RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
23rd Navajo Nation Council --- Third Year, 2017

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE RENEWAL FOR TWENTY (20) YEARS OF A RIGHT-OF-WAY FOR 69 kV TRANSMISSION LINE LOCATED SOUTH OF MORGAN LAKE IN NENAHNEZAD CHAPTER, SAN JUAN COUNTY, NEW MEXICO FOR THE NAVAJO TRANSITIONAL ENERGY COMPANY

BE IT ENACTED:

SECTION ONE. AUTHORITY

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

SECTION TWO. FINDINGS

A. The existing Right-of-Way (ROW) was originally granted in 1967 to the Utah Construction and Mining Company, held by Utah International, Inc. See Exhibit E.

B. In 1976 Utah International, Inc. merged with General Electric Company. See Exhibit E.

C. In 1984 Utah International, Inc. was sold by General Electric Company to BHP Billiton. In the three years immediately after the acquisition, Utah International continued to operate as an independent business entity during which time it directly owned and operated the Navajo Mine and associated ROWs. See BHP Billiton website Corporate History 1984.

D. By 2013 Navajo Mine and its associated ROWs were owned and operated by the BHP Navajo Coal Company, LLC, a wholly owned subsidiary of BHP Billiton New Mexico Coal, Inc.

E. BHP Navajo Coal Company, LLC and BHP Navajo Coal Company were indirect and wholly owned subsidiaries of BHP.

F. Navajo Transitional Energy Company (NTEC), in 2013, acquired from BHP Billiton New Mexico Coal, Inc. all shares of the Navajo Mine Coal Company, LLC, previously known as the BHP Navajo Coal Company, LLC, thereby giving NTEC the Navajo Mine and its associated ROWs.

G. In 2014, NTEC causes the Navajo Mine Coal Company to be merged with and into NTEC thereby making NTEC the direct owner of the Navajo Mine and all its associated ROWs.

H. NTEC seeks to renew the ROW for the 69kV Transmission Line ROW, specifically located within Nenahnezad Chapter, being 3.075 miles in length, 50 feet in width, and 18.637 acres more or less in size. See Exhibits A-B.

I. The necessary Executive Review, including legal, has been completed and the request is deemed sufficient. See Exhibit F.

J. The Resources and Development Committee finds a waiver of the bond requirement, 25 C.F.R. § 169, is in the best interest of the Navajo Nation.

K. The Resources and Development Committee finds a waiver of valuation, 25 C.F.R. § 169.110, and that the waiver of valuation is in the best interest of the Navajo Nation.

L. The Resources and Development Committee of the Navajo Nation Council finds it to be in the best interest of the Navajo Nation to approve the requested renewal of the ROW located in the Nenahnezad Chapter, Navajo Nation, under the Terms and Conditions as found at Exhibit D.

SECTION THREE. APPROVAL

A. The Resources and Development Committee of the Navajo Nation Council hereby approves the renewal for a period of twenty years (20), the Right-of-Way for the 69kV Transmission Line, located in Nenahnezad Chapter, Navajo Nation, San Juan County New Mexico, as further described at Exhibits A and B and under the Terms and Conditions as found at Exhibit D.

B. The Resources and Development Committee of the Navajo Nation Council hereby approves waiver of the bond requirement.

C. The Resources and Development Committee of the Navajo Nation Council hereby approves waiver of the valuation.

D. The Resources and Development Committee of the Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to affect the intent and purpose of this resolution.

CERTIFICATION

I, hereby certify that the following resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at the Navajo Transportation Administrative Complex, Tse Bonito, Navajo Nation (New Mexico), at which a quorum was present and that same was passed by a vote of 3 in favor, 0 opposed, 1 abstained on this 19th day of December, 2017.

Jonathan Perry, Pro Tempore Chairperson
Resources and Development Committee
of the 23rd Navajo Nation Council

Motion: Honorable Davis Filfred
Second: Honorable Leonard Pete

Navajo Transitional
Energy Company

16-8540
MAR 1, 2016
NLD-PROJECT
REVIEW SECTION

22 February 2016

Attn: Howard Draper
Navajo Land Department
Navajo Nation
Post Office Box 2249
Window Rock, AZ 86515
Hand-delivered

Re: **Right-of-Way Application**
69 KV Transmission Line
Located within Sections 35 & 36, T29N, R16W and
Sections 7,18,19 & 30, T28N, R15W
18.637 acres more or less
San Juan County, New Mexico

Dear Mr. Draper:

Navajo Transitional Energy Company (NTEC), is requesting to renew the above Right-of-Way (ROW) that is due to expire on March 15, 2018. Attached is a copy of the original application and original plat showing the location of this ROW. The 69 KV Transmission Line is located in its entirety being located upon Indian lands within the Navajo Indian reservation and is 3.075 miles in length, 50 feet in width, and 18.637 acres more or less in size. The ROW is deemed necessary to transmit electric energy over, under, along, and across a fifty foot strip of land commencing at a point within the power line previously granted. In the early 1980's the branch lines were removed and are no longer in use, therefore the size of the ROW has been reduced. Included with this application package is a check in the amount of $500.00 five hundred dollars for the required application fee.

Included with this application letter are the attached Exhibits as follows:
Exhibit A – Application of Right-of-Way
Exhibit B – Survey Map and location details
Exhibit C – Land Consents or release agreements
Exhibit D – Terms and Conditions (draft document)
Exhibit E – Original ROW application and Navajo Nation Stipulations

Should you need any additional information, please contact Clark Moseley @ (214) 725-5785. Thank you.

Sincerely,

Clark A. Moseley, Management Committee Executive
Navajo Transitional Energy Company

cc: Minerals Department, Navajo Nation

P.O. Box 1749 Window Rock, A.Z. 86515
1 Uranium Blvd. Shiprock, N.M. 87420

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

RIGHT-OF-WAY APPLICATION

LANDOWNER NAME: Navajo Nation ALLOTMENT NUMBER: N/A-Navajo Tribal Trust

LEGAL DESCRIPTION: See Attached Exhibit "B"

COMES NOW THE APPLICANT Navajo Transitional Energy Company, LLC, a limited liability company existing under the laws of the Navajo Nation, whose address is P. O. Box 1749, Window Rock, AZ 86515. This 15th day of December, 2015, who hereby petition(s) the Bureau of Indian Affairs and respectfully files under the terms and provisions of the Act of February 5, 1948 (62 Stat. 17; 25 USC 323-328), and Departmental Regulations 25 CFR 169, an application of **20 years** (term of years) right-of-way for the following purposes and reasons: **69KV Transmission Line.**

Across the following described restricted land (easement description)

SEE ATTACHED EXHIBITS

Said right-of-way to be **3.075 miles** in length, **50 feet** in width, and **18.637 acres, more or less** in size (or area), as shown on attached map of definite location hereto and made a part hereof.

SAID APPLICANT UNDERSTANDS AND EXPRESSLY AGREES TO THE FOLLOWING STIPULATIONS:

1. To construct and maintain the right-of-way in a workman like manner.
2. To pay all damages and compensation, in addition to the deposit made pursuant to 169.4, determined by the Secretary to be due the landowners and authorized users and occupants of the land due to the survey, granting, construction and maintenance of the right-of-way.
3. To indemnify the landowners and authorized users and occupants against any liability for loss of life, personal injury and property damage arising from the construction, maintenance, occupancy or use of the lands by the applicant, his employees, contractors and their employees, or subcontractors and their employees.
4. To restore the lands as nearly as may be possible to their original condition upon the completion of construction, to the extent compatible with the purpose for which the right-of-way was granted.
5. To clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way; and dispose of all vegetative and other material cut, uprooted or otherwise accumulated during construction and maintenance of the project.
6. To take soil and resources conservation protection measures, including weed control, on the land covered by the right-of-way.
7. To do everything reasonable within its power to prevent and suppress fires on or near the lands to be occupied under the right-of-way.
8. To build and repair such roads, fences and trails as may be destroyed or injured by construction work and to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the right-of-way.

9. That upon revocation or termination of the right-of-way, the applicant shall, so far as in reasonably possible, restore the land to its original condition. The determination of "reasonably possible" is subject to Secretary's approval.
10. To at all times keep the Secretary informed of its address, and in case of corporations, of the address of its principal place of business and the names and addresses of its principal officers.
11. That the applicant will not interfere with the use of the lands by or under the authority of the landowners for any purpose not inconsistent with the primary purpose for which the right-of-way is granted.
12. During the term of this Grant of Easement, if any previously unidentified cultural resources are discovered within the easement area, work should be halted immediately and the BIA and/or Tribal Contractor should be contacted immediately.

