

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

AN ACTION
RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A RIGHT-OF-WAY
FOR NAVAJO TRIBAL UTILITY AUTHORITY TO CONSTRUCT, OPERATE AND
MAINTAIN A DISTRIBUTION POWERLINE WITH FIBER OPTIC CABLE TO
SERVE THE KEN'S TOURS COMMERCIAL OPERATION LOCATED WITHIN THE
VICINITY OF LECHEE CHAPTER, NAVAJO NATION (COCONINO COUNTY,
ARIZONA)

BE IT ENACTED.

Section One. Findings

- A. Pursuant to 2 N.N.C. §501 (B) (2), the Resources and Development Committee of the Navajo Nation Council has authority to give final approval of rights-of-way on Navajo Nation lands and unrestricted (fee) land; and
- B. The Navajo Tribal Utility Authority (NTUA), P.O. Box 170, Fort Defiance, Arizona 86504, has submitted a right-of-way application (attached as Exhibit A) to obtain right-of-way to construct, operate and maintain a distribution power line with fiber optic cable to serve Ken's Tours commercial operation within the vicinity of Lechee Chapter, Navajo Nation (Coconino County, Arizona); and
- C. The proposed right-of-way is 3,300.36 feet in length, 30 feet in width, consisting of 2.27 acres, more or less, on Navajo Nation Trust Lands, in Section 3, Township 40 North, Range 9 East and Section 34, Township 41 North, Range 9 East, Gila & Salt River Meridian, Lechee Chapter, Navajo Nation (Coconino County, Arizona). The location is more particularly described on the survey attached hereto as Exhibit B; and.
- D. The Lechee Chapter passed resolution No. LC 07-69-15 on July 13, 2015, attached hereto as Exhibit I, supporting the proposed project; and

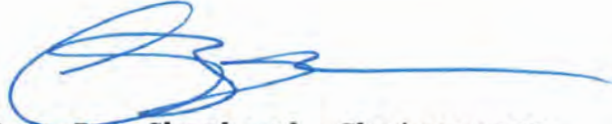
- E. The Project Review Section of the Division of Natural Resources has obtained the necessary consents from the affected land users (grazing permittees), which are attached hereto as Exhibit C; and;
- F. All environmental studies and cultural resources inventories have been completed and the proposed right-of-way has received appropriate clearances and are attached hereto as exhibits E, F, G; and H; and
- G. NTUA and Lechee Chapter request the Navajo Nation to waive consideration to the project as the distribution line will bring much needed utilities to support economic development, communication and technology to the Lechee Chapter region.

Section Two. Approval

- 1. Resources and Development Committee of the Navajo Nation Council hereby approves the grant of a right-of-way to the Navajo Tribal Utility Authority to construct, operate and maintain a (commercial) distribution power line with fiber optic cable which will deliver power to Ken's Tours Commercial operation in the vicinity of Lechee Chapter, Navajo Nation (Coconino County, Arizona).
- 2. The Resources and Development Committee of the Navajo Nation further approves and consents to the grant of right-of-way, subject, but not limited to, the terms and conditions contained in Exhibit "D", attached hereto and incorporated herein by this reference.
- 3. The Resources and Development Committee of the Navajo Nation Council waives the consideration of \$35,454.55.
- 4. The Resources and Development Committee of the Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute the right-of-way agreement.

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at Navajo Nation Council Chambers, Window Rock, (Navajo Nation) Arizona, at which quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, 0 abstained this 6th day of October, 2015.



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

Motion: Honorable Benjamin Bennett
Second: Honorable Leonard H. Pete



NAVAJO TRIBAL UTILITY AUTHORITY

AN ENTERPRISE OF THE NAVAJO NATION

July 28, 2015

Honorable Russell Begaye, President
The Navajo Nation
Post Office Box 7440
Window Rock, Arizona 86515

Dear President Begaye:

RE: Right of Way Application

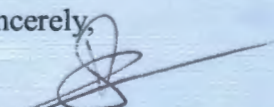
The Navajo Tribal Utility Authority (NTUA), a Not for Profit Enterprise of the Navajo Nation is hereby filing a Right of Way Application for construction, operation and maintenance of a distribution powerline with fiber optic cable in the vicinity of Lechee Chapter, Coconino County, Arizona. The proposed distribution line with fiber optic cable is 0.625 mile, the right of way width being thirty (30) feet and/or 2.27 acres, more or less. NTUA Project ID. No.141530009.

With increased tourism in the Lechee community, the distribution line will bring much needed utilities to support economic development, communication and technology to the region. It is incumbent upon NTUA to plan and provide reliable electric distribution power line to Ken's Tours and other potential new customers including the Navajo Nation. This project is considered a commercial operation, however the Lechee Chapter requested the Navajo Nation waive the consideration for the Ken's Tour project

The Authority will comply with all Tribal and Federal regulations and requirements as stated in the Code of Federal Regulations, 25 CFR-Part 169 and the Act of February 5, 1948 (62 Stat. 17), subject to prior valid existing rights or adverse claims. The Authority requests Waiver of Damages, except to those local improvements such as fences, corrals, homes, crops, animals, and people.

Attached, are pertinent documents related to the proposed project for your review for right of way approval. If there are any questions, you may contact Ms. Caroline M. Tom, Right of Way Agent via email at carolinet@ntua.com or telephone (928) 729-6124.

Sincerely,



Srinivasa Venigalla, Director
Electric Systems

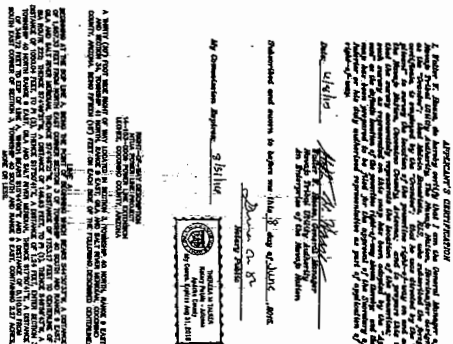
Attachments

cc: Ettie Anderson, Right of Way Supervisor/ESPS
Ethelind Johns, Supervisor, Project Administration/ESPS

Home Office: P.O. BOX 170 FT. DEFIANCE, AZ 86504	KAYENTA P.O. BOX 37 KAYENTA, AZ 86033	TUBA CITY P.O. BOX 398 TUBA CITY, AZ 86045	SHIPROCK P.O. BOX 1749 SHIPROCK, NM 87420	CHINLE P.O. BOX 549 CHINLE, AZ 86503	FORT DEFIANCE P.O. BOX 587 FT. DEFIANCE, AZ 86504	DILCON HC 63 BOX D WINSLOW, AZ 86047	CROWNPOINT P.O. BOX 1825 CROWNPOINT, NM 87313
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CALL 800-528-5011 OR 928-729-5721 FOR ALL OFFICES.

SUPERFUND CERTIFICATE

[illegible]

REFERENCES: USGS 7.5 MIN. QUADS: PAGE, AZ

USGS 7.5 MIN. QUADS: PAGE, AZ
USGS 7.5 MIN. QUADS: WILD HORSE MESA, AZ
USGS 7.5 MIN. QUADS: WHITE DOME, AZ
USGS 7.5 MIN. QUADS: LECHEE ROCK, AZ
BUREAU OF LAND MANAGEMENT TOWNSHIP PLATS



NAVAJO TRIBAL UTILITY AUTHORITY
ELECTRIC SYSTEM DIVISION
PO BOX 170, FT. DEFANCE, ARIZONA
928-729-5721

DATE _____

RIGHT-OF-WAY MAP
14-153-0009

5

COUNT	NAME	DATE	TIME	LOCATION	REMARKS
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DISTRICT

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COCON

TUBA CITY



THE NAVAJO NATION

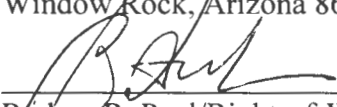
RUSSELL BEGAYE PRES
JONATHAN NEZ VICE

EXHIBIT

C

MEMORANDUM

TO: Howard P. Draper, Proj. Program Specialist
Project Review Section/NLD
Window Rock, Arizona 86515

FROM: 
Rodger R. Paul/Right-of-Way Agent
Project Review Section/NLD
Chinle, Arizona 86503

DATE: July 06, 2015

SUBJECT: **FIELD CLEARANCE FOR POWER LINE PROJECT**
LeChee, Coconino County, Arizona

Navajo Tribal Utility Authority (NTUA), of Post Office 170, Fort Defiance, Arizona 86504 has submitted an application requesting for field clearances to construct, operate and maintain an electrical power line distribution line (3,300 ft. in length and 2.27 ac.) and along with an overhead fiber optic cable on, over and across the Navajo Tribal Trust Land (NTTL) to serve the Ken's Tour Business Site within the vicinity of LeChee, Coconino County, Arizona. Work Order No. 141530009.

Project Review Section/Chinle Navajo Land Department has conducted and completed the field investigation on the above project, met with Ms. Sara Dale LeChee chapter grazing committee member to identify the affected land user (grazing permittee), upon review of the attached map, according to Ms. Dale records and knowledge the proposed electrical power line will cross on, over and across the NTTL) and is located within the LeChee business development site (Antelope Point Developments), there is no land user (grazing permittee) affected by the project. Attached hereto is a memorandum from Ms. Dale (Dated June 23, 2015) recommending the project for further processing and project should be process according to Navajo Land Department policies and procedures and memorandum for your information and use. If you have any question(s) please contact me at (928) 674-2315/ (928) 797-1835.

cc: Office File
C. Tom/NTUA

LeChee Chapter



P.O. Box 4720 • Page, Arizona • 928-698-2805 • 928-698-2803 fax

TO: Rodger R. Paul, Right-of-Way Agent
Project Review Section/CNLD
Post Office Box # 2179
Chinle Arizona 8650

DATE: June 23, 2015

SUBJECT: *Right-of-Way for Electrical Power Line
LeChee, Coconino County, Arizona*

Dear Mr. Paul

Per your request to provide a letter regarding the field investigation on the proposed project for Navajo Tribal Utility Authority (NTUA) to construct, operate and maintain an electrical power line (approx. 3,300 ft. in length) with a fiber optic line to serve the business site (Ken's Tour, LLC) LeChee, Coconino County, Arizona.

As a grazing committee member from the affected chapter LeChee I am aware of the proposed project, Navajo Tribal Utility Authority has present the project to the chapter and supported the project. Upon review of the proposed map, according to my records and knowledge there is no assigned land user (grazing permittee) within the proposed site, the proposed project is located on land set aside for business site and other developments by the LeChee Chapter. Therefore I recommend the project for further processing and shall be processed according to Navajo Nation Land Department policies and procedures.

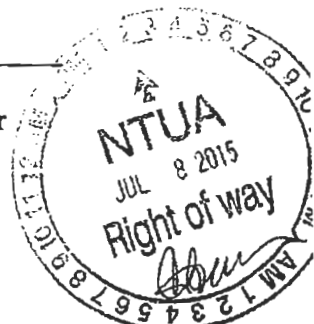
Should you have any question(s) please contact me at LeChee chapter.

Cc: Office File

Wilford Lane
LeChee Chapter Manager

Sara Dale

Sara Dale
LeChee Chapter Grazing Officer



Council Delegate	Chapter President	Vice President	Secretary/Treasurer	Grazing Committee Member
Tauchoney Slim Jr.	Irene Nez-Whitekiller	Yvonne S. Bigman	Elizabeth Nez	Sara Dale



EXHIBIT "D"

NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS

NAVAJO TRIBAL UTILITY AUTHORITY (GRANTEE)

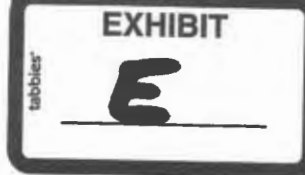
1. The term of the right-of-way shall be for twenty (20) years, beginning on the date the right-of-way is granted by the Secretary of Interior.
2. Consideration for the right-of-way is assessed at \$ 35,454.55 and shall be paid in full to the Controller of the Navajo Nation, in lawful money of the United States, and a copy of the receipt for such payment provided to the Navajo Nation Minerals Department, or its successor, within 10 days of approval of and consent to the grant of the right-of-way by the Navajo Nation.

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

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

6. The Grantee shall clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uprooted or otherwise accumulated during any surface disturbance activities.
7. The Grantee shall reclaim all surface lands disturbed related to the right-of-way, as outlined in a restoration and revegetation plan, which shall be approved by the Navajo Nation Environmental Protection Agency (NNEPA) prior to any surface disturbance. The Grantee shall comply with all provisions of such restoration and revegetation plan and shall notify the Director of the NNEPA immediately upon completion of the surface disturbance activities so that a site inspection can be made.
8. The Grantee shall at all times during the term of the right-of-way and at the Grantee's sole cost and expense, maintain the land subject to the right-of-way and all improvements located thereon and make all necessary and reasonable repairs.
9. The Grantee shall obtain prior written permission to cross existing rights-of-way, if any, from the appropriate parties.
10. The Grantee shall be responsible for and promptly pay all damages when they are sustained.
11. The Grantee shall indemnify and hold harmless the Navajo Nation and the Secretary of the Interior and their respective authorized agents, employees, landusers and occupants, against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of right-of-way by the Grantee.
12. The Grantee shall not assign, convey, transfer or sublet, in any manner whatsoever, the right-of-way or any interest therein, or in or to any of the improvements on the land subject to the right-of-way, without the prior written consent of the Navajo Nation and the Secretary of the Interior. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation.
13. The Navajo Nation may terminate the right-of-way for violation of any of the terms and conditions stated herein. In addition, the right-of-way shall be terminable in whole or part by the Navajo Nation for any of the following causes:
 - a. Failure to comply with any term or condition of the grant or of applicable laws or regulations;
 - b. A non-use of the right-of-way for the purpose for which it is granted for a consecutive two year period; and
 - c. The use of the land subject to the right-of-way for any purpose inconsistent with the purpose for which the right-of-way is granted.
 - d. An abandonment of the right-of-way.
14. At the termination of this right-of-way, the Grantee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. Upon the written request of the Navajo Nation, the Grantee shall provide the Navajo Nation, at the Grantee's sole cost and expense, with an environmental audit assessment of the premises at least sixty (60) days prior to delivery of said premises.
15. Holding over by the Grantee after the termination of the right-of-way shall not constitute a renewal or extension thereof or give the Grantee any rights hereunder or in or to the land subject to the right-of-way or to any improvements located thereon.

16. The Navajo Nation and the Secretary of the Interior shall have the right, at any reasonable time during the term of the right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any improvements located thereon.
17. By acceptance of the grant of right-of-way, the Grantee consents to the full territorial legislative, executive and judicial jurisdiction of the Navajo Nation, including but not limited to the jurisdiction of the Navajo Nation, including but not limited to the jurisdiction to levy fines and to enter judgments for compensatory and punitive damages and injunctive relief, in connection with all activities conducted by the Grantee within the Navajo Nation or which have a proximate (legal) effect on persons or property within the Navajo Nation.
18. By acceptance of the grant of right-of-way, the Grantee covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision shall be construed to negate or impair federal responsibilities with respect to the land subject to the right-of-way or to the Navajo Nation.
19. Any action or proceeding brought by the Grantee against the Navajo Nation in connection with or arising out of the terms and conditions of the right-of-way shall be brought only in the Courts of the Navajo Nation, and no such action or proceeding shall be brought by the Grantee against the Navajo Nation in any court of any state.
20. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.
21. Except as prohibited by applicable federal law, the law of the Navajo Nation shall govern the construction, performance and enforcement of the terms and conditions contained herein.
22. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of the Grantee, and the term "Grantee," whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.
23. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the right-of-way and all lands burdened by the right-of-way, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the right-of-way; and the right-of-way and all lands burdened by the right-of-way shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.
24. The Navajo Nation reserves the right to grant rights-of-way within the right-of-way referenced herein for utilities, provided that such rights-of-ways do not unreasonably interfere with the Grantee's use of the right-of-way.



