation declared a State of Emergency for the San Juan River valley.
- 19 E. In addition, the Navajo Nation Environmental Protection Agency ("NN EPA")  
20 conducted water quality monitoring and ecological restoration activities including,  
21 among other things, sediment sampling and a fish tissue contaminant study to  
22 understand contaminant levels and potential human health risks associated with the  
23 spill.
- 24 F. NN EPA also developed a report on livestock and irrigation water quality standards,  
25 tracked metal sources through ongoing studies, created a communication strategy,  
26 assessed and stored analytical water quality data, and assisted the U.S. EPA and the  
27 U.S. Geological Survey with other technical studies.
- 28 G. In the months immediately after the spill, the U.S. EPA publicly acknowledged its fault.  
29 Additionally, two different Congressional committees found the U.S. EPA to be at fault  
30 for the spill.

- 1 H. On August 16, 2016, the Navajo Nation filed a lawsuit against the U.S. EPA and its  
2 contractors, as well as several mining companies, in the US District Court for the  
3 District of New Mexico (*Navajo Nation v. USEPA, et al.*, No. 1:16-cv-00931  
4 (D.N.M.)). The lawsuit seeks recovery for damages caused by the August 2015 spill,  
5 as well as reimbursement for costs spent responding to the spill. The Navajo Nation's  
6 case was eventually consolidated into *In re Gold King Mine Release in San Juan*  
7 *County, Colorado on August 5, 2015*, 1:18-md-02824 (D.N.M.) (the "Consolidated  
8 Case") with similar suits brought by the States of New Mexico and Utah.
- 9 I. In September 2016, the U.S. EPA designated the Gold King Mine and 47 other mining  
10 sites in the area a Superfund cleanup district. The U.S. EPA worked with Navajo  
11 Nation Department of Emergency Management to provide alternative drinking,  
12 agricultural, and livestock water and feed.
- 13 J. In December 2016, the Nation submitted an administrative claim to the U.S. EPA under  
14 the Federal Tort Claims Act, a prerequisite to suing the United States in tort, in the  
15 amount of approximately \$160 million.
- 16 K. In addition, claims on behalf of approximately 300 individual Navajo tribal members  
17 remain pending in *Allen et al. v. United States, et al.*, 1:18-CV-00744 (D.N.M.). These  
18 claims were filed in a separate 2018 lawsuit by the Egolf Ferlic Martinez & Harwood  
19 Law Firm, and are also coordinated into the Consolidated Case, *In re Gold King Mine*  
20 *Release in San Juan County, Colorado on August 5, 2015*, 1:18-md-02824 (D.N.M.).
- 21 L. On May 11, 2018, the Nation filed a First Amended Complaint to the Consolidated  
22 Case adding the United States as a named defendant.
- 23 M. In January 2021, the Nation announced that it had reached a settlement in the  
24 Consolidated Case with the defendant mining companies, Kinross Gold Corp., Kinross  
25 Gold U.S.A., Inc., and Sunnyside Gold Corp., a subsidiary of Canada's Kinross Gold,  
26 in the amount of ten million dollars (\$10,000,000) million to resolve claims from the  
27 2015 spill. (Which case was settled or partially settled?
- 28 N. The Nation's lawsuit against the remaining Defendants of the Consolidated Case  
29 including the U.S. EPA and its contractors who caused the spill remains ongoing.  
30

1     **SECTION THREE. ESTABLISHING THE NAVAJO NATION SAN JUAN**  
2     **RIVER MITIGATION FUND.**

3     The Navajo Nation hereby establishes the Navajo Nation San Juan River Mitigation Fund  
4     and approves its enabling legislation as follows:

5     \_\_\_\_\_  
6  
7             **Title 12. Fiscal Matters**

8             **Chapter 29. Navajo Nation San Juan River Mitigation Fund**

9  
10     **§ 2901. Establishment**

11     There is established the "Navajo Nation San Juan River Mitigation Fund", hereinafter  
12     referred to as "Fund".

- 13     A. The Navajo Nation Council hereby designates that any and all net proceeds and  
14     earnings awarded to the Navajo Nation by or through the litigation captioned *In re:*  
15     *Gold King Mine Release in San Juan County, Colorado, on August 5, 2015*, No. 1:18-  
16     md-02824 (D.N.M.), or any of its underlying or related actions, including but not  
17     limited to *Navajo Nation v. USEPA, et al.*, No. 1:16-cv-00931 (D.N.M.) and *New*  
18     *Mexico v. USEPA, et al.*, No. 1:16-cv-00465 (D.N.M.), shall be deposited into the Fund  
19     after the Fixed Cost Litigation Account has been reimbursed for the actual costs of said  
20     litigation(s), as calculated and attested to by the Attorney General of the Navajo Nation.
- 21     B. The Navajo Nation Council may make additional appropriations to the Fund from any  
22     other sources of revenue, including directed donations, that become available to the  
23     Navajo Nation.
- 24     C. Any money deposited in or appropriated to the Fund, regardless of source, including  
25     earnings thereon, shall be used only as provided herein.
- 26     D. The Fund shall be a continuing account and shall not lapse on an annual basis pursuant  
27     to 12 N.N.C. § 820(N).

28  
29     **§ 2902. Purpose**  
30

1 A. The purpose(s) of this Fund are to finance environmental technical studies, water  
2 quality monitoring activities, and/or preventative and corrective measures, all of  
3 which are necessary to address potential contamination and related issues in the San  
4 Juan River, and implement a NNEPA communication strategy.

5 B. Expenditures from the Fund shall not be subject to or limited by 12 N.N.C. § 810(F) of  
6 the Appropriations Act, 12 N.N.C. § 1310(F) of the Bond Financing Act, or the Capital  
7 Improvement Project Guidelines, Policies, and Procedures approved through  
8 TCDCJY-77-99.

9  
10 **§ 2903. Reimbursement of Litigation Costs**

11 A. The Navajo Nation Department of Justice shall be reimbursed for the actual litigation  
12 costs and expenses expended in *In re: Gold King Mine Release in San Juan County,*  
13 *Colorado, on August 5, 2015*, No. 1:18-md-02824 (D.N.M.) and any underlying and  
14 related actions, including but not limited to *Navajo Nation v. USEPA, et al.*, No. 1:16-  
15 cv-00931 (D.N.M.), *New Mexico v. USEPA, et al.*, No. 1:16-cv-00465 (D.N.M.), and  
16 *Allen et al. v. United States, et al.*, 1:18-CV-00744 (D.N.M.), as calculated and attested  
17 to by the Attorney General, from any and all settlements and awards stemming from  
18 such litigation.

19 B. All monies awarded to the Department of Justice in Section 5(A) of this Act shall be  
20 deposited into the Fixed Cost Litigation Account, prior to any monies being deposited  
21 into the Fund.

22  
23 **§ 2904. Investment of the Fund**

24 All monies deposited in the Fund shall be subject to the Master Investment Policies, as  
25 amended, and invested as soon as practical in accordance with the degree of care exercised  
26 by reasonable and prudent managers of investments intended to produce maximum growth  
27 of the investments with a high degree of safety necessary to fulfill the purposes and  
28 objectives of the Fund.

29  
30 **§ 2905 Definition of Fund Principal and Income**

1 A. "Fund Principal" shall consist of all deposits made to the Fund pursuant to Section 3 of  
2 this Act.

3 B. "Fund Income" shall consist of all earnings (interest, dividends, etc.) generated and  
4 realized through the investment of the Fund Principal. Realized Fund Income shall be  
5 added to the Fund Principal after Fund management and administration expenses, as  
6 set forth in this Act, have been deducted.

7  
8 **§ 2906. Expenditure of the Fund**

9 A. The Fund Principal and Income shall only be expended pursuant to an annual or multi-  
10 year expenditure plan recommended by the Executive Director of the Navajo Nation  
11 Environmental Protection Agency and approved by the Resource and Development and  
12 Budget and Finance Committees by resolution.

13 B. Any changes or modifications to an approved expenditure plan shall be approved by  
14 the Resource and Development Committee and Budget and Finance Committee by  
15 resolution upon the recommendation of the Executive Director of the Navajo Nation  
16 Environmental Protection Agency.

17 C. Any Fund amounts, whether Fund Principal or Fund Income, not included in an  
18 expenditure plan, shall remain invested as set forth herein.

19  
20 **§ 2907. Annual Audit**

21 The Fund shall be audited annually by independent auditors and within 180 days of the end  
22 of each fiscal year. An audit report shall be distributed to the members of the Navajo  
23 Nation Council and the Navajo Nation President and Vice-President.

24  
25 **§ 2908. Expenses**

26 All expenses directly with the administration and management of the Fund shall be paid  
27 from the Fund Income. Such expenses shall include investment advisory and management  
28 fees, audit costs, and other related expenses, all pursuant to duly approved contracts for  
29 such services.



1     **§ 2909. Amendments**

2     Any section(s) herein may be amended by a two-thirds (2/3) majority vote of the full  
3     membership of the Navajo Nation Council and approval of the President of the Navajo  
4     Nation.

5  
6     **§ 2910. Termination**

7     The Fund shall expire and terminate when all Fund Principal and Fund Income have been  
8     expended.

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10  
11    **SECTION FOUR. CODIFICATION.**

12    The provisions of this Act which amend or adopt new sections of the Navajo Nation Code  
13    shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel  
14    shall incorporate such amended provisions in the next codification of the Navajo Nation  
15    Code.

16  
17    **SECTION FIVE. SAVINGS CLAUSE.**

18    Should any provision(s) of this Act be determined invalid by the Navajo Nation Supreme  
19    Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation  
20    Supreme Court, the remainder of the Act shall remain the law of the Navajo Nation.

21  
22    **SECTION SIX. EFFECTIVE DATE.**

23    This Act is effective upon its approval pursuant to 2 N.N.C. § 221(B).  
24  
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30



*Execution Version*

## **OIL AND GAS OPERATING AGREEMENT**

This Oil and Gas Operating Agreement ("**OA**" or the "**Agreement**") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between THE NAVAJO NATION (the "**Nation**"), whose address is P.O. Box 9000, Window Rock Navajo Nation, Arizona 86515, and EOG RESOURCES, INC. ("**Operator**"), whose address is 104 South 4<sup>th</sup> Street, Artesia, New Mexico 88210 (each individually a "**Party**" and collectively, the "**Parties**"), on the terms and conditions set forth herein.

### **RECITALS**

**WHEREAS**, the Nation is a sovereign Indian Nation and the beneficial owner of certain surface land and mineral estates located on the Navajo Nation in the States of Arizona, Utah and New Mexico; and

**WHEREAS**, Operator desires to explore for, develop, produce, and sell Hydrocarbons which may be found in the lands covered by this Agreement.

**NOW, THEREFORE**, for and in consideration of the foregoing recitals and the mutual covenants and obligations set forth herein, the Parties agree as follows:

### **AGREEMENT**

#### **ARTICLE I.** **DEFINITIONS.**

"**Agreement**" or "**OA**" has the meaning set forth in the introductory paragraph.

"**Anniversary Date**" means such date being one (1) year after the Effective Date of this Agreement, and each subsequent one-year anniversary date thereafter.

"**Bonus**" has the meaning set forth in Section 4.05.

"**Capable of Producing**" means a Well that is physically capable of producing Hydrocarbons without additional equipment or repair.

"**Conducting Operations**" means any work undertaken or commenced in good faith for the purpose of carrying out the rights, privileges or obligations of Operator under this OA, including the construction of necessary structures for the drilling of a well or Well, the actual operation of drilling in the ground, and all other related activities common in the industry, unless otherwise prohibited by applicable law or this Agreement.

"**Effective Date**" means the date on which the Secretary has approved the Agreement.