THE APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

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

DATE Feb. 23, 2016

APPLICANT _____

Clark A. Moseley, Management Committee Executive
Navajo Transitional Energy Company, LLC

REQUIRED SUPPORTING DOCUMENTS:

1. ( ) Written consent of landowner (ROW Form 94-7).

2. ( ) Map (plats) of definite location (2 original Mylar's & 2 copies, See 25 CFR 169.6, 169.7, 169.8, 169.9, 169.10, and 169.11).

3. ( ) Deposit of estimated damages or compensation (See 169.4 and 169.14).

4. ( ) Evidence of Authority of Officers to Execute Papers (ROW Form 94-4)

5. ( ) For corporation or business, requirements of 25 CFR 169.4 and 169.5 (unless previously filed):

   ( ) a. State certified copy of corporate charter or articles of incorporation.

   ( ) b. Certified copy of corporate resolution, by-laws, articles of partnership or association authorizing signatory to file the application.

6. ( ) Environmental Assessment or Environmental Impact Statement with the Bureau's Decision

7. ( ) Archeological Clearance with Historic Preservation Department's Compliance Form

bhpbilliton

BHP Billiton
Accounts Payable Department
300 West Arrington; Suite 101
Farmington, NM 87401

RETURN SERVICE REQUESTED

Check No.	200841
Check Date	11/16/2015
Check Amount	$1,000.00
Vendor No.	

OM-000586 0001 0001 000590
THE NAVAJO NATION
PO BOX 3750
WINDOW ROCK, AZ 86515-3750

Date	Invoice No/Description	Gross Amount	Discount Amount	Amount
11/11/2015	RENEWAL FEE	$500.00		$500.00
11/11/2015	RENEWAL FEE	$500.00		$500.00
	TOTAL			$1,000.00

↓ PLEASE FOLD ON PERFORATION AND DETACH HERE ↓

VERIFY THE AUTHENTICITY OF THIS MULTI-TONE SECURITY DOCUMENT. CHECK BACKGROUND AREA CHANGES COLOR GRADUALLY FROM TOP TO BOTTOM.

BHP Billiton
Accounts Payable Department
300 West Arrington; Suite 101
Farmington, NM 87401

bhpbilliton

200841
November 16, 2015
64-1278/611
VOID AFTER 90 DAYS

Amount: **One Thousand dollars and 00 cents**

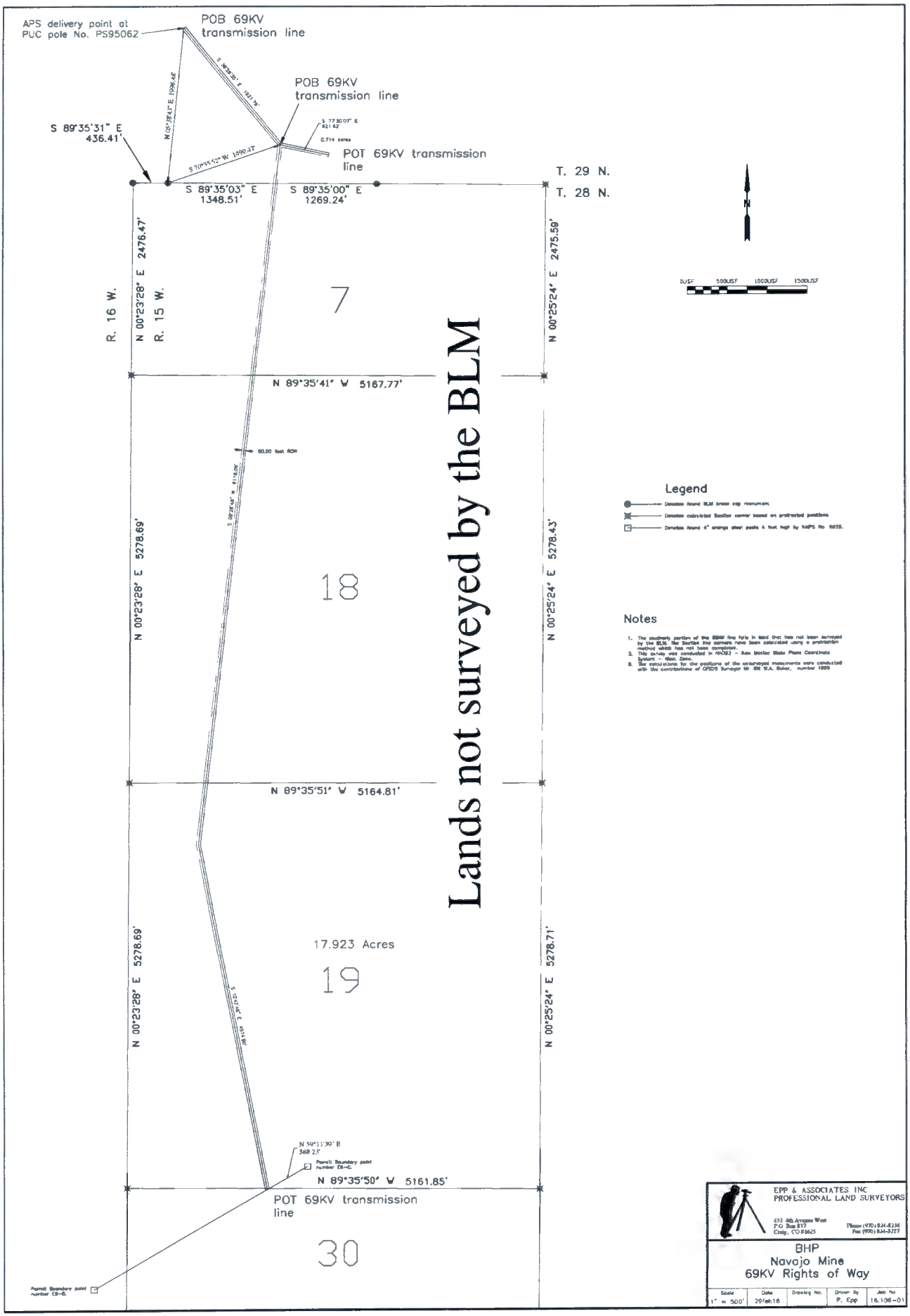
$1,000.00

Pay to the order of
THE NAVAJO NATION
PO BOX 3750
WINDOW ROCK, AZ 86515-3750

of America
ta, Dekalb County, GA

AUTHORIZED SIGNATURE

⑈0000200841⑈ ⑆111000012⑆ 4427721803⑈


APS delivery point at PUC pole No. PS95062
POB 69KV transmission line
POB 69KV transmission line
S 89°35'31" E 436.41'
POT 69KV transmission line
T. 29 N.
T. 28 N.
S 89°35'03" E 1348.51'
S 89°35'00" E 1269.24'
R. 16 W.
R. 15 W.
N 00°23'28" E 2476.47'
N 00°25'24" E 2475.59'
7
N 89°35'41" W 5167.77'
Lands not surveyed by the BLM
N 00°23'28" E 5278.69'
N 00°25'24" E 5278.43'
18
N 89°35'51" W 5164.81'
17.923 Acres
19
N 00°23'28" E 5278.69'
N 00°25'24" E 5278.71'
N 89°35'50" W 5161.85'
POT 69KV transmission line
30
Legend
Notes
EPP & ASSOCIATES INC
PROFESSIONAL LAND SURVEYORS
BHP
Navajo Mine
69KV Rights of Way
Scale 1" = 500'
Date 29feb16
Drawing No.
Drawn By P. Epp
Job No 16.106-01

R E L E A S E

For and in consideration of the sum of $400.00 (Four Hundred Dollars) paid to the undersigned by the Utah International Inc., the undersigned for himself and his, distributees, executors, administrators, and assigns, does remise, release, and forever discharge the Utah International Inc., its sucessors and assigns, from any and every claim or cause of action arising out of loss of 93.66 acres of customary use area, for grazing and other purposes, within the boundary of Utah International Inc. coal mining lease.

In witness whereof I have hereunder set my hand this 9th day of March, 1972.