THE NAVAJO NATION
HISTORIC PRESERVATION DEPARTMENT
PO Box 4950, Window Rock, Arizona 86515
TEL: (928) 871-7198 FAX: (928) 871-7886

CULTURAL RESOURCE COMPLIANCE FORM

ROUTE COPIES TO:	NNHPD NO.: HPD-15-407
<input checked="" type="checkbox"/> DCRM	OTHER PROJECT NO.: DCRM 2015-26

PROJECT TITLE: A Cultural Resources Inventory of the Proposed Ken's Tours Distribution Powerline with Fiber Optic Cable in the LeChee Chapter, Coconino County, Arizona for the Navajo Tribal Utility Authority (Work Order No. 141530009).

LEAD AGENCY: BIA/NR

SPONSOR: Navajo Tribal Utility Authority, PO Box 170, Fort Defiance, Arizona 86504

PROJECT DESCRIPTION: The proposed undertaking will involve the construction, operation and maintenance of 3,300-ft of distribution line with fiber optic cable and associated equipment within the 2.28-acre area of effect. Ground disturbance will be intensive and extensive with the use of heavy equipment.

LAND STATUS:	Tribal Trust Land
CHAPTER:	LeChee
LOCATIONS:	T. 40 N and T. 41 N, R. 09E – Sec. Unplatted; Page Quadrangle, Coconino County, Arizona G&SRPM

PROJECT ARCHAEOLOGIST:	Jeremy Begay & Jeffrey C. Begay
NAVAJO ANTIQUITIES PERMIT NO.:	B15193
DATE INSPECTED:	05/12/2015
DATE OF REPORT:	06/10/2015
TOTAL ACREAGE INSPECTED:	7.58 – ac

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

LIST OF CULTURAL RESOURCES FOUND:	(1) Site (AZ-K-5-40); (3) Isolated Occurrences (IO); (1) In-Use Area (IUA)
LIST OF ELIGIBLE PROPERTIES:	(1) Site (AZ-K-5-40)
LIST OF NON-ELIGIBLE PROPERTIES:	(3) IOs; (1) IUA
LIST OF ARCHAEOLOGICAL RESOURCES:	(1) Site (AZ-K-5-40)

EFFECT/CONDITIONS OF COMPLIANCE: No Historic Properties affected, with the following conditions:

Site AZ-K-5-40:

1. Site boundary will be flagged by a qualified archaeologist prior to all construction activities.
2. Site will be avoided by spanning the powerline extension; a) all power poles will be placed outside of the flagged site boundary; b) all electrical wires will be hand-carried across the site; c) all construction traffic should be confined to the existing road and 30-ft wide right-of-way.
3. Once construction is completed, site will continue to be avoided by routine maintenance activities by using established drive-arounds.

In the event of a discovery ["discovery" means any previously unidentified or incorrectly identified cultural resources including but not limited to archaeological deposits, human remains, or locations reportedly associated with Native American religious/traditional beliefs or practices], all operations in the immediate vicinity of the discovery must cease, and the Navajo Nation Historic Preservation Department must be notified at (928) 871-7198.

PREPARED BY: Tamara Billie
FINALIZED: July 1, 2015

Notification to Proceed
Recommended
Conditions:

☒ Yes ☐ No


☒ Yes ☐ No


The Navajo Nation
Historic Preservation Office

7/1/15
Date

Navajo Region Approval

☒ Yes ☐ No


BIA - Navajo Regional Office

7.15.15
Date

TLN 7.15.15



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

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

PROJECT NAME & NO.: Ken's Tours LLC Distribution Power Line with Fiber Optic Cable, WO#14-153-0009

DESCRIPTION: The NTUA proposes to construct, operate, and maintain one overhead 14.4kV single-phase power line with fiber optic cable under build to serve a commercial business. The proposed power line would be approximately 0.63 miles in length with a 30-ft. wide ROW. Total disturbance would be approximately 2.28 acres.

LOCATION: 4.5 mi NE of Lechee chapter house, Coconino County, Arizona

REPRESENTATIVE: Ettie Anderson, Right-of-Way Supervisor, Navajo Tribal Utility Authority

ACTION AGENCY: Navajo Nation and Bureau of Indian Affairs - Navajo Region

B.R. REPORT TITLE / DATE / PREPARER: BSR for Species of Concern on the Ken's Tours, LLC Distribution Power Line with Fiber Optic Cable Project/16 JUN 2015/Zoology Unlimited, LLC.

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

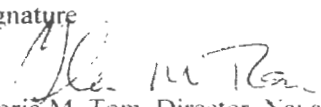
AVOIDANCE / MITIGATION MEASURES: NA

CONDITIONS OF COMPLIANCE*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/22 JUN 2015

COPIES TO: (add categories as necessary)

☐ _____ ☐ _____

2 NTC § 164 Recommendation: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Conditional Approval (with memo) <input type="checkbox"/> Disapproval (with memo) <input type="checkbox"/> Categorical Exclusion (with request letter) <input type="checkbox"/> None (with memo)	Signature  Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife	Date 6/23/15
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*I understand and accept the conditions of compliance, and acknowledge that lack of signature may be grounds for the Department not recommending the above described project for approval to the Tribal Decision-maker.

Representative's signature

Date



**Biological Survey Report
for Species of Concern on the Ken's Tours, LLC
Distribution Power Line with Fiber Optic Cable Project,
LeChee Chapter, Arizona
Work Order Number 14-153-0009**

Prepared by

Zoology Unlimited, LLC
Post Office Box 31132
Flagstaff, Arizona 86003
928-613-4019

Prepared for

Ms. Caroline M. Tom, Right-of-Way Agent
Navajo Tribal Utility Authority
Post Office Box 170
Fort Defiance, Arizona 86504
928-729-5727

June 16, 2015

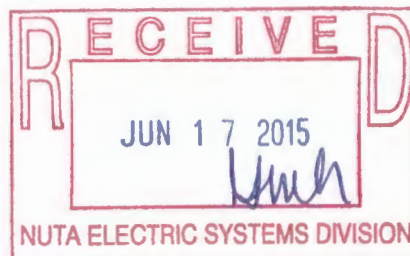


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I. INTRODUCTION

The Navajo Utility Authority (NTUA) is proposing to construct, operate, and maintain one overhead, 14.4 kV single-phase distribution power line and fiber optic underbuild (work order number 14-153-0009). The proposed line has a total length of approximately 0.63 miles and will affect 2.28 acres. The project area is located northeast of the LeChee chapter house, Navajo Nation, Coconino County, Arizona (see Figure 1). The power line and fiber optic underbuild would provide electrical and communication services to a commercial business in the LeChee chapter.

Zoology Unlimited, LLC, (ZU) was retained by NTUA to complete a Threatened, Endangered, and Sensitive species survey, habitat evaluation, and assessment of wetland areas on the project corridor. This document contains the description of the area, presents the species of concern, survey methodology, results, conclusions, and mitigations for the proposed project.

II. LOCATION AND DESCRIPTION OF PROJECT AREA

The proposed distribution power line Beginning of Point (BOP) is located approximately 4.50 miles northeast of the LeChee chapter house, Coconino County, Arizona. The line runs in southwestern direction crossing Navajo Road (NR) 222 until it turn southwest before reaching Antelope Creek. The elevation within the project area ranges from 4,090 to 4,190 feet above sea level. The proposed project corridor can be found on one 7.5 minute USGS quadrangle map: Page, Arizona (see Figure 2).

The soils in the project area are defined as Sheppard-Fruitland-Rock Outcrop Association (Hendricks 1985). The association consists of coarse to moderately coarse-textured somewhat excessively-drained and well-drained soils and rock outcrops on plains and plateaus. The plains are broken by mesas, buttes, escarpments, and steep, rock-walled canyons that form the sides of the drainages that traverse the area. The deep, nearly level to rolling soils are formed in aeolian sandy material weathered from sandstone and shale. The terrain in the survey area consists of sandstone outcrops and wind blown sand through out the project area. Antelope Creek is noted in survey area but would not be affected by project corridor.

The vegetation community in the survey area corresponds with the Great Basin Desertscrub (Brown 1994). The dominant vegetation includes sand sagebrush (*Artemisia filifolia*), ephedra (*Ephedra viridis*), and blackbrush (*Coleogyne ramosissima*). There are no multi-canopies/thickets of trees or shrubs or riparian growth present on the project corridor. There are no natural, permanent or semipermanent sources of water within the corridor.

The survey area has been previously disturbed by Navajo Generating Station, US Highway 98, NR 222, commercial businesses, dirt roads, water lines, power lines, fencing, and livestock grazing. The survey area is currently being grazed by livestock and the impacts is determined to be moderate (see Figures 3a and 3b).



Figure 1. Navajo County road map

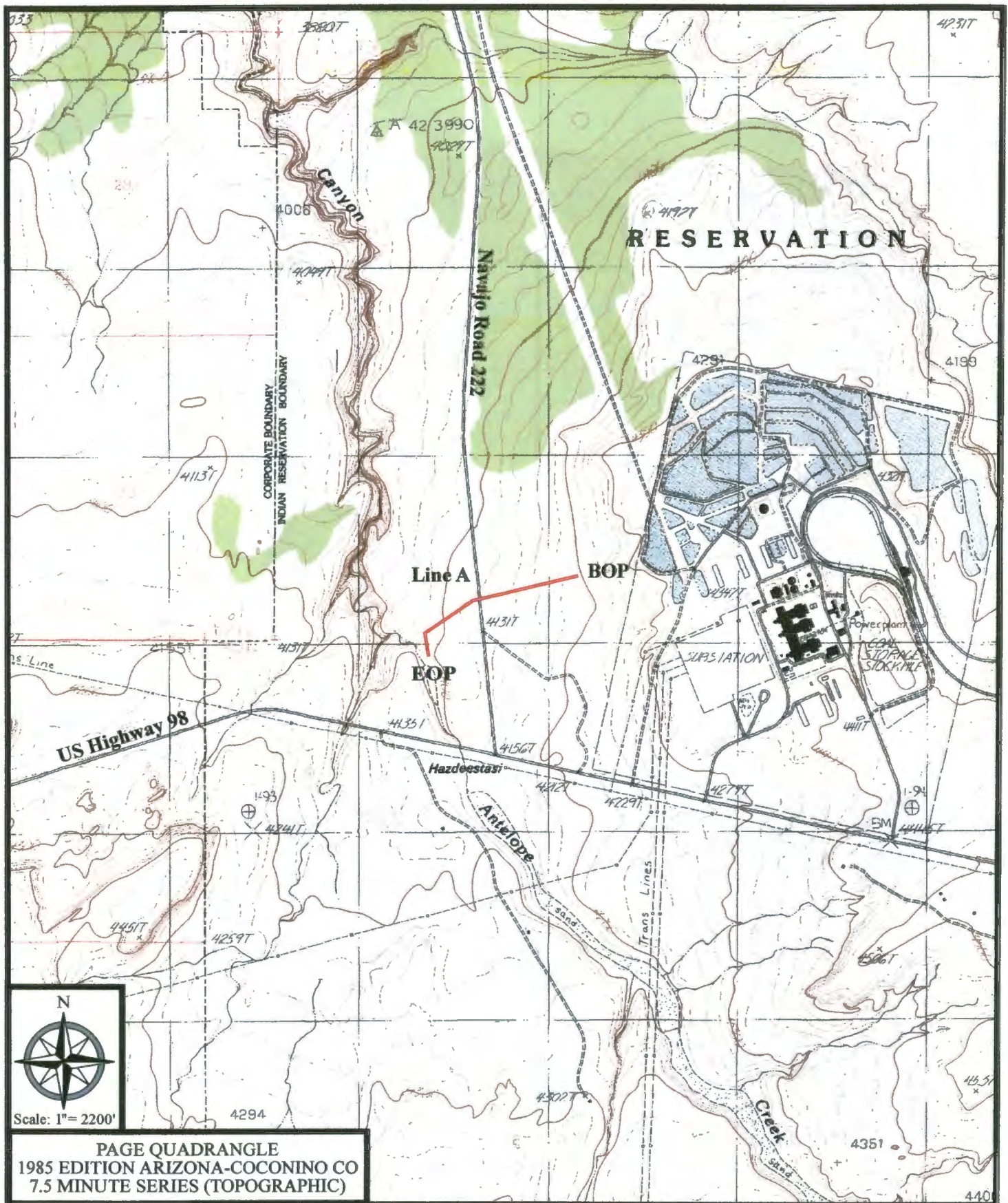


Figure 2. Ken's Tours, LLC distribution line with fiber optic cable project corridor map.



Photo 1: Looking east along corridor toward BOP.



Photo 2: Looking east near mid-point along corridor.

Figure 3a. Ken's Tours, LLC distribution line with fiber optic cable corridor photographs.



Photo 3: Looking west near mid-point along corridor.



Photo 4: Looking southwest toward EOP.

Figure 3b. Ken's Tours, LLC distribution line with fiber optic cable corridor photographs.

III. SPECIES OF CONCERN

The Navajo Department of Fish and Wildlife (NDFW) and U.S. Fish and Wildlife Service (USFWS) were contacted and species lists were obtained prior to conducting the survey. The species lists were combined and all are listed below with status definitions (see Appendix A for copies of lists).

Table 1. Species of Concern and their status (NDFW 2015 and USFWS 2015)

Scientific Name	Common Name	Status
<i>Aquila chrysaetos</i>	Golden eagle	NFWD-G3
<i>Asclepias welshii</i>	Welsh's milkweed	NFWD-G3, USFWS-LT
<i>Buteo regalis</i>	Ferruginous hawk	NFWD-G3
<i>Camissonia atwoodii</i>	Atwoods's camissonia	NFWD-G4
<i>Cinclus mexicanus</i>	American dipper	NFWD-G3
<i>Coccyzus americanus</i>	Yellow-billed cuckoo	USFWS-LT
<i>Cottus bairdi</i>	Mottled sculpin	NFWD-G4
<i>Empidonax traillii extimus</i>	Southwestern willow flycatcher	NFWD-G2, USFWS-LE
<i>Falco peregrinus</i>	Peregrine falcon	NFWD-G4
<i>Gila robusta</i>	Roundtail chub	USFWS-LC
<i>Gymnogyps californianus</i>	California condor	USFWS-LE
<i>Lithobates pipiens</i>	Northern leopard frog	NFWD-G2
<i>Mustela nigripes</i>	Black-footed ferret	USFWS-EX
<i>Puccinellia parishii</i>	Parish's alkali grass	NDFW-G4
<i>Strix occidentalis lucida</i>	Mexican spotted owl	USFWS-LT
<i>Thamnophis eques megalops</i>	Northern Mexican gartersnake	USFWS-LT
<i>Xyrauchen texanus</i>	Razorback sucker	NFWD-G2, USFWS-LE

Status Definitions For Table 1.

Navajo Endangered Species List Status Codes and Definitions

- G2-** Group 2: Endangered - Any species or subspecies which is in danger of being eliminated from all or a significant portion of its range on the Navajo Nation.
- G3-** Group 3: Threatened - Any species or subspecies which is likely to become endangered within the foreseeable future, throughout all or a significant portion of its range on the Navajo Nation.
- G4-** Group 4: Candidate - Any species or subspecies for which the NDFW does not currently have sufficient information to support their listing as G2 or G3 but has reason to consider them. The NDFW is actively seeking information to determine if they warrant inclusion in a different group or removal from the list.