"**Force Majeure**" has the meaning set forth in Section 7.09(a).

"**Gas**" or "**gas**" shall be defined pursuant to 30 C.F.R. Part 1206, Subpart E, § 1206.171.

"**Gross Proceeds**" for royalty payment purposes means: for gas royalties the definition contained at 30 C.F.R. § 1206.171, or any applicable substitute future regulation; for oil royalties, the definition contained at 30 C.F.R. § 1206.51 or any applicable substitute future regulation.

***“Held Acreage”*** means the area(s) on the Properties in acres designated by Operator under Section 2.04(a) equal to: (i) the sum of the total number of Wells on the Properties (or lands pooled, unitized or communitized therewith) which are producing or are Capable of Producing Hydrocarbons in Paying Quantities *plus* the number of Wells which are drilled and capable of being completed (also known as DUCs) *plus* the number of Wells on which there are operations; *multiplied by* (ii) 640 acres.

***“Hydrocarbons”*** means oil, gas, casing head gas, natural gas liquids, coal bed methane, distillate, condensate and each of their respective constituent vapors and liquids, and including without limitation, helium and carbon dioxide, and all other gases produced by Operator within the OA Area; provided, however, Hydrocarbons shall not include coal matrix material (other than coal bed methane and coal seam gas) or the in-situ synthetic gasification of coal matrix material.

***“Nation”*** has the meaning set forth in the introductory paragraph.

***“Natural Gas Liquids”*** or ***“natural gas liquids”*** shall be defined pursuant to 30 C.F.R. Part 1206, Subpart E, § 1206.171.

***“Navajo Nation Taxes”*** has the meaning set forth in Section 4.10.

***“Oil”*** or ***“oil”*** shall be defined pursuant to 30 C.F.R. Part 1206, Subpart B, § 1206.51.

***“ONRR”*** means the United States Department of Interior’s Office of Natural Resources Revenue.

***“Operator”*** has the meaning set forth in the introductory paragraph.

***“Party”*** or ***“Parties”*** has the meaning set forth in the introductory paragraph.

***“Paying Quantities”*** means, with respect to Hydrocarbon production after the expiration of the Primary Term, sufficient Gross Proceeds to the Operator from the production of Hydrocarbons to (i) operate and maintain the Held Acreage as provided herein, and (ii) market the Hydrocarbons.

***“Primary Term”*** has the meaning set forth in Section 2.02(a).

***“Primary Term Delay Rental”*** has the meaning set forth in Section 4.06.

***“Properties”*** or ***“OA Area”*** means the surface and all geological zones within the lands located in San Juan County, New Mexico, which are more specifically described in Exhibit A attached hereto and which contain approximately 149,985 net mineral acres, more or less.

***“Raw Seismic Data”*** has the meaning set forth in Section 6.05.

***“Secondary Term”*** has the meaning set forth in Section 2.02(b).

***“Secondary Term Delay Rental”*** has the meaning set forth in Section 4.07.

***“Secretary”*** means the United States Secretary of the Department of Interior or his/her designee.

***“Well”*** means a horizontal Hydrocarbon well.

***“Well Equipment and Facilities”*** means, with respect to any Well, the casing and other material, equipment, structures and facilities necessary for the continued operation of such Well.

*“Well Takeover Notice”* has the meaning set forth in Section 7.14(e).

## **ARTICLE II. PROPERTIES; TERM.**

Section 2.01 Properties: The Nation does hereby grant to Operator the exclusive right and privilege to investigate, explore, prospect, drill for, mine, extract, remove, produce, sell and dispose of all the Hydrocarbons, at all depths in or under the Properties, together with the right to conduct exploration, geologic and geophysical surveys by seismograph, core test, gravity and magnetic method, injecting gas, water and other fluids, and air into subsurface strata and the right to construct and maintain on, over and across the Properties such structures as may be necessary for the development and operation of the Properties or for the production, storing, maintaining, treating, transporting and ownership of the Hydrocarbons including, but not limited to, pipelines, roads, tanks, power stations, and data or communication lines consistent with the terms of this Agreement.

### Section 2.02 Term.

(a) Primary Term. The initial term of the OA shall be for a period of ten (10) years, which may be extended for up to one (1) additional year upon either Party providing written notice to the other Party of such extension at least ninety (90) days prior to the tenth (10<sup>th</sup>) anniversary of the Effective Date (such period, the *“Primary Term”*).

(b) Secondary Term. After the Primary Term, the term of the OA shall continue in full force and effect as to the Held Acreage for the period of time during which any Well located on the associated Held Acreage is producing or is Capable of Producing Hydrocarbons in Paying Quantities consistent with the terms of this Agreement (such period, the *“Secondary Term”*); *provided, however*, if the Secondary Term is only being perpetuated by one or more Wells that are not producing and are only Capable of Producing Hydrocarbons in Paying Quantities and each such Well has remained idle for more than six (6) consecutive months (as determined on a Well-by-Well basis) for any reason other than as a result of an event of Force Majeure, then the Secondary Term shall expire and this OA will terminate.

Section 2.03 Exclusive Rights. Operator’s exclusive rights and privileges to conduct Hydrocarbon exploration and development activities on the Properties pursuant to this OA shall commence on the Effective Date and continue through the Primary Term and shall apply to the Held Acreage for the duration of the Secondary Term.

### Section 2.04 Held Acreage.

(a) At the expiration of the Primary Term, this OA shall partially terminate as to all parts of the Properties save and except the Held Acreage, and Operator shall promptly designate the Held Acreage in writing. The Held Acreage shall (i) encompass all lateral portions of all such applicable Wells and (ii) be comprised of complete township sections (as opposed to portions of township sections). The Held Acreage will include an adequate legal description and survey(s) of the lands to be included in the Held Acreage. Exhibit B is herein attached to provide an example of the calculation and description of the Held Acreage and is for illustrative purposes only. Operator will consult with the Navajo Nation Minerals Department on the designation of the Held Acreage and will relinquish the portion of the Properties that is not included within the Held Acreage back to the Nation. Notwithstanding anything contained in this OA to the contrary, any Well that (i) is Capable of Producing Hydrocarbons in Paying Quantities and (ii) has been idle for longer than the six (6) month period immediately preceding the expiration of the Primary Term will not count toward the calculation of Held Acreage at the expiration of the Primary Term.

(b) If Operator needs continuing rights-of-way and easements over, under, upon, through and across the surface and subsurface of any portion of the Properties that have been relinquished to the Nation, to the extent necessary or convenient for Operator and/or its Hydrocarbon purchaser(s) or transporter(s) and/or its fresh or produced water purchaser(s) or transporter(s) to Conduct Operations that may be required by Operator on the Held Acreage or other lands pooled, unitized or communitized therewith, Operator shall seek the appropriate Navajo Nation approval for such access. The Nation's obligations as described herein and in this Agreement shall remain in full force and effect as to the Held Acreage for so long as any Well located on the Held Acreage is producing or is Capable of Producing Hydrocarbons in Paying Quantities.

Section 2.05 Pooling; Communitization. Subject to approval of the Navajo Nation Minerals Department and the Secretary, which shall not be unreasonably withheld conditioned or delayed, Operator shall have the right and power at any time and from time to time as a recurring right, either before or after production, as to all or any part of the Properties or the Held Acreage, depending on whether the Agreement is in the Primary Term or the Secondary Term, and as to any one or more of the formations hereunder, to pool, unitize or communitize the leasehold estate and the mineral estate covered by this Agreement with other lease or leases that are contiguous to the Properties for the production of Hydrocarbons when in Operator's judgment it is necessary or advisable to do so, and irrespective of whether authority similar to this exists with respect to such other lease or leases, unless the terms of the other lease or leases expressly states otherwise. Likewise, units previously formed to include formations not producing Hydrocarbons, may be reformed to exclude such non-producing formations.

Section 2.06 Relinquishment. Operator shall not relinquish any portion of the Properties during the Primary Term. Operator, in its sole discretion, may relinquish any portion of the Held Acreage during the Secondary Term by providing written notice of relinquishment to the Navajo Nation Minerals Department at least ninety (90) days prior to such relinquishment. As to any portion of the Held Acreage relinquished by Operator hereunder, Operator shall promptly file a relinquishment or release instrument in the real property records of San Juan County, New Mexico (or other applicable governmental authority) and provide a copy of same to the Nation and the Secretary.

### **ARTICLE III.**

#### **SURFACE AND SUBSURFACE USE; AUTHORIZATION.**

Section 3.01 Access Rights. Without limitation, the Nation hereby grants to and gives its consent for Operator access to the Properties for the purpose of conducting environmental, archaeological, biological and seismic studies preparatory to operations on the OA Area. As of the Effective Date, Operator is hereby authorized to conduct geophysical surveys on all, or any part of the Properties, which shall be without charge for surface damages and/or permit fees in favor of the Nation.

Section 3.02 Surface Rights; Subsurface Rights. Subject to Section 7.14(b), the Nation hereby grants to Operator all such use rights over, under, upon, through and across the surface and subsurface of (a) all of the Properties during the Primary Term and (b) all of the Held Acreage during the Secondary Term, in each case to the extent necessary or convenient for Operator, consistent with Section 2.01 of this Agreement, subject to applicable law and regulation, including all applicable permit requirements, and the terms of this Agreement, including, but not limited to, the following: the right (i) to drill Wells and associated facilities and infrastructure; (ii) to purchase, drill for, withdraw, and produce brackish or other non-fresh water for use on or with respect to Operator's operations; (iii) to purchase, drill for, withdraw, and produce fresh water for use on or with respect to Operator's operations; (iv) to drill disposal or injection wells, and the injection of substances therein; (v) to construct and operate water pits, and/or water re-use, treatment or recycling facilities; (vi) to construct and operate Hydrocarbon transportation, gathering, processing, treating and flaring, and other infrastructure and facilities as may be necessary to operate (a) all

of the Properties during the Primary Term and (b) all of the Held Acreage during the Secondary Term, in each case, including, without limitation, pipelines, roads, tanks, power stations, and data or communication lines; and (vii) to construct and operate permanent and temporary fresh and produced water transportation lines. To the extent necessary for Operator's access to the Properties, the Nation will not unreasonably withhold, condition or delay the issuance of any right-of-way that Operator may request for access over, upon, through and across the surface of the Nation's other lands that are adjacent to the Properties. Operator understands that the application for any right-of-way requires a separate approval process.

Section 3.03 Wells. In addition to Operator Conducting Operations on Wells, Operator may engage in drilling and Conducting Operations on vertical wells for testing, monitoring or other reasons that Operator deems appropriate, subject to applicable law. Operator shall either complete, plug and abandon, or repurpose each well or Well drilled within thirty-six (36) months of rig release of each such well or Well. Subject to 7.14(e), Operator shall plug and abandon any Well that has been shut-in or temporarily abandoned for more than twenty-four (24) consecutive months for any reason other than as a result of an event of Force Majeure.

Section 3.04 Required Permits. The Operator shall obtain such permits and licenses as may be required by applicable Nation and/or Federal authorities for the exploration, development, production and sale of all Hydrocarbons and any related activity including the production or disposal of produced water. Operator shall not be subject to any liability, loss or forfeiture of any rights under this OA for failure to perform any obligation under this OA during the time and to the extent that the failure to do so is caused by the unreasonable withholding, conditioning or delay of approval by any such governmental agency.