(Witness)

(Witness)

Her Mark

Irene Mike

Census No. _____

Paid by Check No. 02596

R E L E A S E

For and in consideration of the sum of $300.00 (Three Hundred Dollars) paid to the undersigned by Utah International Inc., the undersigned for himself and his, distributees, executors, administrators, and assigns, does remise, release, and forever discharge Utah International Inc., its successors and assigns, from any and every claim or cause of action arising out of loss of customary use area for grazing within the Utah International Inc. railroad and haulroad right-of-way.

In witness whereof I have hereunder set my hand this 2nd day of April 1974.

Right thumb print of Irene Mike

Edison N. Wood
(Witness)

Irene Mike

Wilson [illegible]
(Witness)

Census No. _____

Paid by Navajo Tribal Check No. 203640

R E L E A S E

For and in consideration of the sum of $2,800.00 (Two Thousand Eight Hundred Dollars) paid to the undersigned by the Utah International Inc., the undersigned for himself and his, distributees, executors, administrators, and assigns, does remise, release, and forever discharge the Utah International Inc., its sucessors and assigns, from any and every claim or cause of action arising out of loss of 1,348.02 acres of joint customary use area, for grazing and other purposes within the boundary of Utah International Inc. coal mining lease.

In witness whereof I have hereunder set my hand this 9th day of March, 1972

(Witness)

(Witness)

Woodrow Barber C#
Woodrow Barber

Jay Yazzie C#
Jay Yazzie

Census No. _____

Paid by Check No. 02597

Emma H. Yazzie, et - C #32309

R E L E A S E

For and in consideration of the total sum of $ 227.76 , as itemized below, paid to the undersigned for (h self/themselves) and (h /their) heirs, distributees, executors, administrators, and assigns, does release and forever discharge the NAVAJO TRIBE, UTAH CONSTRUCTION & MINING CO., and/or ARIZONA PUBLIC SERVICE COMPANY, their successors and assigns, from any and every claim or cause of action arising out of the loss of grazing lands on the following areas:

	Consideration
Morgan Lake, some 1,151 acres, under the control of the Navajo Tribe:	$ ---
2,032 acres under Indenture of Lease between the Navajo Tribe of Indians and Arizona Public Service Company and 421 acres more or less proposed for expansion near the present Four Corners Power Plant Site:	$ ---
That portion of the Mining Lease as presently amended between the Navajo Tribe of Indians and Utah Construction & Mining Co. located to the north of a line drawn between lease corners L56 and L75, containing approximately 5,347 acres; 38.9 acres under Mine Plant Lease between the Navajo Tribe of Indians and Utah Construction & Mining Co.; and 184 acres, more or less proposed for expansion near the present Navajo Mine Plant Site:	$ 227.76
TOTAL CONSIDERATION -	$ 227.76

In witness whereof, (we/I) have hereunder set (my/our) hand(s) this 29th day of November, 1965.

WITNESSES:

Franklin D. Sandoval

Paid by UC&M Co. Ck. No. 15880

Dated November 24, 1965

Legal & Governmental Affairs Files

Lnd 2.3.25

Hosteen Nez Benally C #32305
Mary Rose Harvey [redacted]lly - C #32353

R E L E A S E

For and in consideration of the total sum of $ 911.04 , as itemized below, paid to the undersigned for (h self/themselves) and (h /their) heirs, distributees, executors, administrators, and assigns, does release and forever discharge the NAVAJO TRIBE, UTAH CONSTRUCTION & MINING CO., and/or ARIZONA PUBLIC SERVICE COMPANY, their successors and assigns, from any and every claim or cause of action arising out of the loss of grazing lands on the following areas:

	Consideration
Morgan Lake, some 1,151 acres, under the control of the Navajo Tribe:	$ 398.58
2,032 acres under Indenture of Lease between the Navajo Tribe of Indians and Arizona Public Service Company and 421 acres more or less proposed for expansion near the present Four Corners Power Plant Site:	$ 227.76
That portion of the Mining Lease as presently amended between the Navajo Tribe of Indians and Utah Construction & Mining Co. located to the north of a line drawn between lease corners L56 and L75, containing approximately 5,347 acres; 38.9 acres under Mine Plant Lease between the Navajo Tribe of Indians and Utah Construction & Mining Co.; and 184 acres, more or less proposed for expansion near the present Navajo Mine Plant Site:	$ 284.70
TOTAL CONSIDERATION -	$ 911.04

In witness whereof, (we/I) have hereunder set (my/our) hand(s) this 28th day of November, 1965.

WITNESSES: [illegible] Bob Simpson

Hosteen Nez Benally

Paid by UC&M Co. Ck. No. 15877

Dated November 24, 1965

Daisy Pinto Mason #32312

R E L E A S E

For and in consideration of the total sum of $ 170.82 , as itemized below, paid to the undersigned for (h self/themselves) and (h /their) heirs, distributees, executors, administrators, and assigns, does release and forever discharge the NAVAJO TRIBE, UTAH CONSTRUCTION & MINING CO., and/or ARIZONA PUBLIC SERVICE COMPANY, their successors and assigns, from any and every claim or cause of action arising out of the loss of grazing lands on the following areas:

	Consideration
Morgan Lake, some 1,151 acres, under the control of the Navajo Tribe:	$ ---
2,032 acres under Indenture of Lease between the Navajo Tribe of Indians and Arizona Public Service Company and 421 acres more or less proposed for expansion near the present Four Corners Power Plant Site:	$ ---
That portion of the Mining Lease as presently amended between the Navajo Tribe of Indians and Utah Construction & Mining Co. located to the north of a line drawn between lease corners L56 and L75, containing approximately 5,347 acres; 38.9 acres under Mine Plant Lease between the Navajo Tribe of Indians and Utah Construction & Mining Co.; and 184 acres, more or less proposed for expansion near the present Navajo Mine Plant Site:	$ 170.82
TOTAL CONSIDERATION -	$ 170.82

In witness whereof, (we/I) have hereunder set (my/our) hand(s) this 29th day of November, 1965.

WITNESSES:

Franklin D. Sandoval

Paid by UC&M Co. Ck. No. 15882

Dated November 24, 1965

Legal & Governmental Affairs Files

Lrd 2.3.13

EXHIBIT "D"

NAVAJO NATION TERMS AND CONDITIONS
FOR RIGHTS-OF-WAY
NAVAJO TRANSITIONAL ENERGY COMPANY, LLC (GRANTEE)

1. The term of the ROW shall be extended for twenty (20) years, effective March 16, 2018 and expiring on March 15, 2038.

2. Consideration for the ROW is assessed at $854,425.74 and shall be split into three equal annual payments, the first of which being $284,808.60 to be paid 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 ten (10) days of approval of the ROW by the Navajo Nation. Each of the two subsequent payments (adjusted for CPI, based on the June 2017 CPI-Urban Index) shall be paid on the next two anniversaries of the approval of and consent to the grant of the ROW by the Navajo Nation.

3. The Grantee may develop, use and occupy the ROW for the purpose(s) of constructing, operating, and maintaining the existing 69kV transmission line and fiber optic line. The Grantee may not develop, use or occupy the ROW 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 ROW 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;

   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 archeological 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 this ROW.

6. The Grantee shall clear and keep clear the lands within the ROW to the extent compatible with the purpose of the ROW, 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 distributed related to the ROW.

8. The Grantee shall at all times during the term of the ROW and at the Grantee's sole cost and expense, maintain the land subject to the ROW 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 attributable to the development, occupancy or use of the ROW by the Grantee.

11. The Grantee shall indemnify and hold harmless the Navajo Nation and the Secretary of the Interior and their respective authorized agents, employees, land users and occupants, against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of the area under the ROW by the Grantee.

12. Any assignment, conveyance or transfer by the Grantee, in any manner whatsoever, of the ROW or any interest therein, or in or to any of the improvements on the land subject to the ROW, shall be subject to the written consent of the Navajo Nation. 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 at the sole discretion of the Navajo Nation.

13. The ROW may be terminated for violation of any of the terms and conditions stated herein. In addition, the ROW shall be terminable in whole or part by the Navajo Nation for any of the following causes.

    a. Failure to comply with any terms and conditions of the grant or of applicable laws or regulations;

    b. A non-use of the ROW for the purpose for which it is granted for a consecutive two-year period; and

    c. The use of the land subject to the ROW for any purpose inconsistent with the purpose for which the ROW is granted.

