

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

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT
OF RIGHT-OF-WAY TO THE CONTINENTAL DIVIDE ELECTRIC COOPERATIVE,
INC. TO CONSTRUCT, OPERATE AND MAINTAIN THE RED ROCK CHAPTER
PHASE 1 POWER LINE PROJECT, WO#85482 IN RED ROCK CHAPTER, NAVAJO
NATION, MCKINLEY COUNTY, NEW MEXICO

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 Continental Divide Electric Cooperative, Inc. has submitted a commercial Right-of-Way application to construct, operate and maintain a 14.4/24.9kv electrical distribution line on, over and across Navajo Nation Trust Lands to serve Navajo families of the Red Rock Chapter, Navajo Nation, McKinley County, New Mexico. See Exhibit "A"

B. The proposed Right-of-Way on Navajo Nation Trust Lands is 11,671.45 feet in length, 02.068 mileage, 20 feet in width, 5.32 acres, located within SW/4 of Section 02; W/2 E/2 of Section 9, NE/4 OF Section 11, NW/4 of Section 11, S/2 of Section 11, Section 12, T 13N; R19W NMPM, McKinley County New Mexico. See Exhibit "B".

C. The Navajo Nation has identified two (2) grazing permittees as the only affected land users and they have provided their consent and waived surface damages with concurrence of District 16 Grazing Committee member. See Exhibit "C".

D. The application for the Right-of-Way as submitted by Continental Divide Electric Cooperative has been reviewed by the Navajo Land Department; Fish and Wildlife; Historic Preservation; Minerals; Navajo Nation Environmental Protection; Division of Natural Resources and the Department of Justice and "Approved" or found "Sufficient" by all. See Exhibit "D"

E. The environmental and archaeological studies have been completed and are attached hereto as Exhibit "E" and incorporated herein by this reference.

F. A waiver of consideration is requested. The right-of-way project would serve a public purpose because the project will benefit Navajo residents.

SECTION THREE. APPROVAL

A. The Resources and Development Committee of the Navajo Nation Council hereby approves the Grant of Right-of-Way on Navajo Trust Lands, as described in Exhibit "B" to the Continental Divide Electric Cooperative, Inc. to construct, operate and maintain a 14.4/24.9kv electrical distribution line to serve Navajo families of the Red Rock Chapter, Navajo Nation, McKinley County, New Mexico.

B. The Resources and Development Committee of the Navajo Nation Council hereby waives consideration for the right-of-way project because the project will benefit Navajo residents.

C. The Resources and Development Committee of the Navajo Nation Council hereby approves the Right-of-Way subject to, but not limited to, the Terms and Conditions incorporate herein and attached as found at Exhibit "F".

D. The Resources and Development Committee hereby waives the requirement for a bond, insurance or alternative form of security on the part of the Grantee, based on the determination that the project benefits the Navajo Nation and such a waiver is

in the best interest of the Navajo Nation, pursuant to Title 25 CFR §169.103 (f) (2).

E. 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.

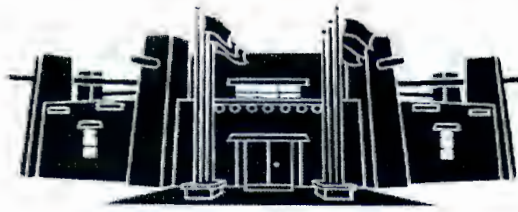
CERTIFICATION

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 Red Rock Chapter House, Red Rock, Navajo Nation (New Mexico), at which a quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, 1 abstained on this 13th day of June, 2017.

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

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

Motion: Honorable Jonathan Perry
Second: Honorable Davis Filfred



MEMORANDUM

To : Alton Joe Shepherd, Chairperson Resources and Development Committee
Shammie Begay, Legislative Advisor, Resources and Development Committee

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

Date : August 9, 2017

Re : Technical Correction of Resolution RDCJN-59-17

This memorandum is to inform the Chairperson of the Resources and Development Committee ("Committee") and the Committee's Legislative Advisor of the need to make a technical correction of the Resources and Development Committee Resolution RDCJN-59-17. That resolution was engrossed without the complete legal description of the right-of-way property which was the subject of RDCJN-59-17. It is important to note that the full legal description is included in the exhibits attached to RDCJN-59-17; therefore, when the Resources and Development Committee voted to approve RDCJN-59-17, the Committee also voted to approve the inclusion of the exhibits attached to RDCJN-59-17.

In conformity with the approved RDCJN-59-17 exhibits, corrections that should be made to the Resources and Development Committee Resolution are follows:

1. On page 1 of 3, add the underlined language as shown.

RDCJN-59-17
(corrected)

2. On page 1 of 3, in SECTION TWO. FINDINGS, paragraph "B," make the following correction as shown.

B. The proposed Right-of-Way on Navajo Nation Trust Lands is 11,671.45 feet in length, 02.068 mileage, 20 feet in width, 5.32 acres, located within SW/4 of Section 02; W/2 E/2 of Section 9, NE/4 of Section 11, NW/4 of Section 11, S/2 of Section 11, Section 12, T 13N; R19W NMPM, McKinley County New Mexico. See Exhibit "B".