The Nation, through its Land Department, Minerals Department, General Land Development Department and other applicable departments, and the Secretary, further agree to review and approve reasonable requests of Operator in a timely manner, from time to time, of all Required Permits and such other permits and authorizations as are necessary or incidental to the conduct of Operator's authorized activities hereunder, including without limitation permits for seismic and other studies, water usage, easements and that the purposes of this Agreement, express or implied, can be fully accomplished without unnecessary or unusual delays. "**Required Permits**" means (i) all approvals, consents, authorizations, licenses, or permits from all applicable governmental authorities with competent jurisdiction over the Properties or any oil and gas operations thereunder; and (ii) all such surface and subsurface rights and easements, service line agreements, rights-of-way, water withdrawal rights, injection rights, and similar rights, in each case, as may be necessary or convenient to immediately thereafter commence and pursue to completion without interruption the operations contemplated in its development and operational plans, including site preparation, construction of surface facilities, and air and water permitting. For the avoidance of doubt, Operator understands that any and all water use associated with Conducting Operations pursuant to this Agreement will require a permit from the Navajo Nation Department of Water Resources, including water used from a non-Navajo water source. All such approvals by the Nation and its departments shall not to be unreasonably withheld, conditioned or delayed.

Section 3.05 Laws of the Navajo Nation. Operator shall comply with Navajo Nation laws governing environmental resources, including water and cultural resources, and shall obtain the appropriate Navajo Nation environmental and cultural resource clearances, and grazing clearances, prior to any disturbance of the Properties.

Section 3.06 Setback Requirements. The surface location of any well or Well that Operator drills related to this Agreement will be at least 500 feet away from any main residence, animal corral, ceremonial grounds, sacred offering areas, burial grounds and other areas of sacred or practical importance to the local community and its people. To the extent available, the Nation will provide to Operator a map showing the areas to be covered under this requirement.

Section 3.07 Roads. Operator agrees to gravel any roads that are utilized by Operator for oil and gas operations under this Agreement and will maintain such roads through the term of this Agreement. Operator and its consultants will agree to maintain a 20 MPH maximum speed limit on these roads through the duration of operations.

#### **ARTICLE IV. OPERATOR'S PAYMENT OBLIGATIONS.**

##### **Section 4.01 Royalties.**

(a) Oil. Subject to Sections 2.05, 4.02 and 4.03, Operator shall with respect to Oil pay **18.75%** of the value at the Bureau of Land Management facility measurement point (point of royalty settlement) of all such Oil produced and saved from the Wells or lands pooled therewith, as determined in accordance with Section 4.03 hereof.

(b) Gas, Natural Gas Liquids. Subject to Sections 2.05 and 4.03, Operator shall with respect to Gas, Natural Gas Liquids and other Hydrocarbons (excluding the gases covered by Section 4.01(c)), pay **18.75%** of the value at the Bureau of Land Management facility measurement point (point of royalty settlement) of such Gas, Natural Gas Liquids and other Hydrocarbons (excluding the gases covered by Section 4.01(c)) produced and saved from the Wells or lands pooled therewith as determined in accordance with Section 4.03 hereof.

(c) Helium, Carbon Dioxide, Argon and Other Non-Hydrocarbon Gases. Subject to Sections 2.05 and 4.03, in the event Operator, in its sole discretion, deems it economically viable to market helium, carbon dioxide, argon or other non-hydrocarbon gases, Operator shall with respect to such helium, carbon dioxide, argon, or other non-Hydrocarbon gases, pay **25%** of the Gross Proceeds received by Operator for the first arm's-length sale of such gases. For purposes of determining royalties owed pursuant to this Section 4.01(c), there shall be no deductions from the Gross Proceeds received. If Gross Proceeds for royalty valuation purposes pursuant to this Section 4.01(c) have been reduced by any costs including but not limited to marketable condition costs, marketing costs, transportation to the point of arm's-length sale or processing costs, by the purchaser, or any other person, that value will be added back to Gross Proceeds for purposes of determining royalties. For purposes of determining royalties as provided in this Section 4.01(c), the point of valuation shall be the Bureau of Land Management facility measuring point.

Section 4.02 Oil Royalty-in-Kind. At the election of the Nation, oil volumes equivalent to the royalty due to the Nation as provided in Section 4.01(a) may be delivered to the Nation in lieu of cash payments hereunder, in each case, and notwithstanding anything in this Agreement to the contrary, at the sole cost, risk, and expense of the Nation, and subject to one-hundred and eighty (180) days' prior written notice of such election (which election may only be revoked on one-hundred and eighty (180) days' prior written notice), provided, however, any election to take oil in-kind or to revoke such election may only be made once per calendar year. If the Nation elects to take its royalty share of oil in-kind as provided in this Section 4.02, (i) Operator will continue to follow all Federal and Nation reporting requirements, and (ii) the Parties agree to negotiate in good faith regarding the specifics of the physical delivery of such oil.

Section 4.03 Valuation of Hydrocarbon and Non-Hydrocarbon Production. The value of all Hydrocarbons produced from the Properties shall be determined in accordance with this Agreement and the provisions of 30 C.F.R. Parts 1202 and 1206 in effect at the time such Hydrocarbons are produced and saved by Operator. To the extent permitted by the regulations referenced in this Section 4.03, in calculating royalty payments owed to the Nation under this Agreement for Hydrocarbons, Operator shall be entitled to deduct from the value of production transportation and processing costs as permitted by ONRR regulations.

The value of helium, carbon dioxide, argon and other non-hydrocarbon Gases shall be determined in accordance with Section 4.01(c).

Section 4.04 ONRR Reporting. Royalties payable under Sections 4.01(a), 4.01(b), and 4.01(c) of this Agreement shall be determined by Operator on a Well-by-Well basis but reported to ONRR on a lease basis in accordance with Section 4.03.

Section 4.05 Bonus. The bonus payable by Operator to the Nation with respect to the Properties will be **Seven Million and no/100 Dollars (\$7,000,000.00)** (the "**Bonus**"). The Bonus is based on the Operator's current good faith assumptions that all net mineral acres in the Properties are owned by the Nation and are available to lease under this OA. The Bonus will be payable to the Nation no later than five (5) business days after the Effective Date.

Section 4.06 Primary Term Delay Rental Payments. Properties for the first year of the Primary Term are held by Operator by payment of the Bonus, as set forth in Section 4.05. After the first year of the Primary Term (beginning on the one-year anniversary of the Effective Date, and on each one-year anniversary thereafter for the duration of the Primary Term), Operator shall pay an advance annual delay rental of **\$10.00** per net mineral acre (the "**Primary Term Delay Rental**") prior to the applicable Primary Term Delay Rental payment date. Annual Primary Term Delay Rental payments will be due on or before the applicable Anniversary Date. Primary Term Delay Rental payments are not recoupable against any royalty payments. Any Primary Term Delay Rental not paid within ten (10) days of the applicable Anniversary Date will be deemed late in accordance with Section 4.08 of this Agreement.

Section 4.07 Secondary Term Delay Rental Payments. Beginning on the effective date of the Secondary Term, and on each one-year anniversary date thereafter for the duration of the Secondary Term, Operator shall pay an advance annual delay rental of **\$2.00** per net mineral acre (the "**Secondary Term Delay Rental**") for any acreage of the Held Acreage that is not relinquished by Operator prior to the applicable Secondary Term Delay Rental payment date. For the avoidance of doubt, in no event shall Operator pay a Secondary Term Delay Rental for any acreage of the Held Acreage that has been relinquished by Operator prior to the applicable Secondary Term Delay Rental payment date. Annual Secondary Term Delay Rental payments will be due on or before the applicable Anniversary Date. Secondary Term Delay Rental payments are not recoupable against any royalty payments. Any Secondary Term Delay Rental not paid within ten (10) days of the applicable Anniversary Date will be deemed late in accordance with Section 4.08 of this Agreement.

Section 4.08 Late Payments. Any payment, including but without limitation, Bonus, royalty, Primary Term Delay Rental, Secondary Term Delay Rental, and damages, not received by the Nation in a timely manner shall bear interest and applicable penalty from the date payment was due to the date payment is received by the Nation at the interest rate then being assessed by ONRR. Any penalties and fees associated with Navajo Nation Taxes will be determined in accordance with Navajo Nation law.

Section 4.09 Navajo Scholarship. Within ten (10) business days after the Effective Date, Operator shall pay **Three Million and no/100 Dollars (\$3,000,000.00)** to the Navajo Nation Scholarship Office for its general scholarship fund. On or before January 31st of each calendar year during the term of this Agreement, Operator shall pay to the Navajo Nation Scholarship Office for its general scholarship fund \$2,000.00 per Well that is producing as of December 31st of the prior calendar year; provided, however, each such annual payment shall not be greater than \$300,000.00 (the annual scholarship payment "ceiling").

Section 4.10 Payment of Navajo Nation Taxes. Operator shall pay when due all applicable Navajo Nation taxes ("**Navajo Nation Taxes**"), provided that Operator may assert any objections it may



have to the applicability or amount of any such tax in accordance with the Uniform Tax Administration Statutes, as amended, 24 N.N.C. § 101 *et seq.*

## **ARTICLE V.**

### **COMPLIANCE WITH NAVAJO NATION AND FEDERAL REQUIREMENTS.**

Section 5.01 Governing Law. Except as otherwise provided in Section 7.04(d)(v), the rights and the obligations of the Parties shall be governed by Federal and Navajo Nation laws, specifically including the Indian Mineral Development Act of 1982, 25 U.S.C. § 2101 *et seq.*, and applicable regulations pertaining thereto. Operator agrees that the performance of this OA within the Nation is subject to the supervision, monitoring and regulations of the Nation and of any Federal agency with jurisdiction over Operator's performance of this OA. Any matter not subject to exclusive Federal regulation shall be subject to Nation regulations. Operator agrees to strictly observe all Nation laws and regulations, unless specifically waived by the Navajo Nation Council. Operator shall comply with applicable Nation and Federal laws and regulations prior to commencement of operations and, with respect to any well plugged and abandoned by it hereunder, shall restore the surface pursuant to such regulations.

Section 5.02 General Requirements. The Operator shall comply with all applicable Nation and Federal rules, regulations, permits, and laws, including the following:

Navajo preference in employment and business laws;

Environmental protection rules and regulations;

The Navajo Nation Tax Code;

Cultural resources and antiquities laws and regulations; and

The Navajo Nation Water Code.

Section 5.03 Successors. The covenants contained in this Agreement shall extend to and be binding upon the successors and assigns of the Parties to this OA. While the Properties of the Nation are in trust or restricted status, all obligations of the Operator under this Agreement are to the United States as well as to the Nation.

Section 5.04 Access to Properties. Operator shall not deny access to the Properties or Operator's operations under this Agreement at any time to duly authorized employees or agents of the Nation or appropriate Federal agencies. The Nation agrees to follow, and shall cause its duly authorized employees and agents to follow, Operator's safety standards when accessing sites on the Properties where Operator is Conducting Operations.

Section 5.05 Applications for Permit to Drill (i.e., APDs). All applications for a permit to drill will be approved by the Nation in a timely manner and the Nation shall use reasonable efforts to assist and support Operator in obtaining the requisite approvals from the appropriate federal agencies in a timely manner, prior to the Operator's commencement of each respective drilling operation on the OA Area.

Section 5.06 Prudent Operator Standards. Operator shall exercise diligence at all times in the exploration, drilling, completing and operating of all Wells and all associated facilities constructed in accordance with this Agreement and shall carry on all operations as a reasonably prudent operator, having due regard for preventing waste or destruction of Hydrocarbons, contamination of surface or groundwater, contamination of soils, pollution of air, injury to workmen and the public.

Section 5.07 Water Resource Protection. All water used or encountered by Operator in connection with Hydrocarbon exploration and development under this Agreement shall be in accordance with applicable Nation and Federal laws and regulations.