14. At the termination of this ROW, 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. All reclamation or abandonment shall be performed in accordance with all applicable Navajo Nation and applicable Federal laws, rules, and regulations.

15. Holding over by the Grantee after the termination of ROW shall not constitute a renewal or extension thereof or give the Grantee any rights hereunder or in to the land subject to the permit 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 ROW 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 the ROW, the Grantee consents to the full territorial legislative, executive and judicial 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 the ROW, 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 ROW 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 ROW 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 ROW and all lands burdened by the ROW, including without limitations over all persons, including the public, and all activities conducted or otherwise occurring within the ROW; and the ROW and all lands burdened by the ROW shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.

24. By acceptance of the ROW Grant, the Grantee shall obtain rights to Navajo Nation lands in the nature of easements only; a right to pass over, occupy and reasonably use and occupy the ROW for the particular purpose herein with limited rights of ingress and egress via those particular access roads that are in existence and useable at the grant of this ROW. Such easement shall be limited term usufructuary interest consistent with all general property rights flowing from beneficial ownership of Navajo Nation lands, with no subsurface rights to any minerals or natural resources located on or within the ROW. The ROW under no circumstances or rule of law, shall be interpreted as granting a fee simple interest or creating any greater property right possessed by the Grantee other than the limited easement described herein.

(Powerline)

APPLICATION FOR RIGHT-OF-WAY

Utah Construction & Mining Co., a corporation organized and existing under and by virtue of the laws of the State of Delaware, with its head office at San Francisco in the State of California, hereby makes application pursuant to the act of February 5, 1948, (62 Stat. 17, 25 USC 323) and in accordance with the regulations set forth in title 25 of the Code of Federal Regulations, part 161, for an exclusive right-of-way for the construction, maintenance, operation, use, repair, renewal and removal of all facilities, including poles and wires, deemed necessary or desirable by Utah Construction & Mining Co. for the transmission of electric energy, including but not limited to a 69,000 volt transmission line, together with the right of ingress and egress and the right to transmit electric energy, over, under, along, and across a fifty foot wide strip of land commencing at a point within the powerline right-of-way previously granted by the Navajo Tribe to Arizona Public Service Company and terminating at the boundary of the Utah Construction & Mining Co. coal mining lease from the Navajo Tribe. The main route of the requested right-of-way is 6.26 miles in length and there are additional branches of said right-of-way totaling 1.56 miles in length, said right-of-way in its entirety being located upon Tribal Indian lands within the Navajo Indian Reservation in San Juan County in the State of New Mexico.

The location of said right-of-way is more particularly shown and delineated on the accompanying map which has been prepared in compliance with 25 CFR 161.8 and which by this reference is hereby made a part hereof.

In the event that the right-of-way herein applied for is granted, Utah Construction & Mining Co. hereby agrees:

(a) To construct and maintain the right-of-way in a workmanlike manner.

(b) To pay promptly all damages, in addition to the deposit made pursuant to 25 CFR 161.5, determined by the Area

Director to be due the landowners on account of the construction and maintenance of the right-of-way.

(c) To indemnify the landowners against any liability for damages to life or property arising from the occupancy or use of the lands by Utah Construction & Mining Co.

(d) To restore the lands as nearly as may be possible to their original condition upon the completion of construction.

(e) That Utah Construction & Mining Co. will not interfere with the use of the lands by or under authority of the landowners for any purpose not inconsistent with the primary purpose for which the right-of-way was granted.

Since all facilities to be constructed by Utah Construction & Mining Co. on the requested right-of-way will be for the purpose of facilitating the operations of Utah Construction & Mining Co. on its coal mining lease from the Navajo Tribe, it is requested that the provisions of 25 CFR 161.27(d) be waived with respect to any electric power transmission facilities which may be constructed pursuant to the requested right-of-way.

IN WITNESS WHEREOF, Utah Construction & Mining Co. has caused this instrument to be executed this 28th day of September, 1967.

UTAH CONSTRUCTION & MINING CO.

By _____
VICE PRESIDENT

By _____
ASSISTANT SECRETARY

SCHEDULE AND APPRAISAL OF DAMAGES DUE NAVAJO ALLOTTEES/
NAVAJO TRIBE FOR A PIPE LINE RIGHT OF WAY ACROSS THE
FOLLOWING DESCRIBED PROPERTY.

UTAH CONSTRUCTION & MINING COMPANY
FARMINGTON, NEW MEXICO

Description	Facility-Dwg.No.-R/W No.	Allottee	Pipe Size	Gen. of R/W	Length of R/W Miles	Rods	Acres	Per Rod	Value	Amount of Deposit
Secs. 7, 18, 19, 29, 30, 31 & 32, T28N, R15W, & Sec. 36, T29N, R16W, San Juan County, New Mexico	69 KV Transmission Line	Tribal			6.26 with branches totaling 1.56 miles				Damages Waived	

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
NAVAJO AREA
WINDOW ROCK, ARIZONA

We, the undersigned, hereby certify that we have examined the foregoing Schedule of Damages and Appraisement and that the amount shown represents a reasonable, just and equitable value of the right of way (and other facilities, if any) damages to the tribal/allotted land affected, and we further verily believe the said land and the rights of the Indian landowners are fully protected and that sufficient amount is now on deposit for the payment of same.

APPROVED:

Acting Assistant
Area Director, Navajo Area Office

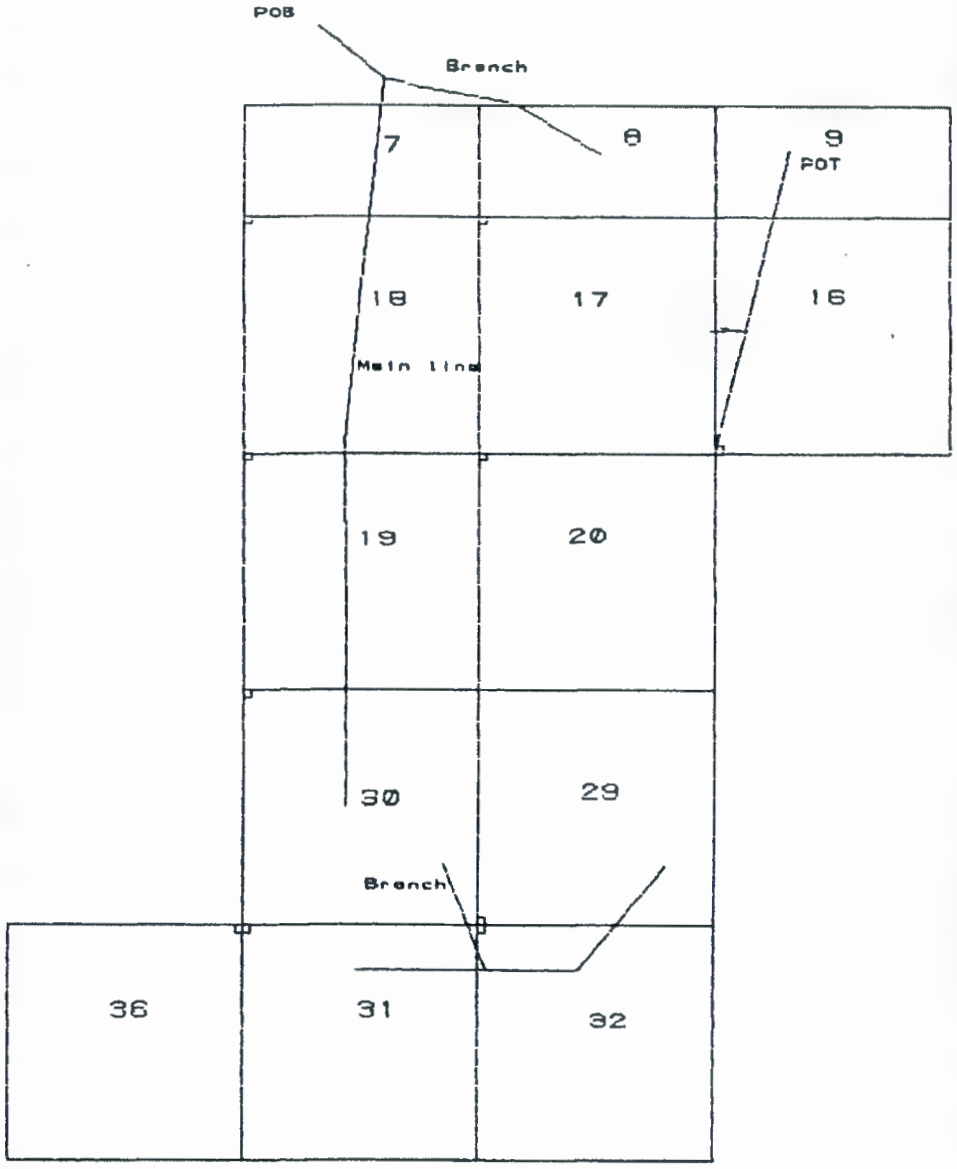
JUN 13 1968
Date

Acting
Area Real Property Management Officer, Navajo Area Office

June 13, 1968
Date

LND 3.1

T28N, R15W



69KV Transmission Line, ROW 50'
in width, 41,294.1' in Length
Main Line - 6.256 mi. or 33,033.9'
Branch Line - 1.564 mi. or 8,260.2'
47.399 acres