Federal Status Codes and Definitions

- LE -** Listed Endangered by the USFWS under the Endangered Species Act (ESA).
- LT -** Listed Threatened by the USFWS under the ESA.
- LC -** Listed Candidate by the USFWS.
- EX -** Listed Experimental Population by the USFWS.

IV. METHODOLOGY

ZU conducted the survey on the Navajo Nation under the year 2015 NDFW permit number 17NNC;23N, 16USC;18US, Special Permit 877.

The proposed project corridor was surveyed by two biologists with knowledge of the listed species of concern. Complete survey coverage of the corridor was obtained by walking multiple parallel transects within the right-of-way (ROW). The ROW is 30-feet wide and the centerline had been previously staked by NTUA. Detailed field notes were taken of the species and habitats encountered during the survey of the project corridor. Species encountered during the field survey are listed in Appendix B. If a listed species or potentially suitable habitat was observed, the corridor was subject to further investigation to determine the potential impacts of the proposed project. No species-specific survey requiring special techniques were performed as part of the survey.

A 0.25-mile zone of influence on each side of the centerline was utilized to conduct evaluations for evidence of raptors and their nests. If active adult raptors or a nest of raptors was observed, the general area was intensively examined to determine the potential impacts of the project. Active adults were defined as those raptors engaged in courtship actions, building or improving nests, or displaying territorial behavior. The general reconnaissance of the 0.25-mile zone of influence consisted of closely examining rock outcrops and ridges. No transects were followed, but complete coverage was obtained by utilizing high ground as observation areas, by walking and driving blind spots.

An assessment of the wetland areas occurring within the project corridor was also included in the survey procedure. The National Wetland Inventory (NWI) map presented in the USFWS National Wetland Inventory website was consulted (USFWS 2000 [see Appendix C]). In addition, evaluations were conducted on suspected areas not recorded on the NWI map. The wetland criterion developed by the Army Corps of Engineers was utilized (Environmental Laboratory 1987).

V. RESULTS

The field survey was conducted on June 11, 2015. The survey was conducted during the appropriate flowering season for plant species. Expected project impacts on the species of concern were based upon the presence or absence of individuals and habitat present with and surround the proposed corridor. The survey date was partly sunny with 50-percent clouds and winds were less than 10 miles per hour and scattered, light precipitation.

The **golden eagle** is common throughout Arizona in a variety of vegetation types with open areas for hunting (Glinski 1998). They can be found throughout the Navajo Nation at all elevations. Its diet consists mainly of rabbits, large rodents, and sometimes carrion. Golden eagles tend to nest on a bulky platform of sticks in tall trees or cliffs (Peterson 1990). Nests are reused and tend to become a huge mass of sticks and debris. No nesting habitat is available for this species within the project

corridor and zone of influence. Potential foraging habitat is present within the project corridor and zone of influence. No individuals or stick nests were observed during the survey.

The **Welsh's milkweed** is a member of the *Asclepiadaceae* (milkweed family). This species is recognized by large seeds, which are 0.79 inches long. The main leaves are obovate or broadly elliptic and rounded to truncate apically (Atwood et al. 1991). Welsh's milkweed habitat requirements are open, sparsely vegetated, semi-stabilized sand dunes or lee slopes of actively drifting sand dunes (USFWS 1992). Marginal habitat such as wind blown sand were observed within the power line corridor. These areas of loose sand were closely examined but no individuals were observed during the survey date. No impacts are expected to the Welsh's milkweed.

The **ferruginous hawk** can be found statewide during migration as it moves toward its wintering grounds. On the Navajo reservation, there are 22 known nesting sites (Glinski 1998). This hawk inhabits areas of unbroken terrain such as grasslands, arid prairies, or areas of scattered pinyon-juniper woodlands (Johnsgard 1990). Nesting occurs in any available tree (6 to 60 feet) or a cliff ledge or on top of a rocky pinnacle of boulder-strewn elevation. Its diet consists almost exclusively of small mammals (Ehrlich et al. 1988). No suitable nesting habitat is present for this species within the project corridor and zone of influence due to local development. Marginal foraging habitat is present within the project area. No individuals or nests were observed.

The **Atwood's camissonia** is a member of the *Onagraceae* (primrose family). The camissonia is an winter annual herb growing from a taproot, with stems 19 to 59 inches tall, broad, usually branched leaves that are 7 to 31 in length. This herb flower numerous, lavender petals with purple spots from late September to early November (Roth 2001). The camissonia occurs on clay soils of the Tropic Shale and Carmel Formations within the salt desert shrub community, typically at an elevation range of 4,060 to 5,000 feet above sea level. The herb is endemic to the Last Chance drainage of Kane County, Utah. No suitable habitat such as clay soils were observed. No individuals were observed. No impacts to anticipated to Atwood's camissonia.

The **American dipper** is stub-tailed bird which is commonly found near cold fast-flowing streams in or near mountains at high elevations. During the winter dippers migrate to lower elevations. Its habitat is restricted to riparian areas and streams. Its nest structure is a bulky ball of moss attached to a rock wall overhanging a stream (Peterson 1990). Its diet consists of aquatic insects, aquatic invertebrates, and small fishes. No suitable habitat such as riparian or aquatic areas were noted within the project ROW. No impacts are anticipated to the American dipper.

The **yellow-billed cuckoo** nests primarily along wooded streams in the southern and central portions of the state (Arizona Game and Fish Department [AGFD] 1996) and is associated primarily with cottonwood gallery forests and/or cottonwood/willow associations. This cuckoo has been recorded as a rare transient in desert habitats and in towns (Phillips et al. 1964). The cuckoo's diet consists of hairy caterpillars, bird eggs, frogs, lizards, berries and fruit. It builds platform nests in shrubs and young are fed insect regurgitant (Ehrlich et al. 1988). No suitable habitat or individuals were observed in the survey area. No impacts are anticipated to the yellow-billed cuckoo.

The **mottled sculpin** is a bottom dwelling fish, living between and beneath rocks in riffles or cool streams, or occasionally in lakes (Mikesic 2008). This species has a dorsoventrally flattened head, with its back and sides a brown coloration with darker mottling. The most conspicuous features are dark saddles under the dorsal fins (usually six but occasionally seven saddles) and the abdomen is whitish. Its diet consists of chironomid larvae as well as amphipods, other insects and invertebrates, and some plant material. No suitable habitat such as streams or lakes exist for this species in the survey area. No impacts are anticipated to the mottled sculpin.

The **southwestern willow flycatcher** is one of about 10 species in the *Empidonax* genus complex. All species in this complex are extremely similar in appearance. Identification must be made by song while the species is on its breeding grounds (Kaufman 1990). The characteristic “fitz-bew” song identifies this species. Willow flycatchers are closely associated with riparian habitats, specifically areas of high shrub densities (AGFD 1996). Recent survey efforts have found this species in a variety of habitats including monotypic willow thickets, gallery cottonwood forests, and tamarisk stands. No riparian areas nor individuals of the *Empidonax* genus complex were observed within the survey area. No impacts are expected to the southwestern willow flycatcher.

In Arizona, more than 200 **peregrine falcon** breeding areas are known (Glinski 1998). The habitat characteristics most commonly associated with this species are open country in presence of tall cliffs with open airspace. The species is now being observed in urban areas with open fields and near dams with open water. Nest sites are called eyries. Its prey includes a wide variety of birds that vary from gull-size to swallow-size. They can usually be found where concentrations of bird species are high (USFWS 1991). Prey is taken on the wing during a high-speed dive or stoop. No suitable nesting and foraging are available for this species within the project corridor and zone of influence. No individuals or eyries were noted. No impacts are expected to the peregrine falcon.

The **roundtail chub** is related to the endangered humpback chub, and is characterized by a robust body and tail trunk. This chub species has a green back with silvery sides, and a distinctive white belly. This fish is found in most tributaries of the Colorado River basin and in some mainstem areas. They feed mostly on drifting insects (Valdez 1993). This chub species is known from the San Juan River and Zuni drainage (Sublette et al 1990). No suitable aquatic habitat such as rivers or streams exists for this species in the survey area. No impacts are expected to the humpback chub.

The **California condor** is the largest bird of prey in North America, with a wingspan approaching 10 feet and weighing 20-22 pound. In December 1996, an experimental population of condors were released at the Vermillion Cliffs in northern Arizona (Glinski 1998). Immature condors differ from adults by lacking conspicuous white underlinings. The young have black, dusky bare heads, and adults have yellow or orange bare heads. They are not habitat specialists, and historically, occupied diverse ecological zones ranging from seacoasts to grasslands and forest-covered mountains (Glinski 1998). No suitable nesting habitat exists for this species within the project corridor and zone of influence. Marginal foraging habitat exist for this species in the project ROW and zone of influence. No individuals or nests were observed.

The **northern leopard frog** can be found in area of permanent water such as ponds and streams with marshy edges, algae-grown overflow pools, and near springs with emergent vegetation (Stebbins 1985). Winter hibernation is thought to be in holes near springs or other areas where water is unfrozen and constantly renewed. Its diet consists of a wide variety of invertebrates. No suitable habitat exist for this species and no individuals were found within the project corridor. No impacts are anticipated to the northern leopard frog.

The **black-footed ferret** is a small carnivore of the *Mustelidae* or weasel family. Ferrets are generally 1.5 feet long, light in color except for the face, feet, and the tip of the tail which are dark to black. Black-footed ferrets lead a solitary existence, except for the period when mother and young are together. Their diet consists primarily of prairie dogs and they live within the boundaries or in close proximity to prairie dog towns (Cockrum 1982). No black-footed ferrets or prairie dogs or their burrows were observed within the project corridor. Based on these observations and the criteria set forth in the black-footed ferret guidelines (NDFW 1985), no impacts are expected to the black-footed ferret.

The **Parish's alkali grass** is closely related to the *Poa* (bluegrass family). This species is a dwarf, blue-green, tufted annual, with three to six flowered spikeltes (Gould 1993). Moist, saline soil is the main habitat requirement for this species. New populations of this species have been discovered, but still is considered rare by the NDFW. No suitable habitat such as moist, saline soil were noted within the project area. No impacts are expected to the Parish's alkali grass.

The **Mexican spotted owl** (MSO) is one of three owls in North America with dark eyes, and the current population estimates are crude, but suggest that there may be 600 to 1,200 MSOs in Arizona (Glinski 1998). Preferred habitat includes steep mountains or canyons containing mixed conifer, ponderosa pine, pine-oak forests or deciduous riparian forest (Spahr et al. 1991, Ganey et al. 1988). A large majority of MSO roost sites have been located in canyon bottoms and on lower slopes within dense unmanaged stands of trees. Its diet consists mostly of rodents and lagomorphs (Ehrlich et al. 1988), although, these owls are considered opportunistic and are known to take insects, reptiles, and birds. There is no suitable woodland habitat present for this species in the project corridor and zone of influence. No impacts are expected to the MSO.

The **northern Mexican gartersnake** is a striped snake with a whitish to greenish crescent behind the corner of the mouth and paired black blotches at the back of the head. This species occurs primarily in permanent streams and marshes in central south-central, and southeastern Arizona (AGFD 1996). The snake is primarily a highland canyon snake of pine-oak forest and pinon-juniper woodland, usually found in or near water, where it apparently feeds chiefly on frogs (Stebbins 1985). No suitable wet habitat is present for this species within the project area. No impacts to the northern Mexican gartersnake is anticipated.

The **razorback sucker** has a long, high, sharp-edged, keel-like hump behind the head, which is flattened on the top. This species is stout with olive-brown above and yellowish colored belly. The head and keel are dark in breeding males. The razorback grows to large sizes, exceeding 24 inches

and 6 pounds in weight. The sucker occurs in streams to large rivers with slow backwater areas where it feeds on benthic fauna, flora, detritus, and plankton (USFWS 1991). No suitable habitat such as streams or rivers exist for this species in the project area. No impacts are expected to the razorback sucker.

VI. CONCLUSIONS

It is determined that there will be no significant impacts to the following species:

1. Welsh's milkweed
2. Atwood's camissonia
3. American dipper
4. Yellow-billed cuckoo
5. Mottled sculpin
6. Southwestern willow flycatcher
7. Peregrine falcon
8. Roundtail chub
9. Northern leopard frog
10. Black-footed ferret
11. Parish's alkali grass
12. Mexican spotted owl
13. Northern Mexican gartersnake
14. Razorback sucker

These species were not present in the proposed project corridor and/or zone of influence and are highly unlikely to be present in the project area due to the absence of critical habitat requirements. No mitigation is required for these species.

No nesting but marginal foraging habitat exists within the project area for the following species:

1. Golden eagle
2. Ferruginous hawk
3. California condor

Marginal foraging habitat exists within both the project corridor and/or zone of influence for the golden eagle, ferruginous hawk, and California condor. Approximately 2.28 acres of foraging habitat will be affected. Foraging individuals could be temporarily displaced from foraging habitat while construction is on-going. However, due to the transient nature of foraging species, they are not expected to be adversely impacted. No mitigation is required.

No wetlands were found within the project corridor, and, although a couple of areas are depicted on the NWI map, none are located within the project corridor. No mitigation is required.

VII. MITIGATIONS

It is recommended that NTUA use all available existing roads during the construction, operation, and maintenance of the distribution line. No other mitigation is recommended for this project.

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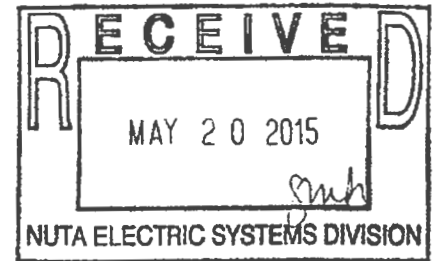
APPENDIX A

**Response letter from Navajo Department of Fish and Wildlife
and species list from U.S. Fish and Wildlife Service website**



NNHP

Navajo Natural Heritage Program



PO Box 1480
Window Rock, AZ
86515

P 928.871.6472
F 928.871.7603

<http://nnhp.nndfw.org>

15ntua106

06-May-2015

Jason Yazzie
NTUA
PO Box 170
Fort Defiance, AZ 86504

SUBJECT: NTUA's Proposed Lechee (Ken's Tours, LLC) Distribution Line With Fiber Project, Coconino County, Arizona, NTUA Work Order No. 14-153-0009

Jason Yazzie,

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

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

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

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

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

ESA candidate, NESL group 4 status, and species listed on the Sensitive Species List. Please be aware of these species during surveys and inform the NNDFW of observations. Reported observations of these species and documenting them in project planning and management is important for conservation and may contribute to ensuring they will not be up listed in the future.