Section 5.08 Other Wells; Dry Holes. Subject to applicable Nation and Federal regulations, Operator shall have the right to drill water wells, injection wells and disposal wells and to use such wells for disposal, injection, or water production operations; provided, however, in the event Operator wishes to convert a Well into a water well, injection well and/or disposal well, such Well shall be determined in good faith by Operator to not be Capable of Producing Hydrocarbons in Paying Quantities prior to such conversion. Operator shall plug and abandon any dry holes in accordance with the terms of this Agreement and the applicable Nation and Federal laws and regulations.

Section 5.09 Dewatering. Dewatering of any geologic formation by a Well shall be accomplished in accordance with applicable Nation and Federal laws and regulations.

Section 5.10 Protection of Coal and Other Mineral Resources. Operator shall conduct all Hydrocarbon exploration and development activities in a manner that minimizes the damage to coal deposits or other mineral deposits within the OA Area. Operator has no rights to coal matrix material (other than coal bed methane and coal seam gas) or the in-situ synthetic gasification of coal matrix material within the OA Area.

Section 5.11 Surface Protection. Operator shall comply with applicable Nation and Federal laws and regulations concerning use of the surface of the OA Area, location of wells and Wells, production facilities, access and production equipment rights-of-way in the OA Area and across other lands of the Nation. Before any surface-disturbing activities commence, Operator shall obtain the necessary Nation and Federal approvals, including, but not limited to, payment of the project review processing fee, surface damage payments as required by law, archaeological/cultural and environmental surveys and/or assessments, customary land user consent, and surety bonds as required by law; provided, however, Operator shall not be required to pay right-of-way consideration to the Nation for oil and gas production-related rights-of-way within the OA Area if the land is not relinquished to the Nation.

## **ARTICLE VI.**

### **GENERAL REPORTING PROCEDURES.**

Section 6.01 Periodic Drilling Reports. Operator shall notify the Navajo Nation Minerals Department prior to the commencement of any Well drilling operation, and thereafter shall provide drilling reports showing the progress of said Well. Operator shall also provide notification of drilling, completion and production testing of each Well at least forty-eight (48) hours prior to such testing in order that a representative of the Nation has the opportunity to witness such activity.

Section 6.02 Copies of Reports and Tests. Operator shall provide the Navajo Nation Minerals Department with copies of all log runs, drill stem tests, geological reports and other related documentation obtained by Operator in connection with the drilling and completion of a Well within thirty (30) days of Operator's receipt of such log runs, reports and tests.

Section 6.03 Production and Royalty Reports. Operator shall submit all required monthly production and royalty reports to the Navajo Nation Minerals Department and Federal government in accordance with Nation and Federal regulations. All OA rental and royalty payments shall be submitted to the Navajo Nation's Royalty Lockbox Account with a corresponding Form ONRR-2014, Report of Sales and Royalty Remittance, submitted to ONRR. Operator shall notify the Navajo Nation Minerals

Department and the Bureau of Land Management in writing if any extraordinary events occur, including but not limited to, the shutting-in of any Well for a period of thirty (30) days or longer.

Section 6.04 Well Information. On a quarterly basis, Operator will provide to the Navajo Nation Minerals Department the following information, if available and to the extent that Operator can disclose such information without violating any applicable confidentiality obligations, in the quantity shown, concerning each Well drilled, completed, reworked, or plugged and abandoned pursuant to this OA:

- Logs – Field Prints (2)
- Logs – Final Prints (2)
- Core Data
- Drill Stem Tests – Field Data (2)
- Drill Stem Tests – Final (2)
- Location Plat & Schematics (1)
- Drilling Summary (1)
- Directional Survey (1)
- Geological Report (1)
- Production Test Data (1)
- Bottom Hole Pressure Surveys (1)
- Gas, Oil and/or Water Analyses (1)
- State and Federal Completion Reports (1)
- Work Over Reports (1)
- Plugging and Abandonment Reports (1)
- Monthly Production and Sales Reports (1)

Section 6.05 Seismic Data. During the term of this Agreement, Operator shall provide the Navajo Nation Minerals Department with copies of all raw data resulting from seismic surveys conducted on the Properties ("**Raw Seismic Data**") promptly following the completion of such seismic surveys. Contemporaneously with Operator's transmission of Raw Seismic Data to the Nation, Operator shall assign to the Nation an undivided one-half (1/2) interest in all such Raw Seismic Data. The Parties' co-ownership of all such Raw Seismic Data will be subject to the confidentiality obligations set forth in Section 6.06. Neither Party shall sell, license or otherwise transfer the Raw Seismic Data to any third-party without the prior written consent of the other Party.

Section 6.06 Confidentiality. During the term of this Agreement and for a period of five (5) years thereafter, the Parties shall keep all information and data concerning any of the Properties confidential except that the Nation may show such data to (i) its employees and agents; (ii) third parties to the extent required to prepare reserve estimate reports and other related reports for the Nation; (iii) any persons or entities as required under applicable law; or (iv) the Secretary, provided that, in the case of sub-clauses (i), (ii), and (iii), any person or entity to whom or to which any information is disclosed must be subject to an agreement or undertaking of confidentiality, non-use, and non-disclosure in form and substance consistent with the terms of this Agreement.

## **ARTICLE VII.**

### **GENERAL PROVISIONS.**

#### **Section 7.01 Indemnification and Insurance.**

(a) Indemnification. Operator assumes all risk of personal injury to or death of its employees. Operator agrees to indemnify and hold the Nation and the Secretary and their agents, employees, licensees, customary land users, permittees and tenants harmless from all claims, liability and

causes of action alleging bodily injury or property damage asserted against the Operator, its agents, employees and subcontractors or any third-party which may arise by reason of the operations of the Operator, its agents, employees and subcontractors, including any negligent omissions in connection with such operations.

Section 7.02 Minimum Insurance Requirements. The Operator shall maintain and shall require its contractors and subcontractors to maintain all insurance required under all applicable laws and regulations. Operator shall carry the following minimum insurance naming both the Nation and the Operator as insured:

- (a) Commercial general liability insurance with limits of not less than \$300,000.00 for each accident and \$1,000,000.00 for death or injury of one person.
- (b) Comprehensive public liability property damage insurance with limits of not less than \$1,000,000.00 for each accident and \$5,000,000.00 aggregate per policy.
- (c) Automobile public liability insurance with limits of \$300,000.00 for the death or injury of one person and \$1,000,000.00 for each accident.
- (d) Workers' compensation insurance in the Operator's name in the amount required by law.

Section 7.03 Certificates of Insurance. Certificates of insurance naming the Nation as additional insured for all said policies (except workers' compensation) will be furnished to the Nation within a reasonable time after receipt.

Section 7.04 Dispute Resolution and Navajo Nation Jurisdiction.

(a) Sovereignty of the Nation. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Nation, subject to the standard remedies available to all persons under the Navajo Sovereign Immunity Act, 1 N.N.C. § 554, and specifically provided for in Section 7.04(d) below and 1 N.N.C. §§ 554(J) and (K).

(b) Royalties and Rentals. Any dispute between the Parties involving royalties or rentals due under Article IV of the OA shall be resolved in accordance with the requirements and procedures contained in ONRR's regulations, including 30 C.F.R. Part 1241, or any applicable substitute future regulations. Any other dispute between the Parties concerning the OA shall be resolved in accordance with Sections 7.04(c) and 7.04(d).

(c) Negotiation. In the event of any dispute, the Parties shall use their good faith efforts to resolve the dispute, and each Party shall continue to perform in accordance with the other provisions of this OA during the pendency of the dispute. As a first step to resolving any dispute, the Parties shall attempt to negotiate a just and equitable settlement thereof. Each Party will communicate and/or meet with the other in good faith and attempt to reach a solution satisfactory to both Parties. If either Party fails or refuses to participate in such negotiations or such negotiations do not result in the Parties resolving the dispute within twenty (20) working days after one Party has requested that negotiation begin (and the period is not extended with the consent of the Parties), then either Party may cause the dispute to be referred to arbitration.

(d) Arbitration. If such efforts in Section 7.04(c) are unsuccessful in reaching a resolution of the Parties' dispute within sixty (60) calendar days of commencement of the negotiations, then

either Party may invoke arbitration according to the procedures referenced in the Navajo Sovereign Immunity Act, as amended, at 1 N.N.C. §554(J) and §554(K), and as set forth in the Navajo Nation Arbitration Act, as amended, at 7 N.N.C. §§1101 *et seq.* Such arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association, except to the extent such rules are modified by the following:

(i) unless otherwise agreed to in writing by the Parties, all arbitration procedures shall be held in Window Rock, Arizona; and

(ii) the arbitration shall be conducted by a single arbitrator who possesses at least ten (10) years' experience in federal Indian law selected by the mutual agreement of the Parties or, absent such agreement, as provided by the Commercial Arbitration Rules of the American Arbitration Association, unless any claim, individually, or in the aggregate, exceeds \$1,000,000.00, exclusive of interests, costs and fees; in such case the arbitration shall be conducted by a panel of three (3) arbitrators, each Party selecting one (1) arbitrator, with the two (2) arbitrators choosing the third; at least one (1) arbitrator shall possess at least ten (10) years' experience in federal Indian law; and

(iii) notice of intent to invoke arbitration shall be filed in strict compliance with the notice requirements of the Navajo Sovereign Immunity Act, 1 N.N.C. § 555; and

(iv) whether as a result of an arbitration provided for herein or of any judicial action to enforce an arbitration award resulting from such arbitration, any award against the Nation shall be in strict conformance with the provisions of 1 N.N.C. § 554(K)(1-6);

(v) whether in the context of an arbitration provided for herein or of any judicial action to enforce an arbitration award resulting from such arbitration, the laws of the Nation shall exclusively govern the interpretation of this OA, the arbitration provisions set forth herein and the arbitration procedures conducted pursuant thereto, and the application of all the provisions herein to the Operator and its subcontractors, agents, representatives, employees, or consultants; and

(vi) pursuant to 1 N.N.C. §554(K) and 7 N.N.C. §1102, the appropriate Navajo Nation District Court shall have exclusive jurisdiction to compel the Nation's participation in an arbitration, and shall have exclusive jurisdiction to enforce, modify, or vacate an arbitration award resulting from such arbitration; neither Party may recover from the other Party any attorneys fees or costs.

Section 7.05 Jurisdiction. There is expressly reserved to the Nation full territorial legislative, executive and judicial jurisdiction over the OA area, under the OA and all the Properties, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the OA area and under the OA, and all the Properties shall be and forever remain Navajo Indian Country for purposes of Nation jurisdiction. Nothing in this clause should be construed to bar arbitration pursuant to Section 7.04(d) and the Navajo Arbitration Act.

Section 7.06 Waiver of Suit: Notwithstanding Section 7.04(b), the negotiation and arbitration provisions contained in this Agreement shall constitute the sole and exclusive procedural remedy to any dispute or controversy arising out of this Agreement. Commencement of negotiations or arbitration shall be a complete defense to any suit, claim, action or proceeding instituted in any Federal, state, or tribal court or any administrative tribunal, with respect to any dispute or controversy arising out of this Agreement that is negotiated or arbitrated as set forth herein.

Section 7.07 Post-Termination; Post-Expiration: The dispute resolution provisions of this Agreement shall, with respect to such any dispute or controversy arising out of this Agreement, survive the termination or expiration of this Agreement.

Section 7.08 Challenges Limited. By entering into this Agreement, Operator expressly covenants and agrees that it shall not contest or challenge the territorial, administrative, 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 tribal 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 public's general health and welfare) over all lands, persons, activities, transactions, or occurrences within its territorial boundaries, or on any other basis not generally applicable in a similar challenge to the jurisdiction of a state government. Nothing in this section shall be construed to negate or impair federal responsibilities with respect to the Parties.

Section 7.09 Force Majeure.