SCALE: 1 in = 4000 feet

IN REPLY REFER TO:

Real Property Mgmt.
Right of Way

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

Navajo Area Office
Window Rock, Arizona 86515

MAR 1 5 1950

Utah Construction and Mining Company
550 California Street
San Francisco, California 94104

Gentlemen:

Your application for 69 KV Transmission Line right-of-way across the Navajo Tribal land in Sections 7, 18, 19, 29, 30, 31, and 32 of Township 28 North, Range 15 West, and Section 36 of Township 29 North, Range 16 West, San Juan County, New Mexico has been approved by the Chairman of the Navajo Tribal Council. The Navajo Tribe has stipulated certain conditions in approving your application. We enclose this stipulation marked Exhibit "B".

According to your map of definite location, this 50 foot wide strip of land will commence at a point within the powerline right-of-way previously granted by the Navajo Tribe to the Arizona Public Service Company and terminate at the boundary of the Utah Construction and Mining Company coal mining lease from the Navajo Tribe.

Authorization is hereby granted to proceed with the above project subject to certain conditions stipulated by the Navajo Tribe; subject to the recommendation by the Project Manager, Navajo Indian Irrigation Project, attached, and subject to any rights or adverse claims and to all applicable Regulations of Title 25, Code of Federal Regulations, Part 161.

Sincerely yours,

R E Kilgore

ACTING Area Director

Enclosure

RECEIVED
FEB 23 '68
AREA BRANCH OF
REAL PROPERTY MGMT.

IN REPLY REFER TO:
REAL PROPERTY MANAGEMENT
RIGHT-of-way

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
NAVAJO INDIAN IRRIGATION PROJECT
P. O. Box 2157
Farmington, New Mexico 87401

AREMO
ASS'T
MINERALS
OBG
LESSEES
DIV
BR. SEC.
FILE

February 19, 1968

Memorandum

To: Area Director, Navajo Area Office
Attention: Assistant Area Director (Resources)

From: Project Manager

Subject: Utah Construction Company--69 KV Transmission Line

We have reviewed the application of Utah Construction and Mining Company for 69 KV Transmission Line right-of-way.

It does not appear that the transmission line located as proposed would create any serious problems as far as the Navajo Indian Irrigation Project is concerned. We recommend that the application be approved with the usual stipulation that any changes or relocations found to be necessary during the development of the Navajo Indian Irrigation Project be accomplished by Utah Construction and Mining Company at the company's expense.

We would like to point out that the right-of-way map, dated September 1967, prepared by Utah Construction and Mining Company does not agree (as far as legal subdivisions are concerned) with maps on hand in this office which were prepared by the Bureau of Reclamation. A portion of United States Bureau of Reclamation "General Map" No. 809-529-9 is attached for comparison purposes.

Which base map is your office using to describe oil and gas mining leases? Are we correct in assuming that subdivisions as shown on the United States Bureau of Reclamation are being used?

Application and map are returned herewith.

Project Manager

Attachments.

RECEIVED
FEB 2 1968
WINDOW ROCK, ARIZONA

MAIL & FILES

EXHIBIT "B"

STIPULATIONS
ELECTRIC TRANSMISSION LINES
UTAH CONSTRUCTION AND MINING COMPANY

1. The conditions under Part 161.7 of the Code of Federal Regulations, Title 25.

2. The applicant to pay for any damages to improvements and authorized surface use on Tribal lands as determined by the Tribal Land Investigation Department.

3. That the Navajo Tribal lands needed for this easement will revert back to the Navajo Tribe when the land is no longer needed for the said easement.

4. In the construction of the transmission line and appurtenant facilities, opportunity for employment will be given Navajo Indians in accordance with their availability and capability in such skilled and unskilled labor which they are qualified to perform. Wages paid to Navajos shall not be less than those paid to other persons for comparable or identical work.

5. The applicant will offer every reasonable opportunity to employ Navajos to show ability for training in additional skills which are needed in the construction, operation and maintenance of this project.

6. The applicant agrees that where soil deterioration or soil hazard is created by its activities, it will take such action as shall be necessary or shall be recommended or required by the Area Director, Navajo Area Office, or his authorized representative within the scope of the usual soil conservation practices to correct or repair such deterioration or minimize such hazards.

7. The applicant agrees it will properly dispose of any and all brush and will refill all the holes, trenches or other excavations incident to the construction and maintenance of said easement which traverses Navajo Tribal land in such a way so as to minimize fire hazards and injury to livestock, and where feasible will reseed any areas of grass destroyed as a result of construction, operation or maintenance of said transmission line. Where the easement crosses fences, ditches, or other improvements maintained on Navajo Tribal lands, the applicant also agrees to install proper and

necessary gates, cattle guards, or such other necessary improvements which may be required in order to permit the orderly use of Navajo range lands.

8. There is reserved to the Navajo Tribe the right to use, administer, and lease such portion of the lands included within the right-of-way granted to the applicant as are not actually occupied by or required for the facilities constructed by the applicant, provided however, that any such use by the Tribe, or its Lessees and permittees, shall not without the prior written consent of the applicant interfere with the applicant's use of said lands for the purposes described in the applicant's application for the right-of-way, and the applicant shall always retain the prior right to construct and use any facilities desired by applicant within the area of the right-of-way as described in the application, for the purposes set forth in the application.

9. Where any part of the facilities to be constructed on the site herein applied for extends across a traveled road or highway, the construction thereof shall be in compliance with the applicable State laws and requirements of the Navajo Tribe; during the work at least one-half the width of the road must be kept open to travel and, upon completion, the highway shall be restored to its original condition, any excavation to be refilled whenever, by settling or other causes, the necessity thereof may arise.

10. Any roads constructed by the applicant hereunder will be located within the limits of the right-of-way granted, unless, for reasons of terrain or existing roads, such location would not be practical or necessary. Any other location will be by permission first sought and obtained from the Navajo Tribe. Every effort will be made to minimize the construction of new roadways.

11. Applicant may, at its option, discontinue the use of and remove all or any part of the transmission line and appurtenant facilities constructed hereunder and shall be liable for any actual damages caused by such removal.

12. If it should be discovered that the planned location of the transmission line and appurtenant facilities overlays or interferes with an area occupied by a Navajo Indian shrine, the applicant will change to a location that will avoid interference with or desecration of such shrine. Amended maps will be submitted after construction is completed.

13. If archaeological sites or materials are discovered, immediate notification thereof shall be given to the Navajo Tribe. It is understood that all specimens of archaeological and paleontological materials found on these lands of the Navajo Tribe are owned by and are the property of the Navajo Tribe. If it shall be discovered that the plan course of the said easement threatens to damage or destroy archaeological sites and materials, the applicant shall bear the costs of archaeological salvaging.

14. All electric power delivered through transmission lines constructed pursuant to the subject grant of right-of-way shall be utilized by the applicant, its contractors or agents, in connection with the applicant's operations in mining coal from applicant's coal mining lease, in processing such coal, or coal products produced therefrom, and in selling and delivering such coal or coal products to applicant's customers.