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

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

Species

None

2. Potential Species

Species

AQCH = Aquila chrysaetos / Golden Eagle NESL G3
 ASWE = Asclepias welshii / Welsh's Milkweed NESL G3 FT
 BURE = Buteo regalis / Ferruginous Hawk NESL G3
 CAAT = Camissonia atwoodii / Atwood's Camissonia NESL G4
 CIME = Cinclus mexicanus / American Dipper NESL G3
 COBA = Cottus bairdi / Mottled Sculpin NESL G4
 EMTREX = Empidonax traillii extimus / Southwestern Willow Flycatcher NESL G2 FE
 FAPE = Falco peregrinus / Peregrine Falcon NESL G4
 LIPI = Lithobates pipiens / Northern Leopard Frog NESL G2
 XYTE = Xyrauchen texanus / Razorback Sucker NESL G2 FE

3. Quadrangles (7.5 Minute)

Quadrangles

Page (36111-H4) / AZ, UT

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

SITE	EO1MI	EO3MI	QUAD	MSO	POTS	AREAS
Power Line A	None	None	Page (36111-H4) / AZ, UT	None	XYTE, LIPI, FAPE, EMTREX, COBA, CIME, BURE, AQCH, CAAT, ASWE	Area 3

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

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

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

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

6. Personnel Contacts

Wildlife Manager

Sam Diswood

928.871.7062

sdiswood@nndfw.org

Zoologist

Chad Smith

928.871.7070

csmith@nndfw.org

Botanist

Andrea Hazelton

928.523.3221

ahazelton@nndfw.org

Biological Reviewer

Pamela Kyselka

928.871.7065

pkyselka@nndfw.org

GIS Supervisor

Dexter D Prall

928.871.6489

prall@nndfw.org

Wildlife Tech

Sonja Detsoi

928.871.6472

sdetsoi@nndfw.org

7. Resources

National Environmental Policy Act

Navajo Endangered Species List:
<http://nnhp.nndfw.org/Endangered.htm>

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

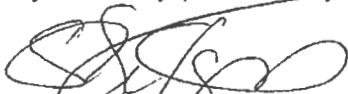
Biological Investigation Permit Application
http://nnhp.nndfw.org/study_permit.htm

Navajo Nation Sensitive Species List
http://nnhp.nndfw.org/study_permit.htm

Various Species Management and/or Document and Reports
http://nnhp.nndfw.org/docs_reps.htm

Consultant List
(Coming Soon)

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



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

xc: file/chrono



My project

IPaC Trust Resource Report

Generated June 16, 2015 07:30 AM MDT



US Fish & Wildlife Service

IPaC Trust Resource Report



Project Description

NAME

Ken's Tours

PROJECT CODE

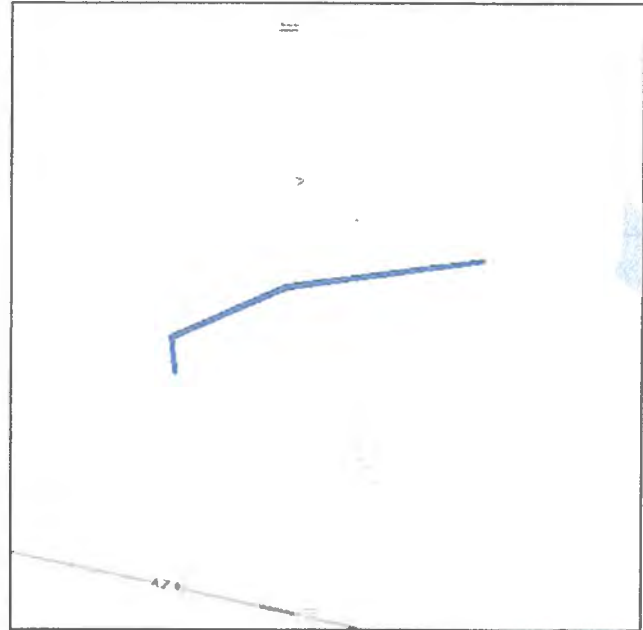
6VUZZ-OCQY5-CILH3-BI5CD-PJVREM

LOCATION

Coconino County, Arizona

DESCRIPTION

Utility ROW



U.S. Fish & Wildlife Contact Information

Species in this report are managed by:

Arizona Ecological Services Field Office

2321 West Royal Palm Road, Suite 103

Phoenix, AZ 85021-4915

(602) 242-0210

Endangered Species

Proposed, candidate, threatened, and endangered species that are managed by the [Endangered Species Program](#) and should be considered as part of an effect analysis for this project.

Birds

California Condor *Gymnogyps californianus*

Endangered

CRITICAL HABITAT

There is **final** critical habitat designated for this species.

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B002>

Mexican Spotted Owl *Strix occidentalis lucida*

Threatened

CRITICAL HABITAT

There is **final** critical habitat designated for this species.

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B074>

Southwestern Willow Flycatcher *Empidonax traillii extimus*

Endangered

CRITICAL HABITAT

There is **final** critical habitat designated for this species.

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B094>

Yellow-billed Cuckoo *Coccyzus americanus*

Threatened

CRITICAL HABITAT

There is **proposed** critical habitat designated for this species.

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B06R>

Fishes

Razorback Sucker *Xyrauchen texanus*

Endangered

CRITICAL HABITAT

There is **final** critical habitat designated for this species.

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=E054>

Roundtail Chub *Gila robusta*

Candidate

CRITICAL HABITAT

No critical habitat has been designated for this species.

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=E02Z>

Flowering Plants

Welsh's Milkweed *Asclepias welshii*

Threatened

CRITICAL HABITAT

There is **final** critical habitat designated for this species.

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=Q25M>

Mammals

Black-footed Ferret *Mustela nigripes*

Experimental Population, Non-Essential

CRITICAL HABITAT

No critical habitat has been designated for this species.

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=A004>

Reptiles

Northern Mexican Gartersnake *Thamnophis eques megalops*

Threatened

CRITICAL HABITAT

There is **proposed** critical habitat designated for this species.

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=C04Q>

Critical Habitats

Potential effects to critical habitat(s) within the project area must be analyzed along with the endangered species themselves.

There is no critical habitat within this project area

Migratory Birds

Birds are protected by the [Migratory Bird Treaty Act](#) and the Bald and Golden Eagle Protection Act.

Any activity which results in the take of migratory birds or eagles is prohibited unless authorized by the U.S. Fish and Wildlife Service (1). There are no provisions for allowing the take of migratory birds that are unintentionally killed or injured.

You are responsible for complying with the appropriate regulations for the protection of birds as part of this project. This involves analyzing potential impacts and implementing appropriate conservation measures for all project activities.

Bald Eagle *Haliaeetus leucocephalus*

Season: Wintering

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B008>

Bird of conservation concern

Bendire's Thrasher *Toxostoma bendirei*

Season: Breeding

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B01F>

Bird of conservation concern

Brewer's Sparrow *Spizella breweri*

Season: Breeding

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B0HA>

Bird of conservation concern

Burrowing Owl *Athene cunicularia*

Season: Breeding

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B0NC>

Bird of conservation concern

Cassin's Finch *Carpodacus cassinii*

Year-round

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B0J6>

Bird of conservation concern

Flammulated Owl *Otus flammeolus*

Season: Breeding

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B0DK>

Bird of conservation concern

Golden Eagle *Aquila chrysaetos*

Year-round

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B0DV>

Bird of conservation concern

Grace's Warbler *Dendroica graciae*

Season: Breeding

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B0K5>

Bird of conservation concern

Gray Vireo *Vireo vicinior*

Season: Breeding

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B0G5>

Bird of conservation concern

Juniper Titmouse *Baeolophus ridgwayi*

Year-round

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B0JC>

Bird of conservation concern

Lewis's Woodpecker *Melanerpes lewis*

Year-round

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B0HQ>

Bird of conservation concern

Loggerhead Shrike *Lanius ludovicianus*

Year-round

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B0FY>

Bird of conservation concern

Lucy's Warbler *Vermivora luciae*

Season: Breeding

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B0DL>

Bird of conservation concern

Olive-sided Flycatcher *Contopus cooperi*

Season: Breeding

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B0AN>

Bird of conservation concern

Peregrine Falcon *Falco peregrinus*

Season: Breeding

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B0FU>

Bird of conservation concern

Pinyon Jay *Gymnorhinus cyanocephalus*

Year-round

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B0I0>

Bird of conservation concern

Prairie Falcon *Falco mexicanus*

Year-round

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B0ER>

Bird of conservation concern

Swainson's Hawk *Buteo swainsoni*

Season: Breeding

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B070>

Bird of conservation concern

Williamson's Sapsucker *Sphyrapicus thyroideus*

Season: Breeding

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B0FX>

Bird of conservation concern

Willow Flycatcher *Empidonax traillii*

Season: Breeding

<https://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B0F6>

Bird of conservation concern

Refuges

Any activity proposed on [National Wildlife Refuge](#) lands must undergo a 'Compatibility Determination' conducted by the Refuge. If your project overlaps or otherwise impacts a Refuge, please contact that Refuge to discuss the authorization process.

There are no refuges within this project area

Wetlands

Impacts to [NWI wetlands](#) and other aquatic habitats from your project may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal Statutes.

Project proponents should discuss the relationship of these requirements to their project with the Regulatory Program of the appropriate [U.S. Army Corps of Engineers District](#).

DATA LIMITATIONS

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

DATA EXCLUSIONS

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tubercid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

DATA PRECAUTIONS

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

There are no wetlands identified in this project area

APPENDIX B

Tables of Mammals, Birds, Reptiles, Amphibians, and Plant Species encountered during the Field Survey

Mammal Species

Cottontail rabbit

Sylvilagus auduboni

Bird Species

Horned lark

Eremophila alperstris

Common raven

Corvus corax

Black-throated sparrow

Amphispiza bilineata

Reptile and Amphibian Species

None

Plant Species

Sand dropseed

Sporobolus wrightii

Indian ricegrass

Stipa hymenidoes

Crested wheatgrass

Agropyron smithii

Sacaton

Sporobolus wrightii

Four-wing

Atriplex canescens

Sand sagebrush

Artemisia filifolia

Sagebrush

Artemisia tridentata

Rabbitbrush

Chrysothamnus nauseosus

Blackbrush

Coleogyne ramosissima

Plains prickly pear cactus

Opuntia phaeacantha

Purple aster

Machaeranthera canescens

Brown-eyed susan

Rudbeckia laciniata

Groundsel

Senecio douglasii

Navajo yucca

Yucca navajoa

Green ephedra

Ephedra viridis

Sandpuff

Tripterocalyx carnea

Milkweed

Aslepias subverticillata

Morning glory

Convolvulus arvensis

Lupine

Lupinus argenteus

Tumble weed

Salsola kali

Red sorrel

Rumex acetosella

Vervain

Verbena macdougalii

Croton

Croton texensis

Silverleaf nightshade

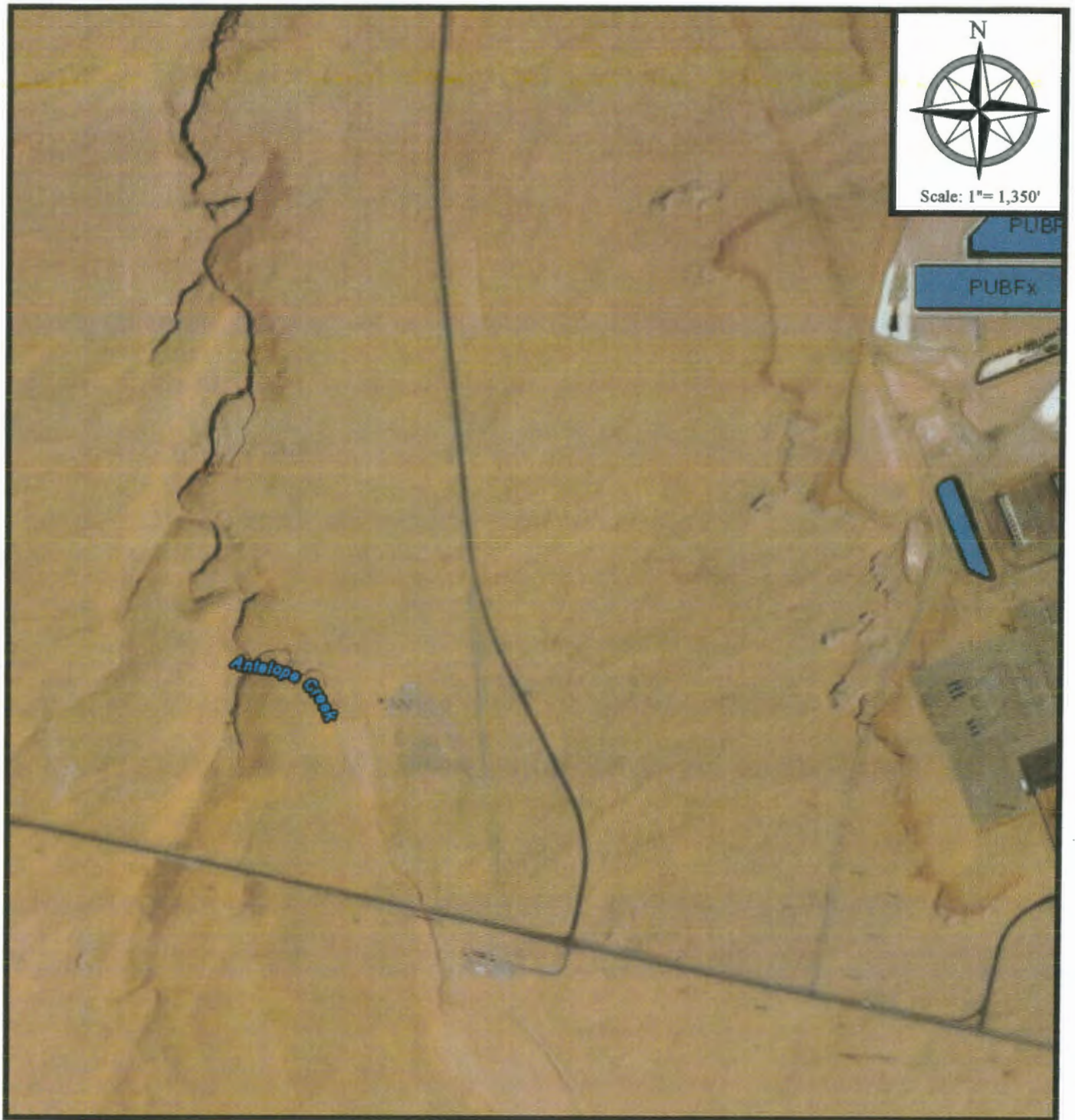
Solanum elaeagnifolium

Purslane

Portulaca oleracea

APPENDIX C

National Wetland Inventory Map: National Wetland Inventory website map



Appendix C. National Wetlands Inventory Map: National Wetland Inventory website map

APPENDIX D

Signature Page

SIGNATURE PAGE

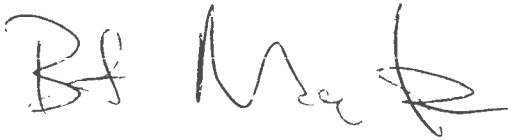
The following two Zoology Unlimited, LLC, biologists conducted the field survey and/or prepared the compliance documentation for the proposed project:

A. Signature One for the Biological Survey Report for Species of Concern on the Ken's Tours, LLC Distribution Power Line with Fiber Optic Cable Project, LeChee Chapter, Arizona, Work Order Number 14-153-0009, dated June 16, 2015.



Jonathan Manygoats
Project Manager/Editor

B. Signature Two for the Biological Survey Report for Species of Concern on the Ken's Tours, LLC Distribution Power Line with Fiber Optic Cable Project, LeChee Chapter, Arizona, Work Order Number 14-153-0009, dated June 16, 2015.



Bob Manygoats
Biologist/Report Preparation



THE NAVAJO NATION

RUSSELL BEGAYE **PRESIDENT**
JONATHAN NEZ **VICE PRESIDENT**



ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF EXECUTIVE DIRECTOR/ADMINISTRATION

OFFICE OF ENVIRONMENTAL REVIEW

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

Website: www.navajonationnepa.org

M E M O R A N D U M

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

FROM:

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

DATE: September 1, 2015

SUBJECT: 164 EOR 004471 Ken's Tour LeChee AZ

The Navajo Nation Environmental Protection Agency (NNEPA) reviewed¹ and recommends **approval** for the proposed 0.625 mile of a distribution line with fiber optic cable project as stated in EOR 004471 pursuant the Title 4, NNC Chapter 9 Navajo Nation Environmental Policy Act, Subchapter 1, §904. NTUA, PO Box 170, Fort Defiance, Arizona, 86504, submitted a right-of-way application to construct, operate and maintenance for a distribution power line with fiber optic. The total length of the proposed action is 0.625 miles, width is 30 feet and/or 2.27 acres, more or less.