(a) Force Majeure Defined. For purposes of this OA, "*Force Majeure*" is defined to include strikes, insurrections, demonstrations, terrorist activities, explosions, acts of God, floods, storms, fires, epidemics, pandemics and unavoidable accidents.

(b) Effect of Force Majeure. Neither Party shall be deemed to be in violation or breach of any obligation under this OA during the time and to the extent that it is prevented from or delayed in performing such obligation by Force Majeure.

(c) Situations Exempt from this Section. Nothing in this Section 7.09 shall be construed as compelling Operator to settle any labor dispute contrary to its wishes, or as preventing Operator from testing the validity of any local, tribal, or Federal order, regulation or law through available administrative, arbitral, or judicial proceedings.

Section 7.10 Assignment Procedures.

(a) Approval of the Nation and Secretary. Operator shall not assign, sell, exchange, lease or otherwise dispose of all or any part of its interests under this OA without the prior written approval of the Nation, as provided in 18 N. N. C. § 605, and the prior written approval of the Secretary in accordance with applicable Nation and Federal laws and regulations. Any successor or assign shall agree in the applicable assignment or other appropriate agreement to be bound by all the terms and conditions of this OA. Among other things, the assignee shall be required to comply with all Navajo Nation tax laws in accordance with Section 4.10. Any assignment, sale, exchange, lease or other transfer of Operator's interest without the Nation's prior written approval shall be null and void.

(b) Navajo Nation Right of First Refusal. Should Operator desire to assign or sell all or part of its operating interests under this OA, it shall comply with applicable Nation laws, including, but not limited to, 18 N.N.C. § 605, as such law may be amended from time to time.

Section 7.11 Notices. All notices and communications required or permitted hereunder shall be in writing and shall be deemed to have been duly made if actually delivered to, or mailed by registered or certified mail, postage prepaid, addressed to the parties at the following addresses. Written notice may also be given by facsimile transmission and shall be effective upon receipt of the transmission. Either Party may, by written communication so delivered to the other, change the name or address to which delivery thereafter shall be made.

To or upon the Nation:

Navajo Nation  
Attn: Office of the President  
P.O. Box 9000  
Window Rock, AZ 86515  
Phone: 928-871-6352  
Fax: 928-871-4025

Navajo Nation Minerals Department  
Attn: Department Director  
P.O. Box 1910  
Window Rock, AZ 86515  
Phone: 928-871-6587  
Fax: 928-871-7095

To or upon the Operator:

EOG Resources, Inc.  
Attn: Division Land Manager  
104 South 4<sup>th</sup> Street  
Artesia, New Mexico 88210  
Phone: 575-748-4214  
Fax: 575-748-4572  
  
EOG Resources, Inc.  
Attn: Legal Department  
1111 Bagby Street, Sky Lobby 2  
Houston, Texas 77002  
Phone: 713-651-7000  
Fax: 713-651-6995

Any necessary notices to BIA should be sent to:

Regional Director  
Navajo Region  
Bureau of Indian Affairs  
United States Department of Interior  
301 West Hill Street  
Post Office Box 1060  
Gallup, New Mexico 87305  
Phone: 505-863-8314  
Fax: 505-863-8324

Section 7.12 Severability. The invalidity of any term or provision of this OA shall not affect the validity of any other provision herein, and the parties shall negotiate in good faith to enter into an agreement amending any such provision in a manner to make it valid, legal and enforceable while retaining the original intent of the parties with regard to such term or provision.

Section 7.13 Bankruptcy. In the event of insolvency, bankruptcy or receivership of the Operator, or its successors, devisees, and assignees, this OA and all other agreements, easements, permits, and approvals pertinent hereto shall be voidable at the sole discretion of the Nation as to any lands not relinquished by Operator within the OA Area pursuant to this Agreement.

Section 7.14 Default and Termination.

(a) Default by Operator. In the event of any material default by Operator in the performance of its material obligations under this OA, the Nation shall give Operator written notice specifying such material default within thirty (30) days after the Nation's identification of such material default. If Operator does not, within ninety (90) days of receipt of the notice, correct or dispute (in writing) such material default, initiate diligent efforts to correct such material default, the Nation may terminate this OA by delivering a termination notice to Operator, subject to Operator's rights as provided in Section 7.14(d), below, and subject to the dispute resolution provisions of Article VII. Notwithstanding the foregoing, any non-material breach by Operator of any obligation arising hereunder shall not work as a forfeiture or termination of this OA nor be grounds for cancellation hereof, in whole or in part.

(b) Reclamation. Subject to Sections 7.14(d) and 7.14(e), upon expiration or termination of this OA or partial or complete relinquishment of lands within the OA Area, Operator shall

surrender the OA Area or a portion of the OA Area, as applicable, in a condition that complies with applicable Nation and Federal laws. Subject to Sections 7.14(d) and 7.14(e), it shall be the obligation of Operator to restore those areas within the OA Area disturbed by Operator or its subcontractors, pursuant to the mutually approved reclamation plans and in compliance with all applicable laws, statutes, regulations and administrative orders.

(c) Final Data. Within ninety (90) days after the expiration or termination of this OA or partial relinquishment of lands within the OA Area, Operator shall deliver to the Nation all data required under Article VII of this Agreement that Operator has not previously furnished to the Nation.

(d) Removal of Improvements, Equipment, and Stockpiled Products. Operator shall have the right of ingress and egress for one (1) year after expiration or termination of this OA or after partial or total relinquishment of lands within the OA Area, to remove its property from the affected portions of the OA Area; provided, however, Operator may not remove any property from the applicable OA Area if Operator has outstanding financial obligations to the Nation related to this OA until such financial obligations have been satisfied or resolved to the satisfaction of the Parties, at which time the one (1) year time period will commence. The Parties shall endeavor to promptly resolve such outstanding financial obligations.

(e) Well Takeover Option. Prior to Operator plugging and abandoning any Well, Operator shall provide written notice to the Navajo Nation Minerals Department. If such Well is producing or Capable of Producing Hydrocarbons in Paying Quantities, as determined by the Navajo Nation Minerals Department and the Secretary, and the Nation desires to take assignment of and operate such Well, then the Nation shall have thirty (30) days following receipt of Operator's plugging and abandoning notice to notify Operator in writing of such desire (each, a "Well Takeover Notice"). Promptly following receipt of a Well Takeover Notice, Operator and the Nation shall notify the Bureau of Indian Affairs so that the Well and its Well Equipment and Facilities may be transferred to the Nation. Upon such transfer, all liabilities associated with such Well and its Well Equipment and Facilities and all reclamation and removal obligations related thereto pursuant to Section 7.14(b) and this Section 7.14(e) shall be assumed by the Nation. If the Nation does not timely provide a Well Takeover Notice, Operator shall plug and abandon such Well in accordance with applicable law and this Agreement.

Section 7.15 Department of Justice Approval. Pursuant to 1 N.N.C. § 554(J)(2) and (K)(2), Navajo Nation Department of Justice Approval is required for all agreements that include a limited waiver of sovereign immunity to compel or enforce arbitration under the Navajo Nation Arbitration Act, as amended, 7 N.N.C. § 1101 *et seq.*



Navajo Nation Department of Justice

11/2/22  
Date

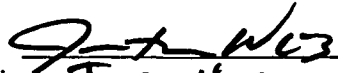
[Signature page follows.]



IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the date found on page one of this Agreement.

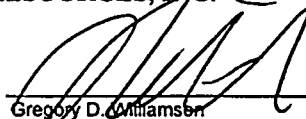
**NATION:**

**THE NAVAJO NATION**

By:   
Name: Jonathan Nez  
Title: President

**OPERATOR:**

**EOG RESOURCES, INC.**

By:   
Name: Gregory D. Williams  
Title: Vice President and General Manager

cl

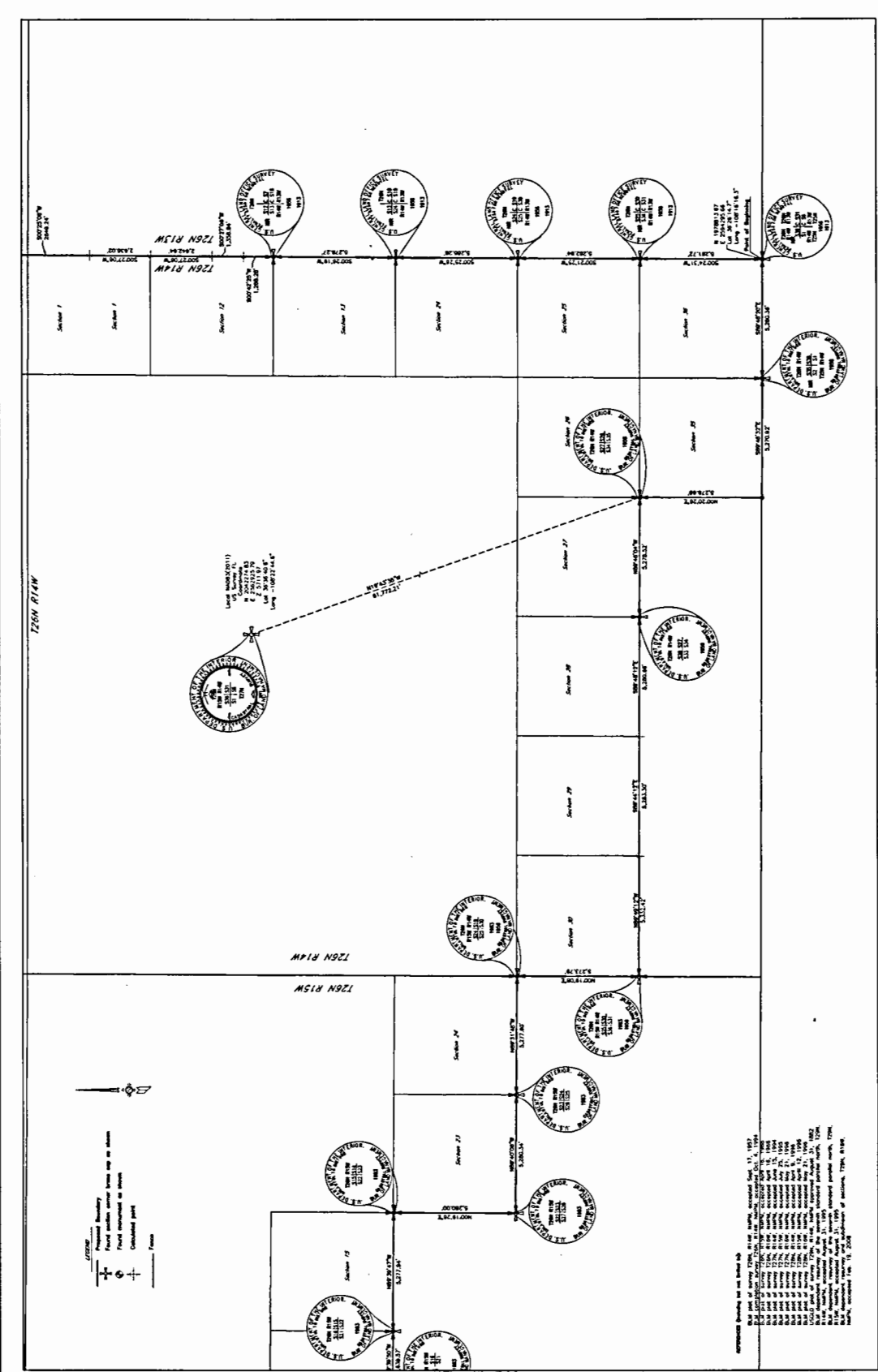


**EXHIBIT A**

**Properties**

[attached]