CORPORATE PUBLIC
INFORMATION

GENERAL ELECTRIC

3135 EASTON TURNPIKE
FAIRFIELD, CONNECTICUT 06431

A. J. Demaris (203) 373-2002
(home) (203) 227-9166

FOR IMMEDIATE RELEASE

FAIRFIELD, CONNECTICUT, October 1, 1976. Reginald H. Jones, Chairman of General Electric Company, and Edmund W. Littlefield, Chairman of Utah International, Inc., announced today that they were very pleased that the Department of Justice has provided the companies with a favorable letter under its Business Advisory Clearance procedure. The Department stated that it "does not presently intend to bring an action to enjoin the proposed merger" of Utah with General Electric. Messrs. Jones and Littlefield also said that the proposed merger will be submitted to their respective share owners at separate meetings to be held in December 1976. Upon receipt of the share owners' approval it is the parties' present intention to complete the merger before the end of the year.

Utah and General Electric submitted a revised request for a Business Advisory Clearance letter to the Department of Justice on August 18, 1976. The revision responded to the Department of Justice's concerns expressed in its letter of July 23. At that time the Department noted the potential anti-competitive effects resulting from General Electric's role as a supplier of nuclear steam supply systems and Utah's role as a uranium mining and milling company. To resolve these concerns, the uranium assets and operations owned and conducted by Utah will be transferred to a new company wholly owned by the merged companies. The voting stock of

(more)

this new company will be deposited in a trust managed by five independent trustees. In this manner, General Electric and Utah will retain all of the earnings of the new uranium company, while control over its operations will be vested in the trustees. The GE-Utah merger is not being changed in any other respect.

As previously announced, the proposed merger is to be accomplished through a tax-free exchange of 1.3 shares of General Electric Common Stock for each share of Utah Common Stock. General Electric has approximately 184.7 million shares outstanding and Utah approximately 31.5 million.

Mr. Jones had these comments on the prospective merger. "We continue to believe that the natural resource industry will play an increasingly significant role in international economic growth. The proposed merger provides General Electric with an important opportunity to participate in this industry on an international scale, and to apply its scientific and technological skills to the increasing demands on the limited supplies of natural resources. The proposed merger will provide a probable hedge against inflation in future years and combined earnings per share will be increased on the basis of first nine-month results of fiscal 1976.

(more)

Mr. Littlefield commented that "Utah has a proud and enviable record and we have full confidence in our ability to continue to grow in the future within our fields of proven expertise. With this past record of success, however, we are conscious of a growing concentration of our more profitable businesses now and in the future by locations and markets. We thus sense a responsibility to our share owners and employees to develop a greater degree of diversification. The merger with General Electric presents new opportunities for Utah to achieve this diversification.

"General Electric is a substantial company with an established reputation and with widely diversified operations, products and markets. We believe this merger represents an unusual occasion for both Utah and General Electric share owners and their employees for enlarged prospects," concluded Mr. Littlefield.

General Electric is a leading manufacturer of electrical generating equipment, consumer products, industrial components and capital equipment. In 1975, it recorded sales of $13.4 billion and profits of $581 million. For the first six months of 1976, sales totaled $6.9 billion and earnings for the period were $316 million.

(more)

Utah has broad interests in the natural resources field, predominately outside the U.S. It is a leading producer of metallurgical coal in Australia and has positions in the mining of iron ore, copper, steam coal and uranium. It also participates in the development of oil and natural gas properties. For its fiscal year ended October 31, 1975, Utah reported sales of $686 million and profits of $112 million. For the first nine months of fiscal year 1976, Utah reported sales of $669 million and profits of $126 million.

-30-

State of Delaware
Secretary of State
Division of Corporations
Delivered 01:00 PM 01/08/2014
FILED 01:00 PM 01/08/2014
SRV 140028829 - 2418795 FILE

STATE OF DELAWARE
CERTIFICATE OF MERGER OF A DOMESTIC LIMITED LIABILITY COMPANY INTO A FOREIGN LIMITED LIABILITY COMPANY

Pursuant to Title 6, Section 18-209 of the Delaware Limited Liability Company Act.

First: The name of the surviving Limited Liability Company is the Navajo Transitional Energy Co., LLC, a Foreign Limited Liability Company.

Second: The jurisdiction in which this Limited Liability Company was formed is Navajo Nation.

Third: The name of the Limited Liability Company being merged into the Limited Liability Company is the Navajo Mine Coal Company, LLC, a Delaware Limited Liability Company.

Fourth: The agreement of merger or consolidation has been approved and executed by each of the business entities which is to merge or consolidate.

Fifth: The name of the surviving foreign Limited Liability Company is the Navajo Transitional Energy Company, LLC.

Sixth: An agreement of merger or consolidation is on file at a place of business of the surviving foreign limited Liability Company and the address thereof is 6991 East Camelback Road Suite B-308 Scottsdale, AZ 85251.

Seventh: A copy of the agreement of merger or consolidation will be furnished by the surviving foreign limited liability company, on request and without cost, to any member of any domestic limited liability company or any person holding an interest in any other business entity which is to merge or consolidate.

Eighth: The surviving foreign Limited Liability Company agrees that it may be served with process in the State of Delaware in any action, suit or proceeding for the enforcement of any obligation of any domestic limited liability company which is to merge or consolidate, irrevocably appointing the Secretary of State as its agent to accept service of process in any such action, suit or proceeding and the address to which a copy of such process shall be mailed to by the Secretary of State is 6991 East Camelback Road Suite B-308 Scottsdale, AZ 85251.

IN WITNESS WHEREOF, said Limited Liability Company has caused this certificate to be signed by it's authorized person, this 6 day of January, A.D., 2014.

By: _____
Authorized Person

Name: Timothy McLaughlin
Print or type

State of Delaware
The Official Website for the First State

The Secretary of State of Delaware issued a certificate for THE NAVAJO TRANSITIONAL ENERGY CO., LLC whose file number is 5469883 on 01/24/2014 under request number 140028829 for authentication number 1081515.

Back

MEMBERSHIP INTEREST POWER

FOR VALUE RECEIVED, the receipt and sufficiency of which are hereby acknowledged, in connection with that certain Equity Interest Purchase Agreement (the "**EIPA**"), dated as of October 21, 2013, between BHP Billiton New Mexico Coal, Inc., a Delaware corporation (the "**Assignor**"), and Navajo Transitional Energy Company, LLC, a Navajo Nation limited liability company organized pursuant to Navajo Nation Council Resolution No. CAP-20-13, as amended, and under the Navajo Nation Limited Liability Company Act, 5 N.N.C. § 3600, *et seq.*, as amended (the "**Assignee**"), Assignor does hereby convey, assign and transfer unto Assignee, in accordance with the terms of the EIPA, 100% of the issued and outstanding membership interests of Navajo Mine Coal Company, LLC, a Delaware limited liability company (the "**Company**"), represented by certificate no. 001 standing in the name of Assignor on the books of the Company. Assignor does irrevocably instruct the President, or other authorized person, of the Company, as attorney to transfer said membership interests of the Company to the Assignee, with full power of substitution in the premises.

Dated to be effective as of December 30, 2013.

BHP BILLITON NEW MEXICO COAL, INC.

By: Pat Risner

Name: Pat Risner

Title: President

Delaware

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS ON FILE OF "NAVAJO MINE COAL COMPANY LLC" AS RECEIVED AND FILED IN THIS OFFICE.

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

CERTIFICATE OF INCORPORATION, FILED THE FOURTEENTH DAY OF JULY, A.D. 1994, AT 3:30 O'CLOCK P.M.

CERTIFICATE OF CONVERSION, CHANGING ITS NAME FROM "BHP NAVAJO COAL COMPANY" TO "NAVAJO MINE COAL COMPANY LLC", FILED THE TWENTY-THIRD DAY OF DECEMBER, A.D. 2013, AT 10:55 O'CLOCK A.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF CONVERSION IS THE THIRTIETH DAY OF DECEMBER, A.D. 2013, AT 12 O'CLOCK A.M.