Page 1 of 2

With this memorandum, Shammie Begay, Legislative Advisor to the Resources and Development Committee, has the necessary information with which to correct RDCJN-59-17.

Please contact me at the Office of Legislative Counsel if you have any questions regarding this matter.

XC: Speaker LoRenzo Bates

Delegate Seth Damon, Bááháálí, Chilchiltah. Manuelito, Red Rock, Rocksprings,
Tsayatoh Chapters

Levon Henry, Chief Legislative Counsel

Tom Platero, Executive Director, Office of Legislative Services



CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.

200 E. High St. • P.O. Box 1087 • Grants, New Mexico 87020 • (505) 285-6656 • Fax (505) 287-2234

January 25, 2017

The Navajo Land Department
Attn: Ms. Elerina Yazzie, Program Manager
Project Review Office
PO Box 2249
Window Rock, Arizona 86515

Re: Submitting ROW Package for the Red Rock Chapter Phase I Power Line Project, WO#85482

Dear Ms. Yazzie,

Continental Divide Electric Cooperative, Inc. is requesting right-of-way for the proposed 14.4/24.9 kv line for the Red Rock Chapter Phase I Power Line Project, WO#85482. The power line Right-of-way packet consists of the following documents being submitted for review by the Division of Natural Resources, Project Review Office.

1. \$500.00 Filing Fee, Check #133758
2. Grant of Permission to Survey – Navajo Tribal Trust Land from Mr. Howard Draper (Copy)
3. Grant of Permission to Survey - Tribal Trust Land from BIA/ENA Lester Tsosie (Copy)
4. Right of way Application
5. Archaeological Report
6. Cultural Resources Compliance Form
7. Environmental Report
8. FONSI
9. Biological Resources compliance Form
10. Navajo Fish & Wildlife
11. Copy of Letters from NTUA for permission to cross Existing water line
12. Copy of Letter from McKinley Cty Road Dept. to cross County Road #34
13. Legals
14. Map (4)

This project traverses over and across Navajo Tribal Trust Land. The distance on Navajo Tribal Trust Land is 11,671.45' feet in length, 20' feet in width, and 5.32 acres.

If you have any questions, please contact our office at your earliest convenience.

Sincerely,

Debbie Olivar
Engineering/ROW

Enclosures





THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT

February 24, 2016

Debbie Olivar
Continental Divide Electric Cooperative, Inc.
P.O. Box 1087
Grants, New Mexico 87020

Dear Ms. Olivar:

RE: Permission to Survey on Trust Lands

Your request for permission to survey two electric power line projects in Red Rock Chapter area known as Phase I and Phase II is hereby granted. The survey will be conducted in Sections 2, 11, 12 of T13N, R19W and Sections 5, 32 of T13N, R18W in McKinley County.

Permission to survey includes surveys for mapping, archaeological, ethnographic surveys & studies and is subject to the following terms and conditions:

1. The rights of local Navajo people will be respected and protected.
2. Personnel with the Division of Natural Resources (DNR) will retain the right to monitor the field survey.
3. The field survey will be conducted at your own risk. The Navajo Nation will not be held liable for any personal injury or property damage that might occur during the course of the field survey.
4. Vehicles will be kept on existing roads and trails. Surface disturbance will be kept to an absolute minimum while conducting the field survey.
5. The Permittee will comply with all applicable Tribal and Federal laws and regulations.
6. Approval of right-of-way, business site lease or any actual construction is not implied. An application for right-of-way must be filed with Navajo Land Department.

Sincerely,

Howard Draper
Program & Project Specialist
Navajo Land Department/DNR

CC: Red Rock Chapter
Project File



In Reply, Refer to:

4N420 – Real Estate Services
Rights of Way

United States Department of the Interior
Bureau of Indian Affairs
Eastern Navajo Agency
P. O. Box 328
Crownpoint, New Mexico 87313



MAR 02 2016

*Rec
3/7/16*

Debbie Olivar, ROW/Technical Engineer
Continental Divide Electric Cooperative, Inc.
P.O. Box 1087
Grant, New Mexico 87020

Dear Ms. Olivar:

Reference is made to the receipt of the Tribal Consent received February 25, 2016, for permission to survey includes surveys for mapping, archaeological, ethnographic surveys & studies for Work Order No. 85482, Red Rock Phase I Power Line, within Red Rock, McKinley County, New Mexico.

The Navajo Nation has given its concurrence to the survey for tribal trust lands, as contained in the letter from the Navajo Land Department, dated February 24, 2016. Prior to entry upon or across allotted land, consent from Indian land owners is required.

Subject to any prior rights or adverse claims and to all applicable regulations of 25 CFR 169, authorization is hereby granted to proceed with the necessary survey subject to the following terms and conditions of the Navajo Nation:

1. The rights of local Navajo people will be respected and protected.
2. Personnel with the Division of Natural Resources (DNR) will retain the right to monitor the field survey.
3. The field survey will be conducted at your own risk. The Navajo Nation will not be held liable for any personal injury or property damage that might occur during the course of the field survey.
4. Vehicles will be kept on existing roads and trails. Surface disturbance will be kept to an absolute minimum while conducting the field survey.
5. The Permittee will comply with all applicable Tribal and Federal laws and regulations.
6. Approval of right-of-way, business site lease or any actual construction is not implied. An application for right-of-way must be filed with Navajo Land Department.