WORK ORDER NUMBER

NAVAJO AOI BOUNDARY PROJECT

PERMIT MAP 1 OF 11

STATE COUNTY DETAIL

NM SAN JUAN

DATE

REVISIONS

EOG RESOURCES

SCALE: 1 INCH = 2000 FEET

0 1000 2000 4000

SECTION INFORMATION: SECTION 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30

SECTION 1: 30°22'00"N 2000.00'

SECTION 2: 30°22'00"N 2000.00'

SECTION 3: 30°22'00"N 2000.00'

SECTION 4: 30°22'00"N 2000.00'

SECTION 5: 30°22'00"N 2000.00'

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SECTION 24: 30°22'00"N 2000.00'

SECTION 25: 30°22'00"N 2000.00'

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SECTION 29: 30°22'00"N 2000.00'

SECTION 30: 30°22'00"N 2000.00'

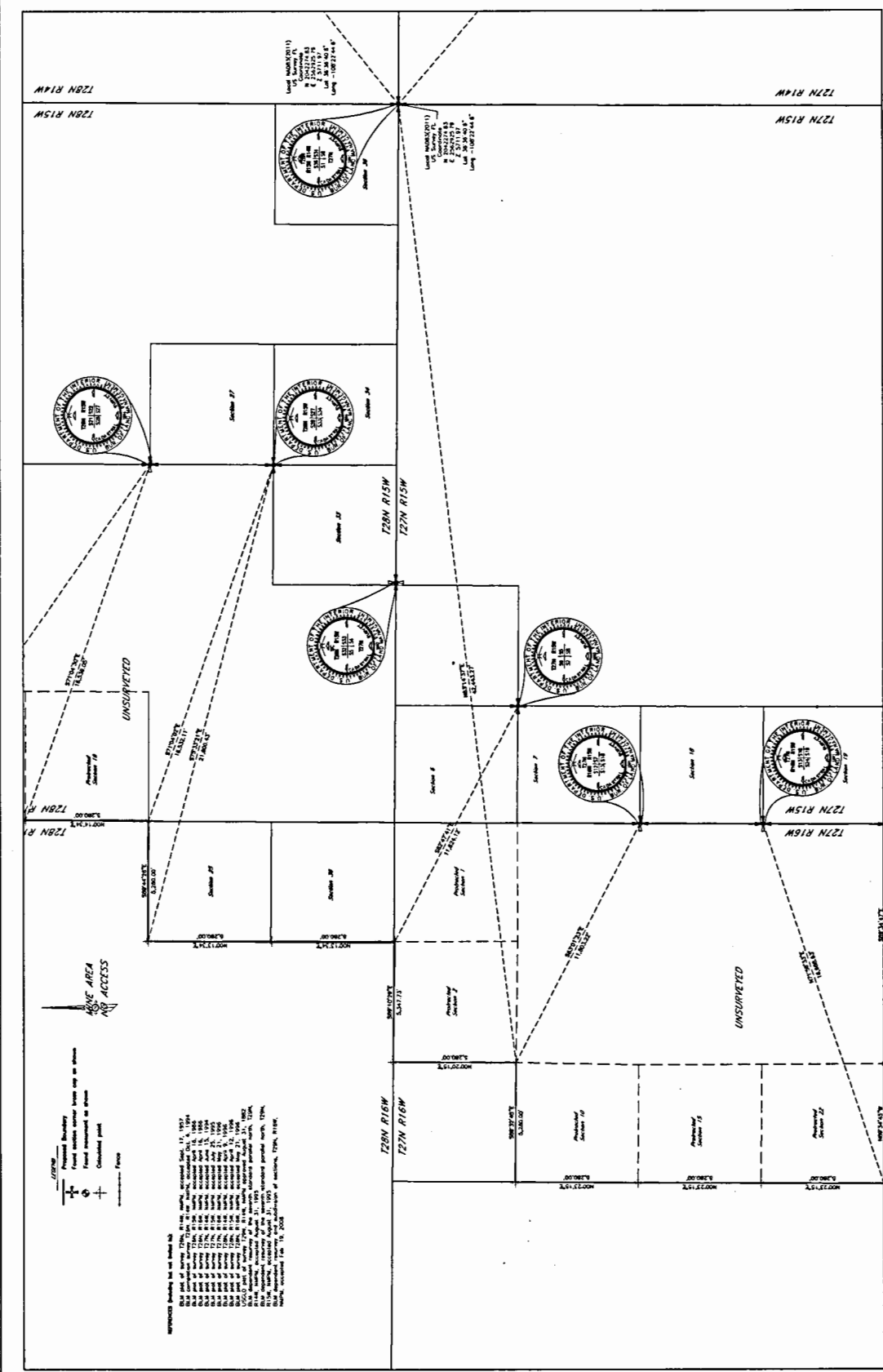


Age Group	Number of People
0-14	1000
15-24	1500
25-34	2500
35-44	3000
45-54	3500
55-64	3800
65-74	3500
75-84	2500
85+	1500

Section information shown herein is based on the record dimensions shown on the BLM plans listed above and the recovered measurements on shown, and is subject to BLM verification or rephotogrammetry.

ALABAMA, MD 07113

100



WORK ORDER NUMBER

NAVAJO AOI

BOUNDARY PROJECT

PERMIT MAP 3 OF 11

STATE

COUNTY

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Location information shown herein is based off the record directions shown on the BLM plans listed above and the recovered monuments on ground, and is subject to BLM verification or re-survey.

8550 SAN MATTEO BLVD NE SUITE 0  
ALBUQUERQUE, NM 87113

E	Instrument	Trimbale	Gauss	ECG	Checked	KX	Approved	Date 11/30/21	Machine File No. 310079
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STATE	COUNTY	DETAIL
NM	SAN JUAN	

**WORK ORDER NUMBER**

C. Colleges of Q-SPEC, LLC, states she is, by occupation, a Professional Land Surveyor in the State of New Mexico, employed by Q-SPEC Resources to make the survey of the parcel boundary as shown on this map, and that map was prepared under her supervision from a survey performed on the field, commencing on the 4th day of November 2021. To the best of her knowledge, information, and belief, this map meets or exceeds the requirements of the "Minimum Standards for Land Surveying in New Mexico."

---

Ruthenberg C. College, Wash. D.C. 20540  
 Credits No. 1802

Signed and subscribed this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

**Industry Address**

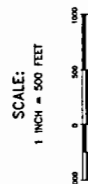
1. **BASIS OF MEASUREMENT** – Bearings given towards 4°S based on the New Mexico State Plane Coordinate System, West Zone, North American Datum of 1983 (2011).

Combined Scale Factor = 0.0049m  
Convergence Angle = 0° 10' 30" N  
ground reference

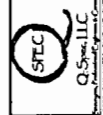
The beans studied are a True Shole Plow Composite. Coordinates of the bean control plots are (NAD83/2011), New Mexico State Plane North Zone in U.S. Survey Feet. The coordinates of the bean control plots are given in decimal coordinates in the table. All measurements are MSL(2008). Only one brought from year 0 to year 1 at the second plot. All beans are for the northwestern corner of section 6, T23N, R10E, N43E.

1. No text was composed by the field office and transmitted by Matthew C. Campbell. MAF# 16-2250 on November 4, 2011.
2. No return or reply was sent per the request of the client.
3. This is a single page of a multiple page document packet. No individual page can be identified more and must be accounted in the context of the entire document.

be interpreted more and should be considered in the context of the entire manuscript, including but not limited to descriptions, surveyor statements, and joint

[illegible]

Section information shows harvest is based off the record dimensions shown on the BLM plots listed above and the recovered materials as shown, and is subject to BLM verification or re-measurement.



1. # 2. A/E 3. Instrument 4. Trible 5. 8050 SAM MINTO BLVD NE SUITE B A.BUCKHOLE, NH 07113	6. CHART 7. ECG 8. CHECKED 9. X 10. APPROVED 11. DATE 11/18/71 12. FACETS FILE NO. 210092
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## EOG RESOURCES

DATE	REVISIONS

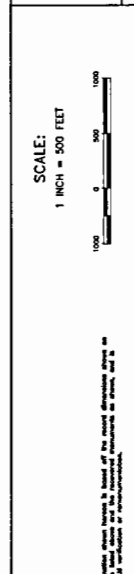
0.38 MIN @ 300°C

**VAJO BOUNDARY PROJECT**

PERMIT MAP 5 OF

STATE	COUNTY	DETAIL
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Age Group	Number of People
18-24	~950
25-34	~850
35-44	~750
45-54	~650
55-64	~550
65+	~450

**QSPEC**  
Q-Spec, LLC  
Engineering, Production & Logistics & Construction

WORK ORDER NUMBER

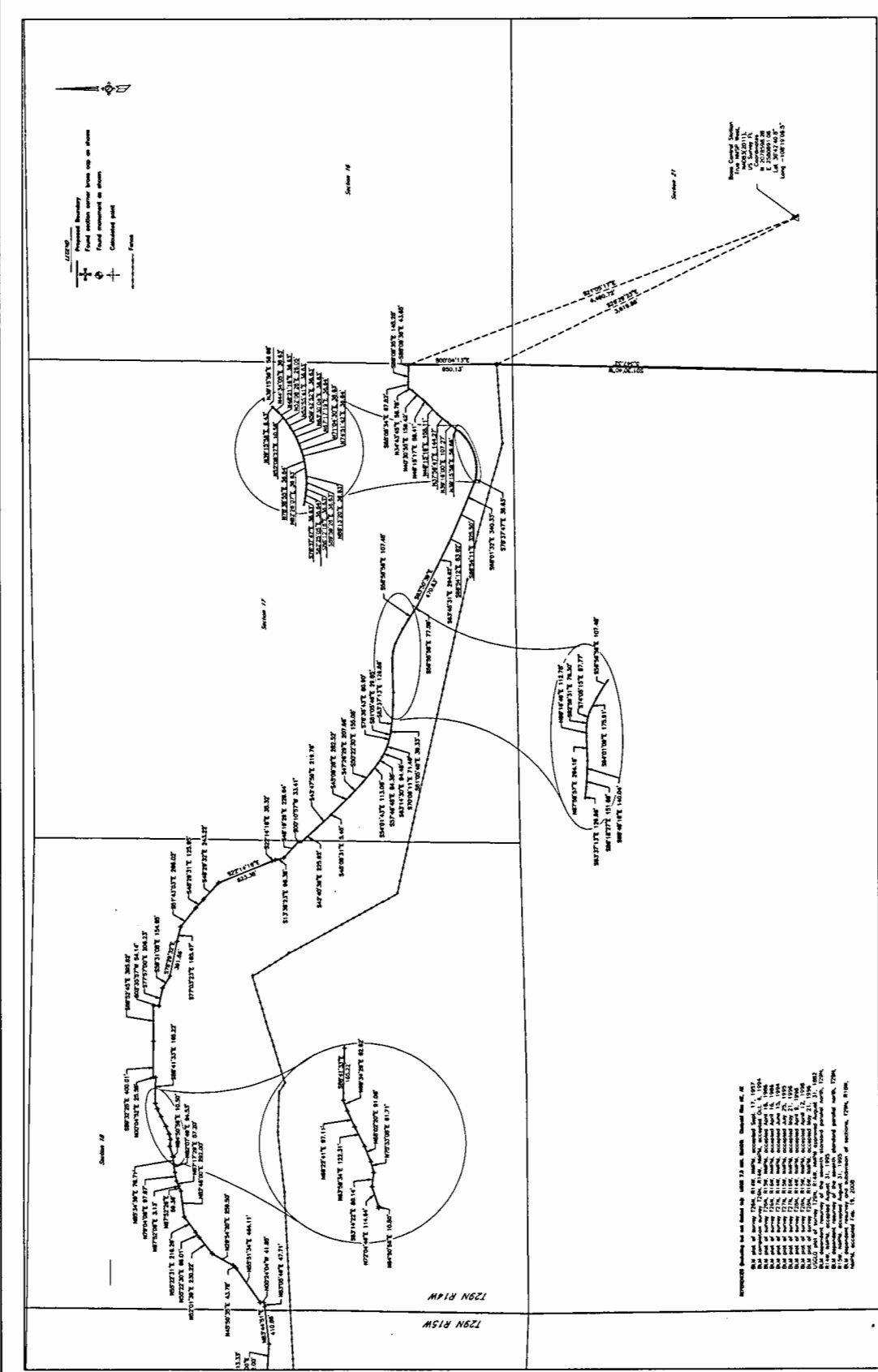
NAVAJO AOI  
BOUNDARY PROJECT  
PERMIT MAP 7 OF 11

PERMIT NO. / OF 11
COUNTY DETAIL

PERMIT	BOSS / OF	STATE	COUNTRY	DETAIL
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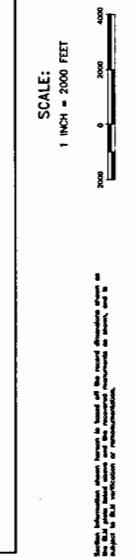
NM  
DATE HAS