If the following recommendations from NNEPA are adhered to, the proposed project will not have a significant effect (direct, indirect, or cumulative) on the quality of the human environment considering the context and intensity of impacts.

¹ NTUA. Environmental Assessment for Ken's Tours LLC Distribution Line with Fiber Optic Cable Project LeChee Coconino County Arizona NTUA Work Order No. 14-153-0009. July 2015.

1. Navajo Nation Clean Water Act:

- a. §Section 401 is required if any drainage with discernable ordinary high water mark will be crossed and/or disturbed.
- b. §Section 402 – Land surface disturbance in excess of 1.0 acre will require compliance with the federal General Construction Permit requirements for storm water discharges. The project will disturb 2.27 acres of surface land. Best Management Practices is highly recommended to be implemented to control sediment runoff.

2. Navajo Nation Safe Drinking Water Act:

- a. Ensure there are no existing drinking waterlines and/or domestic waste waterlines located within the premises of the proposed site to avoid significant impacts to the LeChee and surrounding communities' safe drinking water resources before trenching and/or digging.

3. Navajo Nation Air Pollution Prevention and Control Act:

- a. Suppress dust to lessen air impacts to community members and public located in or near the proposed action.

4. Navajo Nation Pesticide Act:

- a. NTUA is required to monitor and prevent invasive and noxious weeds either by manual or chemical control.
- b. Before applying any chemicals, contact the NNEPA Pesticide Program at 928/871-7815 to ensure the product is in compliance and appropriately applied by a certified and licensed applicator.
- c. Pesticide staff will also may need to be onsite to monitor during pesticide/herbicide application.

5. Navajo Nation Solid Waste Act:

- a. Solid waste generated from the construction and operation activities will be collected and transported by NTUA to a designated trash bins to minimize significant impacts to human and wildlife resources.
- b. If a sub-contractor will be hired to transport waste, ensure the contractors are certified and licensed with the Navajo Nation Business Regulatory Office.
- c. The contractor must submit a copy of the landfill receipt/ticket to guarantee the construction waste has been properly disposed.
- d. Do not allow public to take construction and operation waste. Cumulatively NNEPA gets complaints and reports on illegal trash dumpings on rural areas and in the waters of the US and Navajo Nation.
- e. All illegal waste currently on the proposed site is the responsibility of the lease/permit applicant.

6. Navajo Nation Comprehensive Environmental Response, Compensation and Liability Act (NNCERCLA)

- a. Approved by the Navajo Nation Council, CF-07-08, February 26, 2008, the NN CERCLA includes petroleum (including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas or synthetic gas usable for fuel (or mixtures of natural gas and synthetic gas)) unlike the US CERCLA or the Superfund Law and mandates petroleum, operator and guarantor to report petroleum release ≥ 25 gallons at the site and/or during transport immediately to the Navajo Nation Department of Emergency Management within the Navajo Nation Division of Public Safety.

7. Navajo Nation Storage Tank Act:

- a.* Amended and approved by the Navajo Nation Council, CJA-09-12, February 2012, the aboveground tanks are included to be regulated.
 - b.* No aboveground and/or underground storage tanks are expected to be installed at the proposed site.
- 8. Others:*
 - a.* NTUA will comply with the vegetative reclamation per Navajo Agriculture Department's recommended seed mix within the disturbed areas of the ROW corridors. Ms. Judy Willetto is the contact person for the vegetation seeding reclamation activities. She can be reached at 928/871-6592/6593.
 - b.* NNEPA recommends NTUA to backfill and re-contour the soil material as naturally as possible to lessen the impact to the natural drainages (i.e. redirecting the natural direction of the watershed, creating standing water, creating flooding to the existing roads, etc.) of the land.
 - c.* Avoid unnecessary ground disturbance and removal of vegetation within and adjacent to the ROW corridors.

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

Cc: NTUA, PO Box 170, Fort Defiance, Arizona, 86504
NNEPA Water Quality; Operating Permit Program; STP; Administration chrono file
Contact Person: Caroline Tom, ROW Agent, 928-72-6124



**ENVIRONMENTAL ASSESSMENT
FOR
KEN'S TOURS, LLC DISTRIBUTION LINE WITH
FIBER OPTIC CABLE PROJECT**

**LECHEE, COCONINO COUNTY, ARIZONA
NTUA Work Order No. 14-153-0009**

Prepared by

**NAVAJO TRIBAL UTILITY AUTHORITY
Electric System Planning Section
Post Office Box 170
Fort Defiance, Arizona 86504
(928) 729-6272**

JULY, 2015

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1.0 - PROPOSED ACTION

A. Project Description

The Navajo Tribal Utility Authority (NTUA), Fort Defiance, Arizona, a not for profit enterprise of the Navajo Nation proposes to construct, operate, and maintain 0.625 mile of a distribution line with fiber optic cable within the vicinity of Lechee Chapter, Coconino County, State of Arizona. The community is under the jurisdiction of Western Agency, Bureau of Indian Affairs.

The proposed project right-of-way will consist of a strip of land, thirty (30) feet wide, being fifty (15) feet on each side of the centerline, 3,300.36 feet (0.625 mile) in length and will affect 2.27 acres, more or less, across Navajo Nation Trust Land. Construction activities will consist of the following:

1. NTUA will comply with the 25 Code of Federal Regulations, Part 169: Right-of-Way over Indian Lands.
2. Poles will be hauled to the site by truck and pole trailer. Each pole will be dropped approximately 300 to 400 feet apart along the staked routes.
3. Construction crew will attach cross-arms, insulators, ground wires, and other necessary attachments to each pole.
4. Holes will be dug for poles and anchors with a truck mounted pole digger. A boom mounted on the digger will raise the pole into the holes. The poles will be aligned and plumbed followed by backfilling and repack the hole with dirt.
5. The conductors will be reeled off a wire truck, strung, and lifted onto each pole. The necessary tension will be applied to the conductors and tied to the insulator.
6. The messenger wire will be reeled off a cable trailer, strung, and lifted onto each pole below the wire conductors. The necessary tension will be applied to the cable and tied to the galvanized suspension clamp. Afterwards, the fiber cable (Loose Tube) will be twined to the messenger wire.
7. Construction crew will pick up debris resulting from the construction. Surface disturbance will be restored in accordance to requirements designated by the Navajo Department of Agriculture, Window Rock, Arizona.
8. The operation stage will consist of occasional patrol, maintenance of the power and fiber optic line, and residential meter checks.

B. Purpose and Need for Action

The purpose and need of these facilities is requested by Navajo Tribal Utility Authority (NTUA) to connect Ken's Tours, LLC business facilities from an existing distribution power

line to meet the present day power demand for the business and provide the much needed reliable and safe electrical and communication services. In addition, to avoid disruption of services to the business may enjoy the benefits of such services as lighting, use of appliances, computer technology and entertainment. Currently, the business is operated by a generator.

C. Location

The proposed distribution line with fiber optic cable project is situated within a portion of Section 3, Township 40 North, Range 9 East; Section 34, Township 41 North, Range 9 East; Gila & Salt River Meridian; Quadrangle Maps include: Page, Coconino County, Arizona on Navajo Trust Land.

D. Vicinity Maps

Exhibit "A-1" Right-of-Way Map & Legal Description

2.0 - ALTERNATIVES

A. Formulation of Alternatives

Alternative power systems that may provide energy for the Navajo Nation are Electric distribution lines, Solar energy, and no action. The Chapter and Ken's Tours, LLC prefer the electrical distribution system which provides reliability and safe power supply.

B. Reasonable Alternatives

1. Electric Power Distribution Line

The installation of electric distribution power lines provide safe reliable energy to each of the customers NTUA serves. It will meet both current and future energy requirements for each customer without further interruption, should the customers need additional energy.

Manpower and expertise are available to construct, operate, and maintain the facilities, and to modify the facilities to meet community needs and future growth.

2. Solar Energy

Although solar projects are located in various remote areas of the Navajo Nation, sufficient data from these projects to determine applicability is not available. In addition the amount of energy provided is limited by the size of the installation.

The Chapter and proposed customer do not prefer this alternative due to the investments costs are high, support from the community is not available, In addition, the manpower and expertise to modify the solar unit to meet increases in energy demands and community growth may not be available.

3. No Action

By taking no action, the tour business will continue to operate with an expensive and unsafe generator. Other residential customer households will continue to be lit by kerosene fueled lanterns or lamps, heating and cooking will be done with wood burning stoves, and appliances that will facilitate housework, food preservation, and entertainment will not be provided. This has an adverse effect on the environment and the economy of the customer being served and the Nation as a whole.

The desire of the Navajo Nation is to benefit from modern use of these facilities will not be met and the Navajo Nation's goal to raise the current low standard of living will not be reached or achieved.

C. Alternatives Beyond BIA Authority

The Navajo Tribal Utility Authority does not know of other reasonable alternatives beyond BIA Authority that may be considered

3.0 - DESCRIPTION OF THE AFFECTED ENVIRONMENT

A. Land Resources

The project is located approximately one mile due west from the Navajo Generating Station (NGS), north of Arizona State Highway 98. Structures such as rolling hills, ridges, sand dunal hills, and valleys are to be found within the project area. Elevation for the project area is 4,400 feet (1,341 meters) above mean sea level.

Soils within the region are fine to coarse grained aeolian, alluvial, fluvial, colluvial and residual packages of sand, silt, and clay units along with pebble to boulder sized sedimentary clasts and bedrock outcrops. Vegetation in the region is classified as belonging to the great Basin desert scrub environ which supports a wide variety of flora including but not limited to juniper, sagebrush, snakeweed, rabbit brush, greasewood, shadscale, black brush, Indian rice and gama grass, prickly pear and cholla cacti, narrow leaf yucca, puncture vine, tansy mustard, Russian thistle and green ephedra.

B. Water Resources

Antelope Canyon is located to the west of the NGS and routes north draining into the Lake Powell/Colorado River. Numerous drainages transect the project and are tributaries.

C. Air Resources

Air quality in the area is generally good. The area may be influenced by air pollution from the mining activities and power plants located on the Navajo Nation. Passing motor vehicles on dirt roads and prevailing dusty winds provides period of dense particulate pollution within the project area.

Visibility can exceed 30 miles or more on clear days. During winter months and windy days, visibility may get obstructed.

The proposed project area receives 8-10 inches of rainfall annually. The annual mean temperature is 35 degrees Fahrenheit during winter months and 95 degrees Fahrenheit during the summer months.

D. Biotic Resources

Wildlife species observed within the project area are listed in *Appendix B* of the Biological Survey Report for Species of Concern dated June 16, 2015, prepared by Zoology Unlimited, Flagstaff, Arizona, Exhibit "C-1".

The Natural Heritage Program, Window Rock, Arizona, stated in a letter dated May 6, 2015, stated no record of species of concern occur on or near the project area; however, provided species with potential to occur near the project area and are listed in *Appendix A* of the biological evaluation.

In addition, list of species for Coconino County are found in *Appendix B* of the report

On June 11, 2015, Zoology Unlimited conducted the biological field survey along the proposed right-of-way corridors.

Based on the results on the study done by Zoological Unlimited, it was determined that there will be no significant impact on the following species due to the absence of critical habitat requirements:

a) Roundtail chub	f) Southwestern willow flycatcher
b) Black-footed ferret	g) Northern Mexican gartersnake
c) American dipper	h) Peregrine falcon
d) Razorback sucker	i) Mexican spotted owl
e) Yellow-tailed cuckoo	j) Northern leopard frog

No individuals or stick nests were observed during the survey. Marginal to potentially foraging habitat exists for these species within the project area:

- a) Golden eagle- no nesting habitat is available for this species but potential foraging habitat is present within the project corridor and zone of influence
- b) Ferruginous hawk- no suitable nesting habitat is present for this species within the project corridor and zone of influence due to local development; marginal foraging habitat is present within the project area
- c) California condor- no suitable nesting habitat exists for this species within the project corridor and zone of influence; marginal foraging habitat exist for this species in the project Right-of-way and zone of influence

2. Vegetation

Plant species observed within the project area are listed in *Appendix B* of the report.

No suitable habitat exists within the proposed corridors for the Welsh's milkweed, Atwood's camissonia, and the Parish's alkali grass. No individuals were found during the survey, which, was conducted during the appropriate flowering season for plant species.

E. Cultural Resources

The Navajo Nation Historic Preservation Department (NNHPD) files indicate that one previous survey has been conducted within 300 feet (91 meters) and a result three (3) previously recorded archaeological sites were identified within 300 feet of the proposed project area. The Sacred Places files located in NNHPD's Traditional Culture Program (TCP) was researched to determine if any sacred places are within the project area. The result is there is no TCP within a mile of the project area.

A check of Van Valkenburgh (1974) indicates that one (1) sacred place, *Naatsis aan*, more commonly referred to as Navajo Mountain, is located approximately 29.66 miles (47.72 km) to the east of the proposed project area.

On May 12, 2015, Dinétahdóó Cultural Resources Management (DCRM), Farmington, New Mexico conducted the cultural resources inventory along the proposed right-of-way corridor.

There is one (1) new documented archaeological site, three (3) isolated occurrences (IO), and one (1) in-use site (IUA) identified and recorded during the course of the inventory, DCRM 2015-26.

F. Socio-economic Condition

Major employment is found with Navajo Tribal offices, Federal and State agencies, and businesses situated locally or within principal towns of the Navajo Nation. The Lechee community chapter is located adjacent to the town of Page. Navajo Generating Station is the largest employer in the area.

Lechee Chapter's population is estimated to be 1,877± (based on 2000 census) within the BIA's Western Agency. The Ken's Tours, LLC distribution line with fiber optic cable project will be developed directly west of the NGS, north of Arizona State Highway 98.

The community is centered on the traditional lifestyle of the Navajo people by farming, silversmith, rug weaving, and arts & crafts. In recent years, Navajo entrepreneurs established small businesses with guided tours within the vicinity of Antelope Point. Navajo Nation Parks and Recreation Department operates the Antelope Point Marina.

G. Resources/Land Use Patterns

Natural resources include scenic attractions, sand and gravel, and abandoned coppermine areas, south of Lechee Chapter. The Lechee community is located four miles south of the city of Page and is accessible by US Route 89, State Route 98, and BIA Route 20. Bus service is available in the community.

The community has a new health center, senior citizen center, and pre-school facilities. Recreational facilities include a baseball and basketball field and a rodeo arena.

Education facilities from kindergarten to 8th grade schools through high school are available and provided by Page Public School District. Students from Lechee Chapter are transported by bus.

H. Other Values

The project area is not located within or near wilderness areas. No wetlands or surface water was determined based on preliminary research.

The proposed undertaking will not impact flood plain.

In reference to the National Pollutant Discharge Elimination System (NPDES) Permit, approximately two (2) acres may be disturbed. The project is not confined to a solid land parcel of 2 acres or more, but the poles are spanned and aligned for distribution lines.

4.0 - ENVIRONMENTAL CONSEQUENCES OF THE PROPOSED ACTION

The following impacts (adverse or non-adverse) may occur as a result of the construction of the proposed power line project:

A. Biological Impacts

1. Approximately 2 acres of surface areas may be potentially disturbed during construction and result in an influx of disturbed-soil associated species along the corridor and loss of wildlife cover and forage species.
2. There may be a temporary avoidance of the project area by certain wildlife species during the construction.
3. There may be potential impact to raptor species with large wingspans by electrocution, as birds utilize poles and lines as hunting perches.
4. The Golden eagle, Ferruginous and the California condor may be temporarily displaced from their foraging habitat during construction period. However there should be no long term impact.