CERTIFICATE OF FORMATION, FILED THE TWENTY-THIRD DAY OF DECEMBER, A.D. 2013, AT 10:55 O'CLOCK A.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF FORMATION IS THE THIRTIETH DAY OF DECEMBER, A.D. 2013, AT 12 O'CLOCK A.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID

Jeffrey W. Bullock, Secretary of State

2418795 8100H

AUTHENTICATION: 1013957

131477192

DATE: 12-26-13

You may verify this certificate online at corp.delaware.gov/authver.shtml

State of Delaware

SECRETARY OF STATE
DIVISION OF CORPORATIONS
P.O. BOX 898
DOVER, DELAWARE 19903

140028829

9963569 01-24-2014
FRYE LAW FIRM, P.C.
10400 ACADEMY RD NE, SUITE 310
ALBUQUERQUE NM 87111

ATTN: WILLIAM KELLY

DESCRIPTION		AMOUNT
NAVAJO MINE COAL COMPANY LLC		
2418795 0250N Merger; Non-Survivor		
Merger	*	180.00
Franchise Tax Balance	*	500.00
Franchise Tax Balance	*	500.00CR
Franchise Tax Balance		475.25CR
Franchise Tax Balance		475.25
* ITEMS WERE PREVIOUSLY BILLED FILING TOTAL		180.00
THE NAVAJO TRANSITIONAL ENERGY CO., LLC		
5469883 0250S Merger; Survivor		
Certification Fee	*	50.00
Court Municipality Fee, Wilm.	*	20.00
* ITEMS WERE PREVIOUSLY BILLED FILING TOTAL		70.00
TOTAL CHARGES		250.00
TOTAL PAYMENTS		250.00
SERVICE REQUEST BALANCE		.00

EXHIBIT

F

Document No. 005272 Date Issued: 01/12/2016

EXECUTIVE OFFICIAL REVIEW

Title of Document: NTECROWRenewal 69 kV Transmission Line Contact Name: DRAPER, HOWARD

Program/Division: DIVISION OF NATURAL RESOURCES

Email: howarddraper@frontiernet.net Phone Number: 928/871-6447

			Sufficient	Insufficient
☐ **Business Site Lease**				
1. Division:		Date:	☐	☐
2. Office of the Controller:		Date:	☐	☐
(only if Procurement Clearance is not issued within 30 days of the initiation of the E.O. review)				
3. Office of the Attorney General:		Date:	☐	☐
☐ **Business and Industrial Development Financing, Veteran Loans, (i.e. Loan, Loan Guarantee and Investment) or Delegation of Approving and/or Management Authority of Leasing transactions**				
1. Division:		Date:	☐	☐
2. Office of the Attorney General:		Date:	☐	☐
☐ **Fund Management Plan, Expenditure Plans, Carry Over Requests, Budget Modifications**				
1. Office of Management and Budget:		Date:	☐	☐
2. Office of the Controller:		Date:	☐	☐
3. Office of the Attorney General:		Date:	☐	☐
☐ **Navajo Housing Authority Request for Release of Funds**				
1. NNEPA:		Date:	☐	☐
2. Office of the Attorney General:		Date:	☐	☐
☐ **Lease Purchase Agreements**				
1. Office of the Controller: (recommendation only)		Date:	☐	☐
2. Office of the Attorney General:		Date:	☐	☐
☐ **Grant Applications**				
1. Office of Management and Budget:		Date:	☐	☐
2. Office of the Controller:		Date:	☐	☐
3. Office of the Attorney General:		Date:	☐	☐
☐ **Five Management Plan of the Local Governance Act, Delegation of an Approving Authority from a Standing Committee, Local Ordinances (Local Government Units), or Plans of Operation/Division Policies Requiring Committee Approval**				
1. Division:		Date:	☐	☐
2. Office of the Attorney General:		Date:	☐	☐
☐ **Relinquishment of Navajo Membership**				
1. Land Department:		Date:	☐	☐
2. Elections:		Date:	☐	☐
3. Office of the Attorney General:		Date:	☐	☐

Pursuant to 2 N.N.C. § 164 and Executive Order Number 07-2013

EOR# 005272

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

			Sufficient	Insufficient
1. Division:		Date:	☐	☐
2. Office of the Attorney General:		Date:	☐	☐

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

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

☐ **Rights of Way**

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

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

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

☐ **Assignment of Mineral Lease**

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

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

1. NLD		Date 23 June 16	☑	☐
2. F&W		Date:	☐	☐
3. HPD		Date:	☐	☐
4. Minerals		Date:	☐	☐
5. NNEPA		Date:	☐	☐
6. DNR		Date:	☐	☐
7. DOJ (ic)		Date: 10/17/17	☑	☐
8. OPVP		Date: 11-1-17	☒	☐

☐ **OTHER:**

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

Pursuant to 2 N.N.C. § 164 and Executive Order Number 07-2013

Navajo Transitional
Energy Company

Right-of-Way Renewal
69 KV Transmission Line

Located within Sections 35 & 36, T29N, R16W and
Sections 7,18,19 & 30, T28N, R15W
18.637 acres more or less
San Juan County, New Mexico

P.O. Box 1749 Window Rock, A.Z. 86515
1 Uranium Blvd. Shiprock, N.M. 87420

Tier 2 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Bidtah N. Becker (FBFA)	FBFA Users	FBFA Action Team	Approved	1. For GLDD: Please note in response to Minerals comments that the draft resolution identified as item C is NOT required as part of the legislative packet as the Office of Legislative Counsel will draft the appropriate resolution. The terms and conditions identified as item G do need to be included. Finally, please note Robert Allan's comments and inquire of NTEC as to whether or not there has been an assignment of the ROW to NTEC. Thank you.	1. *No Reply*	26-Sep-2017	BNBecker
Ronnie Ben EPA (Navajo Land Title Data System - Windowrock AZ)	Underground Injection Control - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. Approval contingent on NNEPA staff review and comments. NTEC Must provide all documents requested by NNEPA staff and adhere to NNEPA laws and regulations.	1. *No Reply*	22-Feb-2017	[illegible]
Sam Diswood (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	*no comments*	*No Reply*	23-Feb-2017	Samuel F. Diswood

Steven Prince MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	1. This vote is contingent on permanent replacement of Items C. & F. with the uploaded versions in the final approval package. slp	1. *No Reply*	22-Aug-2017		
Tamara Billie NNHP (Navajo Land Title Data System - Windowrock AZ)	HPD Reviewer	Historic Preservation Department	Approved	1. HPD-17-087	1. *No Reply*	22-Feb-2017		
W. Mike Halona (Navajo Land Title Data System - Windowrock AZ)	Manager III Navajo Land Department	NLD Administration	Approved	*no comments*	*No Reply*	23-Feb-2017		

Tier 1 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Eugenia Quintana EPA (Navajo Land Title Data System - Windowrock AZ)	Air and Toxics - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. Environmental documents are missing. RDC resolution indicates environmental studies are attached, but none are included.	1. *No Reply*	22-Feb-2017	
Lee Anna Martinez EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. Please consult with our office should your project impact/cross any waterways, ephemeral or perennial. A Clean Water Act Section 401 maybe needed. You may contact Navajo EPA at (928) 871-7690. Thank you.	1. *No Reply*	06-Feb-2017	
Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. BRCF lacking. Do not send incomplete 164 review packages.	1. *No Reply*	06-Feb-2017	
Pam Maples EPA (Navajo Land Title Data System - Windowrock AZ)	Storage Tanks Program - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. ... as shown on the attached map? The map is insufficient being in township and range. This road ROW is somewhere in a BHP mine so ok?!	1. *No Reply*	07-Feb-2017	
Patrick Antonio EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Supervisor	Navajo Nation Environmental Protection Agency	Approved	1. No new construction anticipated. If future construction in the ROW will disturb more than more than 1.0 acre of land surface, coverage will be required under the federal	1. *No Reply*	01-Feb-2017	

				Construction General Permit for storm water discharges.			
Robert Allan DNR (Navajo Land Title Data System - Windowrock AZ)	Deputy Director DNR	DNR Administration	Approved	1. There should be an assignment of the ROW from Utah Construction and Mining Co. to NTEC	1. *No Reply*	09-Feb-2017	Robert O. Allan
Yolanda Barney EPA (Navajo Land Title Data System - Windowrock AZ)	Public Water System Supervision Program	Navajo Nation Environmental Protection Agency	Approved	*no comments*	*No Reply*	01-Feb-2017	

NNDFW Review No. 16ntec03a3

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

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

PROJECT NAME & NO.: Navajo Transitional Energy Company 69kV Transmission Line Right-of-Way

DESCRIPTION: NTEC proposes to renew the right-of-way for a 69kV transmission line. The ROW is 3.075 miles in length and 50 ft. wide, and contains 18.637 acres. There will be no new construction or change in the ROW.