<b>LEGEND</b> Proposed Boundary Fixed section corner shown top as shown Fixed monument as shown Calculated point Fence		<b>WORK ORDER NUMBER</b> NAVAJO ADJ BOUNDARY PROJECT PERMIT MAP 9 OF 11	
DATE	REVIEWS	STATE	COUNTY
		NM	SM JUN
<b>EOG RESOURCES</b>  EOG RESOURCES, INC. 1000 SAN ANTONIO AVENUE, SUITE 200 ALBUQUERQUE, NM 87102		DATE 11/20/21 APPROVED CHECKED BY DRAWN BY TYPED BY	SCALE 1" = 500 FEET 

Survey information shown herein is based on the record description shown on the map and is not intended to be a representation of the actual survey.





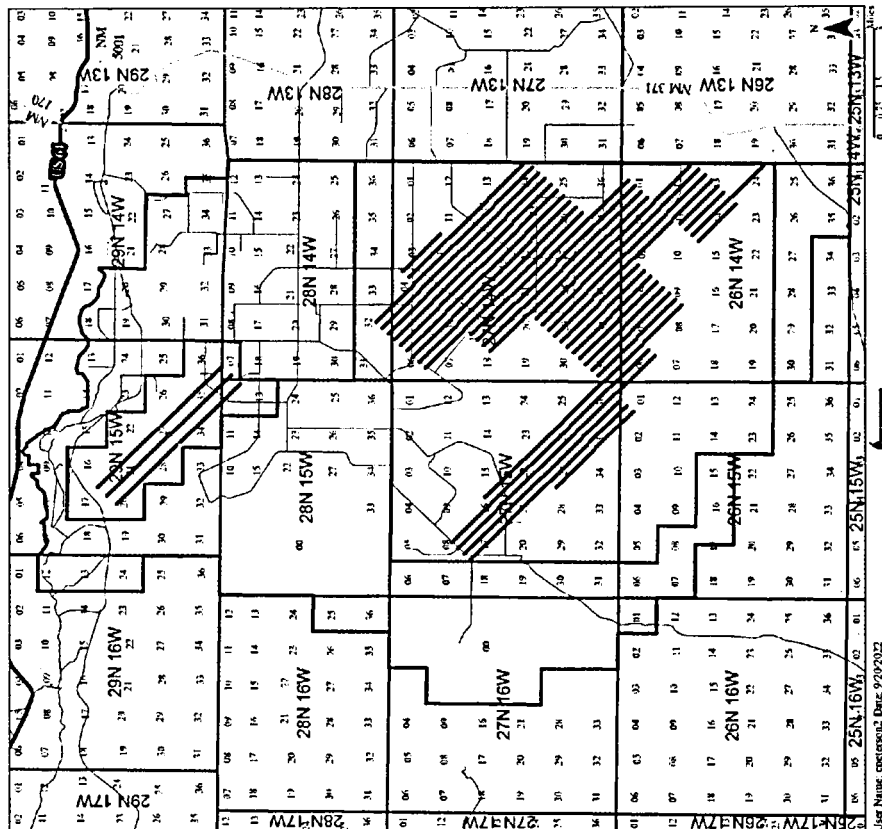
**EXHIBIT B**

**Held Acreage Example**

[attached]

# Exhibit B – Held Acreage Example

Secondary Term: 640 Acres Held (Per Well)

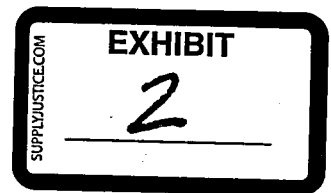


## Held Acreage Example in Secondary Term

- Well Count = 122 Wells
  - Well Count = sum of Wells that are (i) Paying Quantities, (ii) Capable of Paying Quantities, (iii) Waiting on Completion, and (iv) In Operation
- 122 Wells x 640 Acres/Well = 78,080 Acres
- Held Acreage = 78,080 Acres (Red Boxes)
  - Example Drawn Around 2 Areas of Wells
    - 8,320 Acres: 6 Wells x 640 Acres/Well
    - 69,760 Acres: 116 Wells x 640 Acres/Well
  - \$2/acre Annual Delay Rental for Held Acreage

Allows EOG to Continue Drilling Wells in Red Boxes during Secondary Term





The Navajo Nation  
Upper Fruitland Chapter  
PO BOX 1257  
Fruitland, New Mexico 87416  
(505) 960-5032/9811  
Fax (505) 960-5033  
Email: [upperfruitland@navajochapters.org](mailto:upperfruitland@navajochapters.org)



Rickie Nez, Council Delegate  
Lynelle Etsitty, President  
Lisa Byrd, Vice-President  
Dora Smith, Secretary/Treasurer  
Albert Lee, Farm Board Representative  
Roxanne Lee, Grazing Representative

## RESOLUTION OF THE NAVAJO NATION UPPER FRUITLAND CHAPTER

### RECOMMENDING THE RESOURCES AND DEVELOPMENT COMMITTEE OF THE 24<sup>TH</sup> NAVAJO NATION COUNCIL APPROVE AN OPERATING AGREEMENT WITH EOG RESOURCES INC., FOR DEVELOPMENT OF OIL WELLS LOCATED WITHIN THE UPPER FRUITLAND BOUNDARIES

#### WHEREAS:

1. Pursuant to 26 N.N. C. § 3(A), the Upper Fruitland Chapter is a certified Chapter of the Navajo Nation as listed under 11 N.N.C., Part 1, P10; and,
2. Pursuant to 26 N.N.C. §1(B), the Upper Fruitland Chapter is delegated the governmental authority to make decisions over local matters consistent with Navajo Law, Custom, and Tradition and under 11 N.N. C. Part, P10 and also delegated authority to make local decisions in the best interest and welfare of the community members; and,
3. Pursuant to 26 N.N.C. §102(A); Upper Fruitland Chapter met the requirements under the Five Management System Policies & Procedures and,
4. Pursuant to 26 N.N.C. §103(d) (1), the Resources and Development Committee certified Upper Fruitland Chapter as Governance Certified who shall exercise authorities pursuant to 26 N.N.C., Section 103, with exceptions of Land Administration Authority beginning February 28, 2012; and,
5. The EOG Resources submitted a proposal to the Navajo Nation Minerals Department to lease Oil Wells located within the San Juan Basin that encompass certain lands within the Upper Fruitland and NIIP boundaries that were previously leased by the Navajo Nation Oil and Gas Company; and
6. The EOG Resources is in the process of negotiating an Operation Agreement with the Navajo Nation Minerals Department to lease such oil wells and has requested support from Upper Fruitland Chapter for development of oil gas wells located within Upper Fruitland and Navajo Indian Irrigation Project (NIIP) Boundaries; and


7. The EOG Resources willingness to partner with the Navajo Nation to explore opportunities for road maintenance, partnership with the Navajo Scholarship Program, and partner with local communities; and
8. The EOG Resources provided a presentation on the proposed operating agreement to Upper Fruitland Chapter Officials on November 21, 2021; and
9. During the presentation, EOG Resources requested a resolution from Upper Fruitland Chapter recommending that the Resources and Development Committee of the 24<sup>th</sup> Navajo Nation Council approve an Operating Agreement with EOG Resources for development of oil wells located within Upper Fruitland Boundaries; and
10. The Upper Fruitland Chapter appreciates the EOG Resources respect for cultural related matters, providing funding directly to the chapter, addressing water resource issues, a reclamation program, quarterly status reports, maintenance of impacted roads, along with operational transparency with the Navajo Nation and local Navajo Chapters.

**NOW THEREFORE BE IT RESOLVED THAT:**

The Upper Fruitland Chapter hereby requests that the Resources and Development Committee of the 24<sup>th</sup> Navajo Nation Council approve an Operating Agreement with EOG Resources for development of oil wells located within Upper Fruitland boundaries.

**CERTIFICATION**

WE HEREBY CERTIFY that the foregoing resolution was approved by and for the Upper Fruitland Chapter (Navajo Nation), N.M. at a duly called teleconference/video meeting for during this COVID-19 pandemic. A motion to approve was made by Roxanne Lee and seconded by Candice Harrison and the same was passed by a vote of 09 in favor, 01 opposed, 01 abstained on this 14th day of December, 2021.

  
Lynelle C. Etsitty (Dec 15, 2021 16:21 MST)


Lynelle Etsitty, President

  
Lisa Byrd (Dec 15, 2021 16:28 MST)

Lisa Byrd, Vice-President

  
Dora Smith (Dec 15, 2021 16:43 MST)

Dora Smith, Secretary/Treasurer

  
Rickie Nez (Dec 15, 2021 19:52 MST)

Rickie Nez, Council Delegate



Rickie Nez  
Council Delegate

## NENAHNEZAD CHAPTER

P.O. BOX 438  
FRUITLAND, NEW MEXICO 87416  
Ph 505/960-9702 Fax 505/960-6657  
www.nenahnezad@navajochapters.org



Norman C. Begaye  
President

LoJan Watson  
Vice President

Shania Begay  
Secretary/Treasurer

Harold Dodge  
Grazing Committee Member

Tracy Raymond  
Farm Board Member

NZC-19-2022

**RECOMMENDING THE RESOURCES AND DEVELOPMENT COMMITTEE OF THE 24<sup>TH</sup>  
NAVAJO NATION COUNCIL APPROVE AN OPERATING AGREEMENT WITH EOG  
RESOURCES INC., FOR DEVELOPMENT OF OIL WELLS LOCATED WITHIN THE  
NENAHNEZAD SERVICE AREA**

**WHEREAS:**

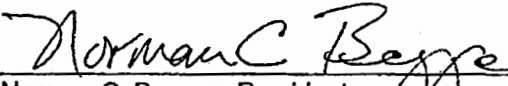
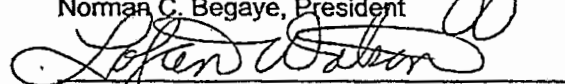
1. Pursuant to 26 N.N.C. §3 (A), the Nenahnezad Chapter was certified on November 10, 1955 as a chapter of the Navajo Nation and is listed under 11 N.N.C., Part 1, §(B), the Nenahnezad Chapter is delegated the governmental authority to make decisions over local matters consistent with Navajo Laws including custom, tradition, and fiscal matters; and
2. EOG Resources submitted a proposal to the Navajo Nation Minerals Department to lease oil wells located within the San Juan Basin that encompass certain lands within the Nenahnezad and NIIP service area that were previously leased by the Navajo nation Oil and gas Company; and
3. EOG Resources is in process of negotiating an Operation Agreement with the Navajo Nation Minerals Department to lease such oil wells and has requested support from Nenahnezad Chapter for development of oil gas wells located within Upper Fruitland and NIIP service area; and
4. In consideration for Nenahnezad Chapter's support, EOG Resources is willing to partner with the Navajo Nation to explore partnership opportunities for road maintenance, partnership on the Navajo Scholars Program, and partnership within the local communities; and
5. EOG Resources provided presentation on the proposed operating agreement to Nenahnezad Chapter Officials on November 21, 2021; and
6. During the presentation, EOG Resources requested a resolution from Nenahnezad Chapter recommending that the Resources and Development Committee of the 24<sup>th</sup> Navajo Nation Council approve an Operating Agreement with EOG Resources for development of oil wells located within Nenahnezad service areas.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Nenahnezad Chapter approves Nenahnezad Chapter hereby requests that the Resources and Development Committee of the 24<sup>th</sup> Navajo Nation Council approve an Operating Agreement with EOG Resources for development of oil wells located within Nenahnezad service areas of 1950.
2. The Nenahnezad Chapter directs the Community Services Coordinator, Chapter Officials, and Council Delegate to carry out this intent of this motion.