B. Physical Impacts

1. Excavation of land to emplace poles and minimal clearing of vegetative land cover will be required during the construction period.
2. Minimal changes to the landscape will be involved; the distribution line with fiber optic cable will be visible on the poles and from a short distance away.
3. The construction will be a temporary project and will have no lasting effect on local residents. Actual construction will be during the daylight hours only and temporary minimum increase of noise from the construction activities.
4. Material storage, handling, and assembly will be conducted at *existing* storage sites.
5. Existing public roads will be used for access during the construction period.
6. Fugitive dust generated by vehicular and equipment traffic, and wind erosion associated with construction activities, is expected to impact air quality on a minor, short-term basis.

5.0 - MITIGATION MEASURES OF THE PROPOSED ACTION

A. Biological Measures

The following mitigation measures are provided to alleviate or minimize negative impacts.

1. Avoid unnecessary ground disturbance and removal of vegetation within and adjacent to the right-of-way corridor during the construction period and maintenance of the distribution and fiber optic line by use of vehicles, construction equipment, and machinery.
2. NTUA will comply with the Vegetative Reclamation for Powerlines Plan prepared by the Navajo Department of Agriculture along the disturbed areas of the right-of-way corridor.
3. Due to the transient nature of the wildlife observed within the project area, the Golden Eagle, Ferruginous hawk, and California Condor are not expected to be adversely impacted by the proposed undertaking.

The stipulations contained in the Biological Resources Compliance Form (BRCF), 15ntua106, Exhibit "C", will be adhered to.

B. Physical Measures

1. NTUA will design and construct the overhead power lines for raptor protection as described in the booklet entitled, "Suggested Practices for Raptor Protection on Power Lines: State of the Art in 2006".
2. Existing roads will be utilized during the construction and maintenance of the power lines and existing disturbed sites for parking areas, staging areas, and vehicle parking.
3. To avoid any impacts to the unnamed washes, NTUA will place poles furthest practical points away from the banks and the conductors will be hand carried across the wash.

C. Solid Waste Management

Navajo Tribal Utility Authority will use best practices and general procedures in regards to Solid Waste Management as follows:

1. Solid waste such as trash/garbage generated in result from the construction activities will be collected and transported by NTUA to a designated and approved trash bins. Salvage materials will be returned to NTUA warehouse yard.
2. NTUA will not and does not generate any hazardous waste.

D. Archaeological Resources

Dinétahdóó Cultural Resources Management conducted the cultural resources inventory and concluded there is one (1) archaeological site, three (3) isolated occurrences (IO), and one (1) in-use area identified and recorded during the course of the inventory, DCRM 2015-26.

The stipulations contained in the Compliance Form No. HPD-15-407 will be adhered to, attached as Exhibit "D".

E. Socio-economic Resources

It is at the request of the client and concurrence of the Lechee Chapter that Navajo Tribal Utility Authority will provide the much needed electrical and communication services to the existing structure in the community. Impact will be no different than what is now being enjoyed.

The Lechee Chapter passed a resolution supporting the proposed distribution line project, dated July 13, 2015, attached as Exhibit "E".

The Project Review Section office consulted the local Grazing Committee Official who indicated there are no permit holders and the area is set aside for economic development, attached as Exhibit "F".

F. Pollution Prevention

To minimize dust and vehicle emissions, the vehicles are equipped with regular exhaust mufflers. A mechanic is scheduled to make routine preventive maintenance for vehicles, equipment, and other machinery at the job site.

6.0 - CONCLUSIONS REGARDING THE SIGNIFICANCE

A total of sixteen (16) species were identified that have potential to occur on or near the project area. Thirteen (13) of the 16 species were not present in the proposed area and are unlikely to be present in the right-of-way corridor, due to the absence of critical habitat requirements.

The Golden eagle, Ferruginous hawk and California condor may be temporarily displaced from the foraging habitat during the construction phase, due to the transient nature of this specie, they are not expected to be adversely impacted.

The Dinétahdóó Cultural Resources Management conducted the cultural resources inventory along the proposed distribution line right-of-way corridor. The stipulations contained in Compliance Form No. HPD-15-407 will be adhered to.

Distribution line with fiber optic cable construction work and activities will be temporary; no significant adverse impacts on the environment are expected as a result of the proposed project.

The proposed distribution line with fiber optic cable project will provide the much needed electrical and communication services to the existing structure in the Lechee community and improve the standard of living and lifestyle.

7.0 & 8.0 - CONSULTATION AND COORDINATION

A. Personnel

The Right of Way Department, Navajo Tribal Utility Authority, Fort Defiance, Arizona conducted the field investigations and research analyses associated with the Environmental Assessment.

1. Jason Yazzie, Right of Way Agent
2. Caroline M. Tom, Right of Way Agent
3. Ettie Anderson, Supervisor, Right of Way Section

B. Consultation and Coordination

1. Dinétahdóó Cultural Resources Management
P.O. Box 2012
Farmington, New Mexico 87499
2. Zoology Unlimited, LLC.
P.O. Box 31132
Flagstaff, Arizona 86003
3. Sonja Detsoi, Wildlife Technician
Navajo Natural Heritage Program
P.O. Box 1480
Window Rock, Arizona 86515
4. Howard P. Draper, Supervisor
Project Review Section
Division of Natural Resources
P.O. Box 9000
Window Rock, Arizona 86515
5. Harrilene Yazzie, Regional NEPA Coordinator
Branch of Environmental Services
BIA - Navajo Area Office
P.O. Box 1060
Gallup, New Mexico 87305-1060
6. Real Estate Services Office
BIA – Western Agency
P.O. Box 127
Tuba City, Arizona 86045
7. Navajo Nation Historic Preservation Department
P.O. Box 4950
Window Rock, Arizona 86515
8. Lechee Chapter
P.O. Box 4720
Page, Arizona 86040

C. Bibliography/References

1. DCRM 2015-26: A Cultural Resources Inventory of a Proposed Distribution Line with Fiber Optic Cable Project To Serve Ken's Tours in the Lechee Chapter, Coconino County, Arizona, for the Navajo Tribal Utility Authority, (Project ID No. 14-153-0009), Author(s): Jeremy Begay & Jeffrey Begay, Archaeologists, June 10, 2015
2. Biological Survey Report for Species of Concern on the Ken's Tours, LLC, Distribution Line with Fiber Optic Cable Project, Lechee Chapter, Navajo Nation, Coconino County, Arizona, Prepared for Navajo Tribal Utility Authority, Author(s) Jonathan Manygoats and Bob Manygoats, June 16, 2015
3. Cultural Resources Compliance Form No. HPD-15-407, June 10, 2015
4. Biological Resources Compliance Form, No. 15ntua106, 22 JUN 2015
5. Right-of-Way for NTUA's Distribution Line with Fiber Optic Cable Project, Ken's Tours, Lechee Chapter, Arizona. NTUA Project ID No. 14-153-0009
6. Environmental Assessment (EA), EA-14-053, for the proposed Lechee (East Phase IV) Distribution Line and Fiber Optic Project, Work Order No. 14-130-0008, to construct, operate and maintain a distribution line extension with fiber optic cable in the vicinity of Lechee, Coconino County, Arizona, Prepared by Navajo Tribal Utility Authority, November 2010
7. Chapter Images: 1996 Edition, Division of Community Development, The Navajo Nation, P.O. Box 1896, Window Rock, Arizona 86515, Compiled, Edited, and Prepared by Larry Rodgers.
8. Regional Hydrogeology of the Navajo and Hopi Indian Reservations, Arizona, New Mexico, and Utah, Geological Survey Professional Paper 521-A.
9. Suggested Practices for Raptor Protection on Power Lines: State of the Art in 2006.
10. U.S. Code of Federal Regulations, Title 40, Protection of the Environment.
11. U.S. Code of Federal Regulations, Title 50, Wildlife and Fisheries.
12. National Historic Preservation Act (NHPA), 36 CFR 60.4.
13. Archaeological Resources Protection Act of 1979 (ARPA), 43 CFR Part 7.
14. American Indian Religious Freedom Act (AIRFA), Public Law 95-341.
15. 36 CFR Part 800: Protection of Historic Properties.
16. Navajo Nation Cultural Resources Protection Act, Tribal Council Resolution No. CMY-19-88
17. U.S. Code of Federal Regulations, Title 25, Part 169: Rights-of-Way over Indian Lands

9.0 - SIGNATURE

D. **Signature**

A handwritten signature in cursive script, reading "Jason Yazzie", is written over a horizontal line.

Jason Yazzie

Electric Systems Division

NAVAJO TRIBAL UTILITY AUTHORITY

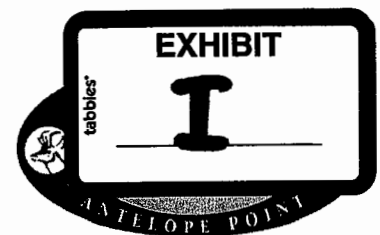
Post Office Box 170

Fort Defiance, Arizona 86504

(928) 729-6272

e-mail address: jasony@ntua.com

LeChee Chapter



P.O. Box 4720 • Page, Arizona • 928-698-2805 • 928-698-2803 fax
LC 07-69-15

SUPPORTING NAVAJO TRIBAL UTILITY AUTHORITY (NTUA) TO CONSTRUCT, OPERATE AND MAINTAIN A DISTRIBUTION POWERLINE WITH FIBER OPTIC CABLE AND ALL OTHER ASSOCIATED UTILITIES TO SERVE KEN'S TOURS, LLC. WITHIN THE VICINITY OF LECHEE CHAPTER

WHEREAS:

1. The LeChee Chapter is recognized by the Navajo Nation to operate as a local government entity to make appropriate recommendations and decisions on behalf of its community members for improvements in matters that are in the best interest of the community; and
2. Ken's Tours has been authorized by the Navajo Nation to operate a tour business within the vicinity of LeChee Chapter to provide economic development and employment. The business is in dire need of utilities and Navajo Tribal Utility Authority (NTUA) was approached by Ken's Tours, LLC to provide distribution powerline and all associated utilities to their business, and
3. The Navajo Tribal Utility Authority proposes to construct, operate and maintain the distribution powerline with fiber optic cable. The length of the line is approximately 3,300 feet with the right of way width being 30 feet impacting 2.28 acres of land. NTUA will complete all necessary environmental clearances including consents for the undertaking; and
4. The LeChee Chapter requests the Resources and Development Committee of the Navajo Nation Council that a waiver of consideration be granted for Ken's Tours, LLC because economic development is one of the priorities of the Navajo Nation; and
5. The LeChee Chapter finds it is in the best interest of the Navajo Nation to support and grant the Right of Way for the distribution powerline with fiber optic and all associated utilities to serve Ken's Tours, LLC.

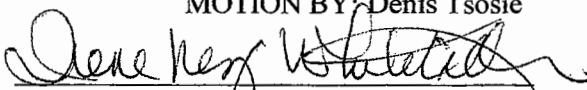
NOW, THEREFORE BE IT RESOLVED THAT:

1. The LeChee Chapter hereby supports and recommends to the Navajo Nation Government and its entities to approve the right of way for a distribution powerline with fiber optic cable and all associated utilities to serve Ken's Tours, LLC as shown on the attached location map.
2. The LeChee Chapter requests the Navajo Nation waive the consideration for the proposed undertaking and all associated utilities because the Navajo Nation supports economic development in Navajo communities and operated by Navajo entrepreneurs.

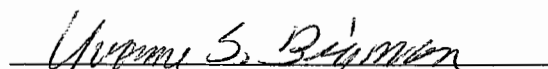
CERTIFICATION

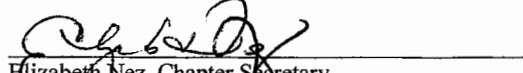
I, hereby certify that the foregoing resolution was duly considered by the LeChee Chapter at a duly called meeting at LeChee Chapter, Navajo Nation, Arizona at which a quorum was present and that same was passed by a vote of 25 in favor, 0 opposed, and 4 abstained, this **13TH** day of **July**, 2015.

MOTION BY: Denis Tsosie

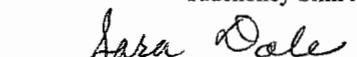

Irene Nez Whitekiller, Chapter President

SECOND BY: Dorothy Trujillo


Yvonne S. Bigman, Chapter Vice President


Elizabeth Nez, Chapter Secretary

UNAVAILABLE
Tauchoney Slim Jr., Council Delegate


Sara Dale, Chapter Grazing Member

Council Delegate
Tauchoney Slim Jr.

Chapter President
Irene Nez-Whitekiller

Vice President
Yvonne S. Bigman

Secretary/Treasurer
Elizabeth Nez

Grazing Committee Member
Sara Dale

PART I
NAVAJO NATION ECONOMIC DEVELOPMENT LEASE
(Navajo Nation Trust Land)

☐ **Standard Business Site Lease**

THIS LEASE, in sextuplicate, is made and entered into this 24 day of October 20 12, by and between THE NAVAJO NATION, hereinafter called Lessor, whose address is Post Office Box 663, Window Rock, Navajo Nation (Arizona) 86515, and, Kenneth and Emily Young DBA: Ken's Tour LLC, hereinafter called the Lessee, whose address is P.O. Box 117 Page, Arizona 86040, in accordance with the provisions of 25 U.S.C. §§ 415(e) as amended, and as implemented by the regulations contained in the Navajo Nation Business Leasing Regulations of 2005, hereinafter called the Tribal Regulations; and any amendments thereto relative to business leases on restricted lands which by this reference are made a part hereto.

A. LAND DESCRIPTION.

1. For and in consideration of the rents, covenants, agreements, terms and conditions contained herein, Lessor hereby leases to the Lessee the following described premises:

KEN'S TOURS, L.L.C.
BUSINESS SITE
4.02 ± ACRE
LOCATED IN SECTION 3
T. 40 N., R. 09 E. G.&S.R.M.
DISTRICT 01, NAVAJO NATION
LECHEE, COCONINO COUNTY, ARIZONA

LEGAL DESCRIPTION:

A PARCEL OF LAND SITUATED WITHIN SECTION 3, TOWNSHIP 40 NORTH, RANGE 09 EAST, GILA & SALT RIVER MERIDIAN, DISTRICT 01, NAVAJO NATION, IN LECHEE, COCONINO COUNTY, STATE OF ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 34, TOWNSHIP 41 NORTH, RANGE 09 EAST, MARKED BY A B.L.M. ALUMINUM CAP SET IN SANDSTONE, FROM WHICH THE NORTHEAST CORNER OF SAID SECTION 3, MARKED BY A B.L.M. BRASS CAP LIES N 89°59'37" E, A DISTANCE OF 1451.65 FEET (G.P.S. DERIVED BASIS OF BEARINGS) (EAST, 1451.34 FEET PER B.L.M. SURVEY PLAT 1336-E, DATED JUNE 7, 2006, R1), AND FROM WHICH THE NORTH QUARTER CORNER OF SAID SECTION 3, MARKED BY A B.L.M. BRASS CAP LIES N 89°59'36" W, A DISTANCE OF 1188.30 FEET (EAST, 1188.66 FEET PER R1), THENCE S 22°40'35" E, A DISTANCE OF 48.34 FEET TO A 5/8" REBAR WITH PLASTIC CAP STAMPED "GPS RLS 42048"; SAID POINT BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND;

Initials Ky. Ey

THENCE S 89°27'05" E, A DISTANCE OF 352.35 FEET TO A 5/8" REBAR WITH PLASTIC CAP STAMPED "GPS RLS 42048";
THENCE S 39°56'16" E, A DISTANCE OF 423.30 FEET TO A 5/8" REBAR WITH PLASTIC CAP STAMPED "GPS RLS 42048";
THENCE S 69°09'25" W, A DISTANCE OF 338.60 FEET TO A 5/8" REBAR WITH PLASTIC CAP STAMPED "GPS RLS 42048";
THENCE N 62°56'58" W, A DISTANCE OF 222.20 FEET TO A 5/8" REBAR WITH PLASTIC CAP STAMPED "GPS RLS 42048";
THENCE N 17°31'59" W, A DISTANCE OF 364.29 FEET TO THE POINT OF BEGINNING.