LOCATION: Sect. 35 & 36 T29N R16W and Sect. 7, 18, 19, & 30 T28N T15W, San Juan County, New Mexico

REPRESENTATIVE: Clark A. Moseley, Navajo Transitional Energy Company (NTEC)

ACTION AGENCY: Bureau of Indian Affairs and Navajo Nation

B.R. REPORT TITLE / DATE / PREPARER: Request for review & concurrence/04 OCT 2016/Moseley, NTEC

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3. Raptor Sensitive Area (RSA) onsite.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: [1] Aquila chrysaetos (Golden Eagle) G3, GBENPR, REPR, BGEPA, MBTA; [2] Bureo regalis (Ferruginous Hawk), G3, MBTA.

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: Na

CONDITIONS OF COMPLIANCE*: NTEC shall retrofit existing facilities for raptor safety as upgrades occur on the 69kV transmission line per Raptor Electrocution Prevention Regulations (REPR).

FORM PREPARED BY / DATE: Pamela A. Kyselka/20 OCT 2016

COPIES TO: (add categories as necessary)

☒ B/A ☐ _____

2 NTC § 164 Recommendation:	Signature	Date 10/31/16
☐ Approval ☒ Conditional Approval (with memo) ☐ Disapproval (with memo) ☐ Categorical Exclusion (with request letter) ☐ None (with memo)	Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife	

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

Representative's signature Date

PRESIDENT
RUSSELL BEGAYE
VICE PRESIDENT
JONATHAN NEZ

NAVAJO FISH AND WILDLIFE P.O. BOX 1480 WINDOW ROCK, AZ 86515

20 October 2016 16nteco3a3

Clark Moseley, Management Committee Executive
Navajo Transitional Energy Company
Post Office Box 1749
Window Rock, Arizona 86515

Dear Clark,
The Navajo Nation Department of Fish and Wildlife (NNDFW) reviewed your request for concurrence on **Navajo Transitional Energy Company's (NTEC) 69kV Transmission Line Right-of-Way** renewal located south of Morgan Lake in San Juan County, New Mexico. The proposed ROW renewal is approved with the condition that NTEC shall retrofit existing facilities for raptor safety as upgrades occur on the 69kV transmission line per Raptor Electrocution Prevention Regulations (REPR).

Please contact me at 928-871-7065 with any questions that you have concerning the review of this project.

Sincerely,

Pamela A. Kyselka, Wildlife Biologist
Navajo Natural Heritage Program

CONCURRENCE

Gloria Tom, Director
Department of Fish and Wildlife

10/21/16
Date

xc: CONS-100-16
BIA

THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT

MEMORANDUM

TO : Joe Begay Jr, Senior Animal Control Officer
Department of Fish and Wildlife
DIVISION OF NATURAL RESOURCES

FROM : Gloria M. Tom/ lft
Gloria M. Tom, Director
Department of Fish and Wildlife
DIVISION OF NATURAL RESOURCES

DATE : October 21, 2016

SUBJECT : **DELEGATION OF AUTHORITY**

I will be on leave on Friday, October 21, 2016. Therefore, I am delegating you to act in the capacity of the Director, Department of Fish and Wildlife, effective at 8:00 am, October 21, 2016 and ending at 5:00 p.m., October 21, 2016.

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

ACKNOWLEDGEMENT:

Joe Begay Jr, Senior Animal Control Officer
Department of Fish and Wildlife
DIVISION OF NATURAL RESOURCE

xc: File

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

THE NAVAJO NATION

Historic Preservation Department

P.O. Box 4950 • Window Rock, Arizona 86515 • (928) 871-7198

Russell Begaye
President

Jonathan Nez
Vice President

January 30, 2017

Clark A. Moseley, Management Committee Executive
Navajo Transitional Energy Company
PO Box 11
Farmington, New Mexico 87499

RE: Archaeological Approval for the Navajo Mine 69kV Transmission Line Right-of-Way Renewal

Dear Mr. Moseley:

The Navajo Nation Historic Preservation Department (NNHPD) has reviewed your request for archaeological approval for the Navajo Transitional Energy Company's lease renewal of the Navajo Mine 69kV Transmission Line right-of-way located within Sections 35 & 36 - T.29N, R.16W & Sections 07, 18, 19 & 30 - T.28N, R.15W. The transmission line is existing and the operator (Navajo Transitional Energy Company) intends to use them as is, with no need for construction or maintenance at this time. ROW renewal for the entirety of the existing 3.075-miles long with a 50-ft wide right-of-way, or 18.637-acres.

With the understanding that the existing facilities will be used and there will be no surface disturbance associated with the project, NNHPD stipulates that a Class III Cultural Resource Inventory is not necessary at this time in the Area of Potential Effect (APE). *However,* if there will be any surface disturbance within the ROW for maintenance or emergency repairs, the APE will be identified & a cultural resource file search, Class I and if need be, a Class III cultural resources inventory survey will be initiated in consultation with the NNHPD.

If you have any questions, or need more clarification, please do not hesitate to call Tamara Billie at 928/871-7198, or by email at tbillie@navajo-nsn.gov.

Approval:

Tamara Billie, Senior Archaeologist/Acting THPO
The Navajo Nation
Historic Preservation Department

Concurrence:

Sharon Pinto, Regional Director
Bureau of Indian Affairs
Navajo Regional Office

xc: File/HPD-17-087

1/31/2017

PROPOSED RESOLUTION OF
THE RESOURCES AND DEVELOPMENT COMMITTEE OF THE
NAVAJO NATION COUNCIL

Approving a renewal of existing rights-of-way (ROWs) for Navajo Transitional Energy Company, LLC (NTEC) to operate and maintain a 69 KV Electrical Transmission Line and fiber optic line over, under, along, and across a fifty foot wide strip of land into the NTEC coal lease area to operate mining equipment.

WHEREAS:

1. Pursuant to 2 N.N.C. § 500, the Resources and Development Committee of the Navajo Nation Council (RDC) is hereby established as a standing committee of the Navajo Nation; and

2. Pursuant to 2 N.N.C. § 500 B 2(a), the RDC shall "oversee regulation of activities on Navajo Nation lands for disposition or acquisition of resources, surface disturbance, or alteration of the natural state of the resources, including the enforcement and administration of applicable Navajo Nation and federal laws, regulations, guidelines, and administrative procedures in the development and use of resources as a good steward"; and

3. NTEC has submitted ROWs renewal application to operate and maintain a 69 KV Electrical Transmission Line on Navajo Nation Trust Lands, San Juan County, New Mexico attached hereto and incorporated herein as Exhibit "A"; and

4. The existing ROWs consist of approximately 18.637 acres, more or less, of Navajo Nation Trust Lands described as 50 feet in width, 3.075 miles in length, located within Sections 35 & 36, T29N, R16W, NMPM, and Sections 7, 18, 19, & 30, T28N, R15W, NMPM in San Juan County, New Mexico and the location is more particularly described on the survey map attached hereto and incorporated herein as Exhibit "B"; and

5. The consent of affected land users which was originally signed on September 28, 1967 is attached hereto and made a part hereof as Exhibit "C"; and

6. The environmental and archaeological studies have been completed and are attached hereto and made a part hereof by this application.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The RDC hereby approves ROWs for NTEC to operate and maintain a 69 kV Electrical Transmission Line and fiber optic line over, under, along, and across a fifty foot wide strip of land into the coal lease area for mining equipment, located in San Juan County, New Mexico. The location is more particularly described on the map attached hereto as Exhibit "B."

2. The RDC hereby approves the renewal of a grant for a right-of-way subject to, but not limited to, the following terms and conditions attached hereto and incorporated herein as Exhibit "D."

3. The RDC hereby waives the Bureau of Indian Affairs requirement for an appraisal, per this proof of a waiver for such appraisal, as stated under 25 C.F.R. 169.110 items 2-3 and 25 C.F.R. 169.112 item (iv), as written in this resolution.

4. The RDC hereby waives the Bureau of Indian Affairs requirement for a bond, insurance or alternative form of security for tribal land, as it is in the tribe's best interest considering the purpose of and risks associated with the right-of-way, as stated in 25 C.F.R. 169.103 item (f. 1-2), as written.

5. The RDC hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to affect the intent and purpose of this resolution.

CERTIFICATION:

I hereby certify that the foregoing resolution was duly considered by the Resources Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of ____ in favor, ____ opposed, and ____ abstained, this ____ day of _____, 2017.

_____

Alton Joe Shepherd, Presiding Chairperson
Resources and Development Committee

MOTION BY: _____

SECONDED BY: _____