CERTIFICATION

We hereby certify that the foregoing resolution was duly considered by the Nenahnezad Chapter via teleconference meeting at Nenahnezad, (New Mexico) Navajo Nation. A motion was made by Janett Stevenson and seconded by Larry Lowe and the same was passed by a vote of 37 in favor, 00 opposed, and 01 abstained, this 9<sup>th</sup> day of December 2021

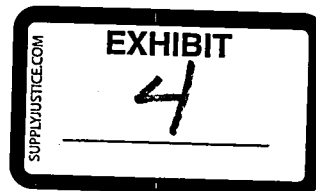
  
Norman C. Begaye, President  
  
LoJan Watson, Vice President

CONCURRED:

\_\_\_\_\_  
Rickie Nez, Council Delegate

\_\_\_\_\_  
Shania Begay, Secretary/Treasurer

RECEIVED  
12-21-21

Document No. 019487Date Issued: 10/03/2022**EXECUTIVE OFFICIAL REVIEW**Title of Document: EOG Resources - Operating Agreement Contact Name: CHEROMIAH, ROWENA LProgram/Division: DIVISION OF NATURAL RESOURCESEmail: rcheromiah@navajo-nsn.gov Phone Number: 928-871-6588

<input type="checkbox"/>				Sufficient	Insufficient
<input type="checkbox"/>	<b>Business Site Lease</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"/>
<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"/>
<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"/>
<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"/>
<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"/>
<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"/>
<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"/>
<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: \_\_\_\_\_ ☐ ☐  
2. Office of the Attorney General: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

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

1. NLD \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
2. F&W \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
3. HPD \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
4. Minerals \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
5. NNEPA \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
6. DNR \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
7. DOJ \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

☐ **Rights of Way**

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

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

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

☐ **Assignment of Mineral Lease**

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

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

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

☒ **OTHER: OPERATING AGREEMENT : EOG (President's Signature)**

1. DNR \_\_\_\_\_ *David M. [Signature]* Date: 10/4/2022 ☒ ☐  
2. DOJ ABQ \_\_\_\_\_ *V. J. [Signature]* Date: 10/21/22 ☒ ☐  
3. OPVP \_\_\_\_\_ *B. [Signature]* Date: 10/25/2022 ☒ ☐  
4. \_\_\_\_\_ *V. [Signature]* Date: 11/2/22 ☒ ☐  
5. \_\_\_\_\_ \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

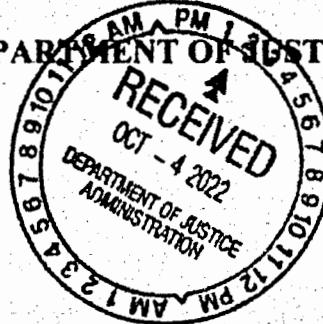
<input type="checkbox"/>	<b>Land Withdrawal or Relinquishment for Commercial Purposes</b>			<b>Sufficient</b>	<b>Insufficient</b>
1. Division:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
2. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<b>Land Withdrawals for Non-Commercial Purposes, General Land Leases and Resource Leases</b>				
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"/>	
<input type="checkbox"/>	<b>Rights of Way</b>				
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"/>	
<input type="checkbox"/>	<b>Oil and Gas Prospecting Permits, Drilling and Exploration Permits, Mining Permit, Mining Lease</b>				
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"/>	
<input type="checkbox"/>	<b>Assignment of Mineral Lease</b>				
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"/>	
<input type="checkbox"/>	<b>ROW (where there has been no delegation of authority to the Navajo Land Department to grant the Nation's consent to a ROW)</b>				
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"/>	
<input checked="" type="checkbox"/>	<b>OTHER: OPERATING AGREEMENT : EOG (President's Signature)</b>				
1. DNR	_____ <i>David M. Mullen</i>	Date: <u>10/4/2022</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2. DOJ	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
3. OPVP	_____	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
10/4/22 @ 2:19 PM
DATE / TIME
<input type="checkbox"/> 7 Day Deadline
DOC #: 19487
SAS #:
UNIT: NM

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

CLIENT TO COMPLETE			
DATE OF REQUEST: 10/4/22	ENTITY/DIVISION: DNR		
CONTACT NAME: Rowena Cheromiah	DEPARTMENT: Minerals		
PHONE NUMBER: 928-871-1288	E-MAIL: Rowena.cheromiah@navajo-nm.gov		
TITLE OF DOCUMENT: EOG Resources - Operating Agreement			
DOJ SECRETARY TO COMPLETE			
DATE/TIME IN UNIT: 10-04-22 EMAIL: 2:56 PM	REVIEWING ATTORNEY/ADVOCATE: Atrial Quinn 10-13-22		
DATE/TIME OUT OF UNIT: 10-21-22 2:19 PM			
DOJ ATTORNEY / ADVOCATE COMMENTS			
Legally Sufficient. DOJ assisted with the drafting of this agreement.			
REVIEWED BY: (PRINT) Quinn	DATE / TIME 10/21/22 1:43 PM	SURNAMED BY: (PRINT) V. Blackhat	DATE / TIME 10/21/22 1:55 PM
DOJ Secretary Called: Rowena		for Document Pick Up on 10-21-22 at 2:19 PM By: CW	
PICKED UP BY: (PRINT)		DATE / TIME:	

*DR*



# THE NAVAJO NATION

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JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



October 3, 2022

## MEMORANDUM

**TO:** 164 Executive Official Reviewers

**FROM:** Rowena Cheromiah  
Rowena Cheromiah, Director  
Minerals Department, DNR

**SUBJECT: EXECUTIVE OFFICIAL REVIEW  
DOCUMENT NO. 019487 – EOG RESOURCES**

The Minerals Department in conjunction with the Department of Justice (DOJ) has worked closely with EOG in negotiation of the above referenced Operating Agreement (OA) and both departments agree that the Operating Agreement is legally sufficient. The Minerals Department and the Department of Justice agree that the approval of the Operating Agreement would be in the best interest of the Navajo Nation.

Your consideration and approval of the Executive Official Review is greatly appreciated. If you have questions, I can be reached at ext. 7403/6588 or [rcheromiah@navajo-nsn.gov](mailto:rcheromiah@navajo-nsn.gov).

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Minerals Department

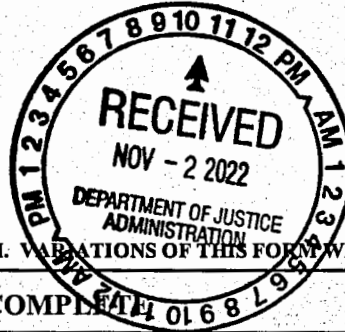
P.O. Box 1910 - Window Rock, Arizona 86515 - Phone (928) 871-6588 - Fax (928) 871-7095



# NAVAJO NATION DEPARTMENT OF JUSTICE

## DOCUMENT REVIEW REQUEST FORM

☒ RESUBMITTAL  
(Oct 2022)



DOJ	
11/2/22 @ 1033	
DATE / TIME	
<input type="checkbox"/> 7 Day Deadline	
DOC #:	19487#2
SAS #:	
UNIT:	Nm

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

CLIENT TO COMPLETE

DATE OF REQUEST: 11/02/2022 ENTITY/DIVISION: DNR  
CONTACT NAME: Rowena Cheromiah DEPARTMENT: Minerals  
PHONE NUMBER: 871-6588 or -7403 E-MAIL: rcheromiah@navajo-nsn.gov

TITLE OF DOCUMENT: Doc. # 019487 EOG Resources - Operating Agreement  
Need signature on p. 15

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 11-02-22 REVIEWING ATTORNEY/ADVOCATE: Veronica Blackhat  
10:45 am

DATE/TIME OUT OF UNIT:

DOJ ATTORNEY / ADVOCATE COMMENTS

Signed arbitration - DOJ approved section

REVIEWED BY: (PRINT)	DATE / TIME	SURNAMED BY: (PRINT)	DATE / TIME
		V Blackhat	11/2/22 10:43 AM

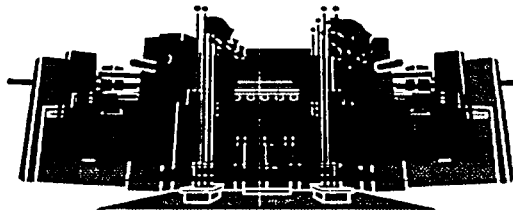
DOJ Secretary Called: Rowena for Document Pick Up on 11-02-22 at 10:45 am By: CW

PICKED UP BY: (PRINT) DATE / TIME:

NDOJ/DRRF-July 2013



512



## MEMORANDUM

TO: Honorable Rick Nez  
T'iistoh Sikaad, Nenahnezad, Upper Fruitland, Tse' Daa' Kaan, Newcomb, San Juan Chapters

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

DATE: February 27, 2023

SUBJECT: PROPOSED NAVAJO NATION COUNCIL RESOLUTION; AN ACT RELATING TO RESOURCES AND DEVELOPMENT, HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; ESTABLISHING THE SAN JUAN RIVER MITIGATION FUND; DIRECTING THAT MONIES RECEIVED FROM IN RE: GOLD KING MINE RELEASE IN SAN JUAN COUNTY, COLORADO, ON AUGUST 5, 2015, NO. 1:18-md-02824 (D.N.M.) AND UNDERLYING AND RELATED ACTIONS BE DEPOSITED IN THE SAN JUAN RIVER MITIGATION FUND AFTER REIMBURSEMENT OF LITIGATION COSTS

I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Please ensure that this particular resolution request is precisely what you want.

Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge. The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees' powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0033-23\_

SPONSOR: Rickie Nez

**TITLE: An Act Relating to Resources and Development, Health, Education and Human Services, Law and Order, Budget and Finance, and Naabik'iyáti' Committees and the Navajo Nation Council; Establishing the San Juan River Mitigation Fund; Directing that Monies Received from In Re: Gold King Mine Release in San Juan County, Colorado, on August 5, 2015, No. 1:18-md-02824 (D.N.M.) and Underlying and Related Actions be Deposited in the San Juan River Mitigation Fund After Reimbursement of Litigation Costs**

**Date posted: March 06, 2023 at 5:08PM**

**Digital comments may be e-mailed to [comments@navajo-nsn.gov](mailto:comments@navajo-nsn.gov)**

**Written comments may be mailed to:**

**Executive Director  
Office of Legislative Services  
P.O. Box 3390  
Window Rock, AZ 86515  
(928) 871-7586**

**Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.**

**Please note:** This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*