SAID PARCEL BEING 4.02 ACRES MORE OR LESS, AND BEING SUBJECT TO ANY AND ALL EXISTING EASEMENTS FOR UTILITIES LOCATED THEREIN.

Said Property is shown on the attached survey plat marked as Exhibit "A", which by reference is made part hereof.

2. All of the above land is located in LeChee Chapter of the Navajo Nation, County of Coconino, State of Arizona, subject to any prior, valid, existing rights-of-way and easements. There is hereby reserved and excepted from the leased premises rights-of-way for utilities constructed by or on authority of the Lessor, provided that such rights-of-way do not unreasonably interfere with Lessee's use of the leased premises.

B. PURPOSE, UNLAWFUL USES.

1. Lessee shall develop, use and operate the leased premises for the following purposes only:

(1) Operation of Daily Guided Tours through the Lower Antelope Canyon; (2) Rest Areas along the Trail, (3) Visitor Center (including Gift Shop and Waiting Area); and Waterless Restroom Facilities (with holding tanks).
2. The leased premises shall not be used by Lessee, Sublessee(s) or Assignee(s), for any purpose or purposes other than those set out above, except with the prior written consent of Lessor. Consent may be withheld, granted, or granted upon conditions, in the sole discretion of Lessor.
3. Lessee agrees that it will not use or cause to be used any part of the leased premises for any unlawful conduct or purpose.

C. TERM.

The term of this Lease shall be twenty-five (25) years, beginning on the date this Lease is executed by the Navajo Nation President or an authorized designee.

Lessee may exercise options to renew for one additional term of twenty-five (25) years, and a second additional term of twenty-five (25) years. Both options may be granted provided the Lease is not in default. Lessee shall give written notice of its intent to renew this Lease to the Division Director of the Division of Economic Development or successor, at least one year, prior to the expiration date of this Lease. Renewal of this Lease is subject to the written approval of the Navajo Nation President and applicable provisions of Navajo Nation law and the Tribal Regulations, including all amendments and successors thereto.

Initials Ky, Ee

D. RENTAL.

1. The Lessee, in consideration of the foregoing, covenants and agrees to pay in lawful money of the United States of America to the Navajo Nation Department of Parks and Recreation, the following:

Years 1-2:	\$1.00 per annum/Development Period
Years 3-5:	\$10,200 per annum
Years 6-10:	\$13,200 per annum
Years 11-15:	\$16,200 per annum
Years 16-20:	\$19,200 per annum
Years 21-25:	\$22,200 per annum
2. Lessee must make monthly rental payments in advance equal to at least one-twelfth of the aforementioned minimum annual rental. All payments shall be deposited with the Navajo Nation Department of Parks and Recreation. When the annual accounting required by Section 1.3, Part II, of this Lease is completed, Lessee shall pay any balance due on the payment, if applicable, or if there is an overpayment, the overpayment shall be credited toward future rents.
3. Payments shall be paid on the 1st of each month, if payment is unpaid ten (10) days after the due date, the Lessee shall be subject to a late charge. Should the Lessee not pay rent within thirty (30) days after the due date, the Lessee shall be subject to a late charge of 10% of the monthly amount due, however such amount shall be prorated for each day the rent is not paid until the thirtieth day after the due date, the amount above shall be paid in full. If the Lessee does not pay the full amount within sixty (60) days the Lessee shall be subject to an additional late charge of 10% of the monthly amount due. If the Lessee does not pay the full amount within ninety (90) days, the Lessee shall be subject to an additional late charge of 10% of the amount due, and the lease shall be subject to termination.
4. In the event a sublease, assignment, amendment or transfer of this Lease, or any right to or interest in this Lease, or any improvements are made to the leased premises, the rent and other terms of this Lease shall be subject to renegotiation. In addition, if the Lessee exercises any options to renew, the Lessor reserves the right to renegotiate the rent, for any change in economic conditions and other terms of the Lease.
5. Lessor reserves the right to inspect the books and records of the Lessee and any future Sublessee or Assignee to verify the accuracy of the payments made.

E. IMPROVEMENTS.

1. The Lessee, in consideration for the granting of this Lease, covenants and agrees that Lessee will construct a Visitor Center, Rest Areas, and Restrooms Facilities at a cost of and having a reasonable value of \$700,000.00 or more.
2. Except as otherwise provided in this Lease, all buildings and improvements, excluding removable personal property and trade fixtures, on the leased property shall remain on said property after termination of this Lease and shall thereupon become the property of Lessor. However, Lessor may require Lessee, at Lessee's expense, to remove improvements and restore the premises to the original state, within reason, upon termination of this Lease. Any removal of property by Lessee must be completed within ninety (90) days after termination of this Lease, such presence on the property shall not be deemed a holdover or trespass, provided Lessee is acting in a diligent manner to

Initials

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remove such property. Upon the expiration of the ninety (90) day extension, the Lessor has the right to grant another extension or re-enter the premises, at such time the Lessee shall have no right or interest to the premises or any remaining improvements.

3. The term "removable personal property" as used in this Section shall not include property which normally would be attached or affixed to the buildings, improvements or land in such a way that it would become a part of the realty, regardless of whether such property is in fact so placed in or on or affixed to the buildings, improvements or land in such a way as to legally retain the characteristics of personal property. Lessee shall remove all removable personal property and trade fixtures prior to termination of this Lease. Should Lessee fail to remove said personal property and trade fixtures prior to termination of this Lease, said property shall thereupon become property of Lessor, and may be disposed of in any manner by Lessor.
4. At the expiration or termination of the lease, the Lessor has the first right of refusal to purchase any permanent improvements to the premises at fair market value.

F. COMPLETION OF DEVELOPMENT.

1. The Lessee shall complete the full improvement and development of the leased premises in accordance with the general plan and architect's design. The date for substantial completion of development shall be twenty-four (24) months from the date the Lease is executed by the Navajo Nation President. If the Lessee fails to substantially complete development within such period, such failure shall constitute a default and may be cause for termination, subject to this Section (F)(4) or unless otherwise agreed.
2. Prior to the commencement of construction of any new improvements on the leased premises, or prior to the beginning of any repair or alteration thereto, or work or labor thereon, Lessee shall post non-responsibility notices at the site on Lessor's behalf.
3. Upon completion of construction, the Lessee is required to submit any layout or general plans of the building or facility to the Navajo Nation Department of Parks and Recreation.
4. Whenever under this Lease a time is stated within which or by which original construction, repairs, or reconstruction of improvements shall be made and during such period a general or sympathetic strike or lock out occurs, war or rebellion ensues, or some event unquestionably beyond Lessee's power to control, the period of delay so caused shall be added to the period limited herein for the completion of such work.

G. CONSTRUCTION, MAINTENANCE, REPAIR, ALTERATION.

1. All improvements placed on the leased premises shall be constructed in a good and workmanlike manner and in compliance with applicable laws and building codes. All parts of building visible to the public or from adjacent properties shall present a pleasant appearance as determined by Lessor and all service areas shall be screened from public view to the satisfaction of Lessor. Lessee shall, at all times during the term of this Lease and at Lessee's sole cost and expense, maintain the premises and all improvements thereon and any alterations, additions, or appurtenances thereto, in good order and repair and in a safe, sanitary, neat and attractive condition, and shall otherwise comply with all laws, ordinances and regulations applicable to said premises.
2. Lessee shall have the right during the term of this Lease to make alterations, additions or repairs to improvements on the premises unless the amount of the full completion of the alteration, addition or repair, will exceed \$50,000.00. Every ten (10) years, beginning on

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Ky, [Signature]

the execution date of this Lease, the Lessee may send a letter to Lessor requesting review of this amount based on inflation. It shall be discretion of Lessor to determine whether this amount should be amended. Alterations, additions or repairs in excess of the above amount or any removal or demolition of an improvement can be made only with the written approval of Lessor.

3. Lessee shall indemnify and hold harmless the Lessor and the United States against liability for all claims arising from Lessee's failure to maintain said premises and the improvements thereon as herein above provided, or from Lessee's non-observance of any law, ordinance or regulation applicable thereto.

H. RENTAL AND PERFORMANCE SECURITY.

1. Lessee agrees to post a corporate security bond or other security satisfactory to the Navajo Nation in the amount of \$2,550.00, which shall remain in force for the full term of this Lease. From time to time, the amount of the security may be increased or decreased by the Real Estate Department, Division of Economic Development, which shall be placed in writing and become an attachment to this Lease. The purpose of such security is to guarantee performance on the Lease.
2. Upon execution of the Lease, a copy of the security posted shall be submitted to the Lessor, unless granted a postponement by the Lessor. The security shall be posted within thirty (30) days of execution of the Lease.

I. CONSTRUCTION BOND.

1. At Lessor's option, prior to the commencement of construction of any improvement on the leasehold premises, the Lessee will cause his construction contractor to post a construction bond in favor of Lessor and Lessee. If the construction contractor cannot post such a bond, the Lessee shall post the construction bond. The purpose of the construction bond is to guarantee the completion of the improvements and payment in full of valid claims of all persons for work performed in or materials furnished for construction of the improvements. The construction contractor or the Lessee may provide security by either:
 - A) Posting a corporate surety bond in an amount equal to the cost of each improvement, said bond to be deposited with the Lessor and to remain in effect until the improvement is satisfactorily completed. Said bond shall be conditioned upon faithful performance by Lessee or his construction contractor and shall give all claimants a right of action to recover upon said bond in any suit brought to foreclose on any mechanic's or materialmen's liens against the property. If United States Treasury Bonds are provided, Lessee, or his construction contractor, agrees to make up any deficiency in the value deposited that might occur due to a decrease in the value of the bonds. Interest on said bonds shall be paid to Lessee.
 - B) Depositing cash with the Lessor or non-revocable letter of credit or CD at an institution acceptable to the Lessor satisfactory to Lessor in an amount sufficient to pay the entire cost of construction of each building or other improvement then to be erected on the premises. Interest on said security shall be paid to Lessee or his construction contractor. The funds so deposited may then be used, at the option of Lessor, to discharge any valid mechanic's or materialmen's liens; if no

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such liens exist, the withheld funds shall be disbursed to Lessee or his construction contractor.

2. If Lessee enters into a construction loan agreement with a financial institution, said loan agreement shall be subject to the approval of Lessor. Prior to such approval, Lessee shall perform all conditions precedent to the assumption of obligations under the agreement by the financial institution and Lessee shall deposit with the lending institution, or otherwise other security acceptable to the Lessor, the difference between the amount of the loan and the total cost of improvement.

J. INSURANCE

1. Lessee shall obtain Commercial General Liability Insurance within thirty (30) days from the date of execution of the Lease, provided however it is explicitly understood and agreed the Lessee must submit a copy of the Certificate of Insurance before beginning operations of the leased premises. The Commercial General Liability Insurance shall be with an unimpaired minimum combined single limit not less than in the amount of \$1,000,000 including with each occurrence a General Aggregate Limit of \$2,000,000.
2. Lessee shall obtain Fire and Casualty Insurance with the minimum insurance coverage of not less than \$500,000. Upon execution of the Lease, a certificate of insurance shall be submitted to the Lessor, unless granted a postponement by the Lessor. The insurance shall be posted no later than the receipt of all approvals to commence with construction of the improvements or the first drawdown for financing is received.

K. SUBLEASES

Subleases must be approved by the Navajo Nation and with written consent from all sureties and are subject to the requirements as set forth in the Navajo Nation Business Site Lease Management Plan.

L. NOTICES AND DEMANDS.

1. All notices, demands, requests or other communications to or upon either party provided for in this Lease, or given or made in connection with this Lease, shall be in writing and shall be addressed as follows:

To or upon Lessor: President
The Navajo Nation
Post Office Box 9000
Window Rock, Navajo Nation (Arizona) 86515
Telefax: 1-928-871-7381

To or upon Lessee: Kenneth and Emily Young
DBA: Ken's Tour LLC
P.O. Box 117
Page, Arizona 86040

Copies to: Division Director
Division of Natural Resources
P.O. Box 9000
Window Rock, Navajo Nation (Arizona) 86515
Telefax: 1-928-871-7040

Initials

Department Director
Department of Parks and Recreation
P.O. Box 2520
Window Rock, Navajo Nation (Arizona) 86515
Telefax: 1-928-871-6637

Department Director
Division of Economic Development/Project Development
P.O. Box 663
Window Rock, Navajo Nation (Arizona) 86515
Telefax: 1-928-871-6507

2. All notices shall be given by personal delivery, by registered or certified mail, postage prepaid or by facsimile transmission, followed by surface mail. Notices shall be effective and shall be deemed delivered when dispatched and may be delivered by personal delivery, registered or certified mail, or by facsimile transmission, followed by surface mail.
3. Lessor and Lessee may at any time change its address for purposes of this Section by written notice.

M. APPLICABLE TERMS AND CONDITIONS

The Standard Terms and Conditions for Economic Development Leases on Navajo Nation Trust Land in Part II of this Lease apply to this Lease and are incorporated herein in their entirety (NOTE: The Terms and Conditions for a Standard Business Site Lease apply to all Leases. The Terms and Conditions for Business Site Leases with Underground Storage Tanks apply where they are appropriate. If Underground Storage Tanks are on the premises when the Lessee signs the Lease, or are installed after the Lessee signed the Lease, these Terms and Conditions will apply to the Lease as a matter of law.

The specific Version of Standard Terms and Conditions for Navajo Nation Economic Development Leases (Trust Land) is under Resolution No. EDCO-48-07.

Initials

Ky. [Signature]

IN WITNESS THEREOF:

Kenneth and Emily Young
DBA: Ken's Tour

Kenneth Young 09-17-12
(Lessee) Date

Emily Young 9/17/2012
(Lessee) Date

THE NAVAJO NATION, LESSOR

By: RM Sully
NAVAJO NATION PRESIDENT

Date: OCT 24 2012

Initials KY, EJ

EXHIBIT A

RESULTS OF SURVEY

KEN'S TOURS, L.L.C.
BUSINESS SITE

4.02 ± ACRE

LOCATED IN SECTION 3

T. 40 N., R. 09 E. G. & S. R.M.

DISTRICT 01, NAVAJO NATION

LECHEE, COCONINO COUNTY, ARIZONA

LEGAL DESCRIPTION:
A PARCEL OF LAND SITUATED WITHIN SECTION 3, TOWNSHIP 40 NORTH, RANGE 09 EAST, QILA SALT RIVER MERIDIAN, DISTRICT 01, NAVAJO NATION, IN LECHEE, COCONINO COUNTY, STATE OF ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 34, TOWNSHIP 41 NORTH, RANGE 09 EAST, MARKED BY A B.L.M. ALUMINUM CAP SET IN SANDSTONE, FROM WHICH THE NORTHEAST CORNER OF SAID SECTION 3, MARKED BY A B.L.M. BRASS CAP 1/8" N 89°59'31" E, A DISTANCE OF 1461.65 FEET (P.P.S. DERIVED BASIS OF BEARINGS) LEAST 1461.65 FEET PER R.L. TO A B.L.M. BRASS CAP 1/8" N 89°59'31" E, A DISTANCE OF 1188.30 FEET (EAST), 1188.30 FEET PER R.L., THENCE S 22°40'35" E, A DISTANCE OF 48.34 FEET TO A 5/8" REBAR WITH PLASTIC CAP STAMPED "GPS RLS 42048"; SAID POINT BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND;
THENCE S 89°27'05" E, A DISTANCE OF 332.35 FEET TO A 5/8" REBAR WITH PLASTIC CAP STAMPED "GPS RLS 42048";
THENCE S 89°27'05" E, A DISTANCE OF 332.35 FEET TO A 5/8" REBAR WITH PLASTIC CAP STAMPED "GPS RLS 42048";
THENCE N 82°56'58" W, A DISTANCE OF 222.20 FEET TO A 5/8" REBAR WITH PLASTIC CAP STAMPED "GPS RLS 42048";
THENCE N 17°31'59" W, A DISTANCE OF 384.28 FEET TO THE POINT OF BEGINNING.

SAID PARCEL BEING 4.02 ACRES MORE OR LESS, AND BEING SUBJECT TO ANY AND ALL EXISTING EASEMENTS FOR UTILITIES LOCATED THEREIN.

EXHIBIT "A"

REFERENCES:
(R1) SURVEY PLAT OF T. 40 N. R. 09 E. G. & S. R.M., PLAT NO. 1336-E, BUREAU OF LAND MANAGEMENT, DATED JUNE 7, 2008.
(R2) BOUNDARY SURVEY OF KENNETH AND EMILY YOUNG 4.01 ACRES BUSINESS TRACT, PREPARED FOR 1ST ORDER LAND SERVICES BY GOLDTOOTH PRECISION SOLUTIONS, INC., DATED MARCH 4, 2011.

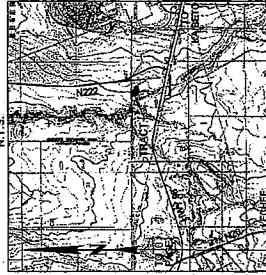
BASIS OF BEARINGS:
THE NORTH SECTION LINE OF SECTION 3 ALSO BEING THE TOWNSHIP LINE COMMON TO TOWNSHIPS 40 NORTH AND TOWNSHIP 41 NORTH G. & S. R.M., WITH A GPS DERIVED BEARING OF N 89°59'31" E AND BEARING OF EAST PER B.L.M. SURVEY PLAT NO. 1336-E.

SURVEYOR'S NOTE:
1. THIS SURVEY MAKES NO STATEMENT REGARDING RIGHTS TO THIS TRACT OR PRIOR RIGHTS WHICH MAY HAVE EXISTED PRIOR TO THIS SURVEY.

CERTIFICATION:
THIS IS TO CERTIFY THAT THE SURVEY AND SUBDIVISION OF THE PREMISES DESCRIBED AND PLATTED HEREON WERE MADE UNDER MY DIRECTION DURING THE MONTH OF APRIL 2012, THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN; THAT MONUMENTS SHOWN ACTUALLY EXIST OR WILL BE SET AS SHOWN; THAT THEIR POSITIONS ARE CORRECTLY SHOWN, AND THAT SAID MONUMENTS ARE SUFFICIENT TO ENDURE THE SURVEY TO BE RETRACED.

HAUBERT O. GOLDTOOTH, AZ RLS 42048

VICINITY MAP



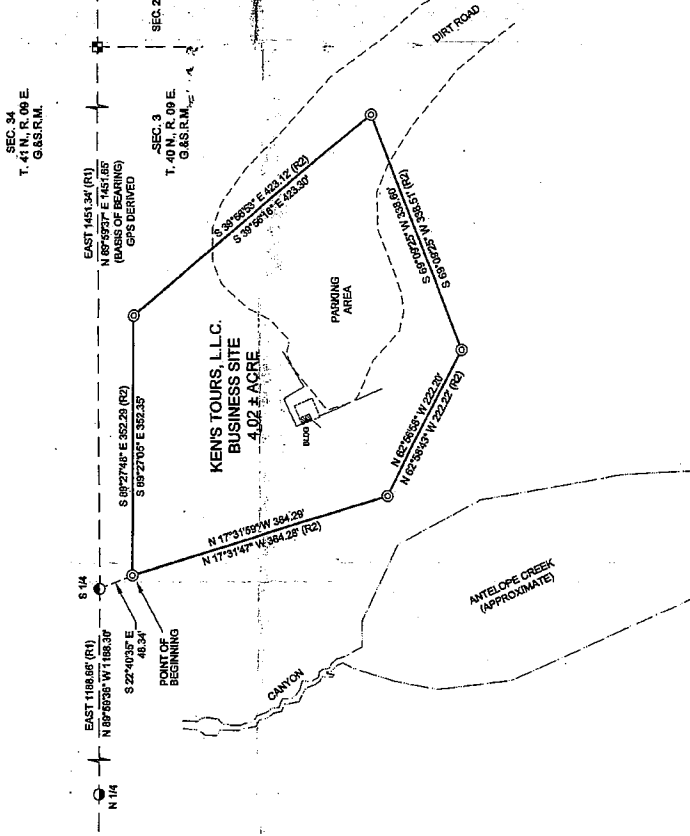
GOLDTOOTH PRECISION SOLUTIONS, INC.

P.O. BOX 640 TUBA CITY, AZ 86045 PH: (928)283-4652 FAX: (928)283-5073



Job No.: 1208
Surveyed: April 12, 2012
File: 1208 Ken's Tours.dwg
Drawn by: H. Goldtooth
Checked by: H. Goldtooth
Revised: 9-25-12, 10-3-12
Scale: 1" = 100'
Sheet: 1 of 1

SCALE: 1" = 100'



- LEGEND:
- FOUND 3" BRASS CAP, B.L.M. SECTION CORNER
 - FOUND 3" ALUMINUM CAP, B.L.M. SOUTH 1/4 CORNER
 - FOUND 3" BRASS CAP, B.L.M. NORTH 1/4 CORNER
 - FOUND 5/8" REBAR WITH PLASTIC CAP STAMPED "GPS RLS 42048"
 - CALCULATED, NOTHING SET

**RESOLUTION OF THE
DIVISION OF ECONOMIC DEVELOPMENT**

AN ACTION

An Action Relating to Economic Development: Approving a Business Site Lease between the Navajo Nation and Ken's Tour LLC, whose address is Post Office Box 117, Page, Arizona 86040

BE IT ENACTED:

1. The Division of Economic Development Approving Committee finds that pursuant to the Navajo Nation Business Leasing Regulations ("Tribal Regulations"), Economic Development Committee Business Leasing Regulations, Navajo Nation Business Site Leasing Management Plan, 2 N.N.C. § 500; and the Master Plan of Operation for the Division of Economic Development the Division of Economic Development is authorized to approve leasing transactions, as defined in the Tribal Regulations for the Navajo Nation.
2. The Division of Economic Development hereby approves the Business Site Lease by and between the Navajo Nation and Ken's Tour, LLC to operate guided tours through the Lower Antelope Canyon. The Lease Term is for a period of Twenty-Five (25) years with two options to renew, each for additional term of twenty-five (25) years.
3. The President of the Navajo Nation is hereby authorized to execute the leasing transaction for Ken's Tour LLC and all other documents necessary to implement the intent of this action.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Business Site Lease Approving Committee of the Division of Economic Development at a duly called meeting held in Saint Michaels, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 3 in favor, 0 opposed, this 4th day of June, 2012.



Raymond Nopah, Chairperson
Business Site Lease Approving Committee

Motion: Jeannette Jones
Second: Arthur J. Hubbard, Jr.



Ken's Tours, LLC

7/29/2015

164 Executive Review Sheet

No. 004471

*Name of Project: Ken's Tours LLC Distribution Powerline with Fiber Optic cable
Project ID. No. 141530009*

Letter of Application

Exhibit "A"

Legal Description

Exhibit "B"

Field Clearance

Exhibit "C"

Navajo Nation Right-of-Way Terms & Conditions

Exhibit "D"

Cultural Resources Compliance (CRCF) HPD-15-407

Exhibit "E"

Biological Resource Compliance Form (BRCF) 15NTUA106

Exhibit "F"

Biological Survey Report

Exhibit "G"

Environmental Assessment and other addendum

Exhibit "H"

Chapter Resolution

Exhibit "I"

Other pertinent documents if requested.

- Business Site Lease-Kenneth & Emily Young
- Survey plat
- Resolution of the Division of Economic Development DEDA-46-2012



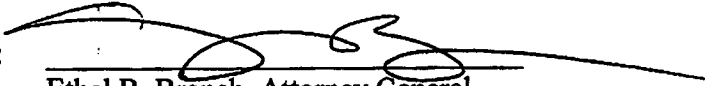
NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

ETHEL B. BRANCH
ATTORNEY GENERAL

MEMORANDUM

TO: EXECUTIVE/LEGISLATIVE/JUDICIAL BRANCH PROGRAMS

FROM:


Ethel B. Branch, Attorney General
Office of the Attorney General

DATE: August 24, 2015

SUBJECT: New Assistant Attorney General – Natural Resources Unit

The Office of the Attorney General is pleased to announce that Veronica Blackhat assumed the Assistant Attorney General position in the Natural Resources Unit effective today, August 24, 2015. Ms. Blackhat has worked for the Department of Justice for the past 15 years effectively providing legal advice in the areas of legal issues affecting natural resources, transportation, and 638 contracting for the Nation. The Nation is very fortunate that she has agreed to assume the Assistant Attorney General position. Ms. Blackhat can be reached at 871-6347.



THE NAVAJO NATION

Minerals Department


Post Office Box 1910
Window Rock, AZ 86515
Telephone: (928) 871-6587
Fax: (928) 871-7095

Russell Begaye
President

Jonathan Nez
Vice-President

MEMORANDUM

TO : Howard Draper, Senior Program Project Specialist
Project Review Office, Navajo Land Department

FROM : 
Akhtar Zaman, Director
Minerals Department

DATE : August 20, 2015

SUBJECT: EXECUTIVE OFFICIAL REVIEW DOCUMENT NO. 004471,
NTUA – ROW FOR KEN'S TOUR, LECHEE, AZ

The referenced project is clearly intended to provide service to a commercial operation and we don't recommend waiving the consideration.

cc: Steven Prince, Acting Principal Mining Engineer
Chrono

Document No. 004471Date Issued: 07/31/2015**EXECUTIVE OFFICIAL REVIEW**Title of Document: NTUA- ROW for Ken's Tour LeChee AZ Contact Name: DRAPER, HOWARDProgram/Division: DIVISION OF NATURAL RESOURCESEmail: howarddraper@frontiernet.net Phone Number: 928/871-6447☐ **Business Site Lease** Sufficient Insufficient

- | | | | |
|---|-------------|---|---|
| 1. Division: _____ | Date: _____ | □ | □ |
| 2. Office of the Controller: _____ | Date: _____ | □ | □ |
| (only if Procurement Clearance is not issued within 30 days of the initiation of the E.O. review) | | | |
| 3. Office of the Attorney General: _____ | Date: _____ | □ | □ |

☐ **Business and Industrial Development Financing, Veteran Loans, (i.e. Loan, Loan Guarantee and Investment) or Delegation of Approving and/or Management Authority of Leasing transactions**

- | | | | |
|--|-------------|---|---|
| 1. Division: _____ | Date: _____ | □ | □ |
| 2. Office of the Attorney General: _____ | Date: _____ | □ | □ |

☐ **Fund Management Plan, Expenditure Plans, Carry Over Requests, Budget Modifications**

- | | | | |
|---|-------------|---|---|
| 1. Office of Management and Budget: _____ | Date: _____ | □ | □ |
| 2. Office of the Controller: _____ | Date: _____ | □ | □ |
| 3. Office of the Attorney General: _____ | Date: _____ | □ | □ |

☐ **Navajo Housing Authority Request for Release of Funds**

- | | | | |
|--|-------------|---|---|
| 1. NNEPA: _____ | Date: _____ | □ | □ |
| 2. Office of the Attorney General: _____ | Date: _____ | □ | □ |

☐ **Lease Purchase Agreements**

- | | | | |
|--|-------------|---|---|
| 1. Office of the Controller: _____ | Date: _____ | □ | □ |
| (recommendation only) | | | |
| 2. Office of the Attorney General: _____ | Date: _____ | □ | □ |

☐ **Grant Applications**

- | | | | |
|---|-------------|---|---|
| 1. Office of Management and Budget: _____ | Date: _____ | □ | □ |
| 2. Office of the Controller: _____ | Date: _____ | □ | □ |
| 3. Office of the Attorney General: _____ | Date: _____ | □ | □ |

☐ **Five Management Plan of the Local Governance Act, Delegation of an Approving Authority from a Standing Committee, Local Ordinances (Local Government Units), or Plans of Operation/Division Policies Requiring Committee Approval**

- | | | | |
|--|-------------|---|---|
| 1. Division: _____ | Date: _____ | □ | □ |
| 2. Office of the Attorney General: _____ | Date: _____ | □ | □ |

☐ **Relinquishment of Navajo Membership**

- | | | | |
|--|-------------|---|---|
| 1. Land Department: _____ | Date: _____ | □ | □ |
| 2. Elections: _____ | Date: _____ | □ | □ |
| 3. Office of the Attorney General: _____ | Date: _____ | □ | □ |

164 EOR 00471

☐ Land Withdrawal or Relinquishment for Commercial Purposes

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

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

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

☐ Rights of Way

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

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

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

☐ Assignment of Mineral Lease

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

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

1. NLD	<i>[Signature]</i>	Date: 8/5/15	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. F&W	<i>[Signature]</i>	Date: 8/1/15	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. HPD	<i>[Signature]</i>	Date: 8/13/15	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Minerals	<i>(subject to attached memo)</i>	Date: 8/20/15	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. NNEPA	<i>[Signature]</i>	Date: 9-1-2015	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. DNR	<i>[Signature]</i>	Date: 9-2-2015	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. DOJ	<i>(ic)</i>	Date: 9-14-15	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. OPVP	<i>[Signature]</i>	Date: 9-15-15	<input checked="" type="checkbox"/>	<input type="checkbox"/>

☐ OTHER:

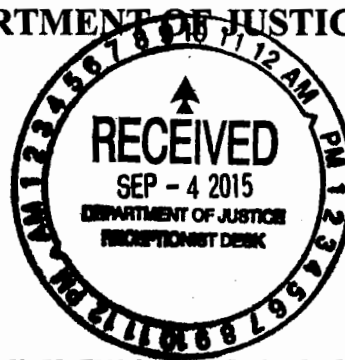
1. _____	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. _____	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. _____	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. _____	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>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



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM

☐ RESUBMITTAL



DOJ	
09-04-15 9:56a	
DATE / TIME	
<input type="checkbox"/> 7 Day Deadline	
DOC #:	004471
SAS #:	
UNIT:	NRN

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

CLIENT TO COMPLETE

DATE OF REQUEST:	8/5/2015	DIVISION:	Natural Resources (DNR)
CONTACT NAME:	Howard P. Draper, Kayla Bia, Vera Shurley	DEPARTMENT:	Navajo Land Dept (NLD)
PHONE NUMBER:	X-6447, 6401, 6490	E-MAIL:	howarddraper@frontiernet.net, klbia@frontier.com; verashurley@frontiernet.net
TITLE OF DOCUMENT: Approving Right-of-Way to NTUA to construct, operate and maintain a (commecial) distribution power line with fiber optic cable to Ken's Tours, Lechee, Arizona W.O. 141530009			

DOJ SECRETARY TO COMPLETE

DATE / TIME	9.4.15	REVIEWING ATTORNEY/ADVOCATE:	Irvin Chee
DATE / TIME	10:45		9.10.15
DATE / TIME	9.14.15	10:22	By

DOJ ATTORNEY / ADVOCATE COMMENTS

Document is legally sufficient.

REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
Irvin Chee	9/9/15	Vernica Blackbird	9/14/15 7:40am

DOJ Secretary Called: Howard Draper for Document Pick Up on 9/14/15 at 10:10 By B

PICKED UP BY: (Print)	DATE / TIME:
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NNDOJ/DRRF-July 2013

COMPLETED