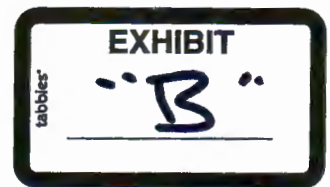
This authorization is for SURVEY ONLY on Tribal Trust Lands, according to the Tribal Consent received on February 25, 2016.

If you have any questions, please contact our Rights-of-Way Section at (505) 786-6123.

Sincerely,


Agency Superintendent

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS



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

1. Application Name and Address: Continental Divide Electric Cooperative, Inc., PO Box 1087, 200 East High Street, Grants, New Mexico 87020
2. Tracts(s) or parcel(s) affected by the right-of-way: _____
3. General location (easement location): Navajo Tribal Trust Land, SW/4 of Section 2, W/2 E/2 of Section 9, NE/4 of Section 11, NW/4 of Section 11, S/2 of Section 11, Section 12, T13N, R19W, NMPM McKinley County, New Mexico
4. Purpose: (Per the request of the Navajo Nation and Red Rock Chapter), Construction, Operation, and Maintenance of 14.4 kv Electrical Distribution Line for the Red Rock Chapter Electrical Power Project Phase I, WO #85482
5. Term (Renewal, if applicable): 50 Years
6. Identify ownership of permanent improvements associated with the right-of-way and the responsibility for constructing, operating, maintaining, and managing permanent improvements under §169.105: Continental Divide Electric Cooperative Inc.

REQUIRED SUPPORTING DOCUMENTS [§169.102(b)]:

1. Accurate legal description of the right-of-way, its boundaries, and parcels associated with the right-of-way;
2. A map of definite location of the right-of-way; [169.102(b)(2)]; survey plat signed by professional surveyor or engineering showing the location, size, and extent of the ROW and other related parcels, with respect to each affected parcel of individually owned land, tribal land, or BIA land and with reference to the public surveys under 25 U.S.C. § 176, 43 U.S.C. § 2 and § 1764, and showing existing facilities adjacent to the proposed project.
3. Bond(s), insurance, and/or other security meeting the requirements of §169.103;
4. Record that notice of the right-of-way was provided to all Indian landowners;
5. Record of consent that the right-of-way meets the requirements of §169.107, or a statement documenting a request for a right-of-way without consent under §169.107(b);
6. If applicable, a valuation meeting and requirements of §§ 169.110, 112, 114;
7. With each application, if the applicant is a corporation, limited liability company, partnership, joint venture, or other legal entity, except a tribal entity, information such as organizational documents, certificates, filing records, and resolutions, demonstrating that:
 - a. The representative has authority to execute the application;
 - b. The right-of-way will be enforceable against the applicant; and

- c. The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located.
8. Current environmental and archaeological reports, surveys, and site assessments, as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements;
9. If required, a statement from the appropriate tribal authority that the proposed right-of-way is in conformance with applicable tribal law.

THE APPLICANT FURTHER STRIPULATES AND EXPRESSLY AGREES AS FOLLOW:

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

Applicant Point of Contact Information:

Name: Continental Divide Electric Cooperative, Inc.

Address: 200 East High Street, PO Box 1087, Grants

State: Grants Zip: 87020

Phone: (505) 285-6656

Email: dolivar@cdec.coop or smoraies@cdec.coop

Date: April 20, 2017

Applicant:   (Signature)

Debbie Olivar or Steve Morales (Print Name)

HC 33 Box 10A
Gallup NM 87301
Phone 505/879-3918
Email: lahenry08@yahoo.com

March 27, 2017

Ms. Elerina Yazzie
General Land Development Department
Division of Natural Resource
Navajo Nation
PO Box 2249
Window Rock, AZ 86515


Dear Ms. Yazzie,

Continental Divide Electric Coop. Inc. PO Box 1087, Grants, New Mexico 87002 is submitting a field clearance package for Electrical Distribution Line Project Work Order 85482 on Navajo Trust Lands within W/4 of Sec. 02; W/2 E/2 of Sec 9, 11,12 of T13N; R19W; PMNM, McKinley County, New Mexico, Red Rock Phase I /Red Chapter. 11,671.45' Length; 02.068 mileage, 5.32 Acreage; 20' Width.

The Landboard identified 2 permittees William Skeet, Henry J Parker affected by the proposed project. I informed the grazing permittees on the proposed project. And they had no objection and they waived the surface damages. I obtained the grazing permittee's consent along with concurrence of the District. *LB*
Donald Arviso

I have attached field clearance completed, land user consent and proposed map attached to the right-of-way package.

Should you have any questions or addition information, please contact me at 505-879-3918


Lucinda Henry
ROW Agent

Cc CDEC

FIELD CLEARANCE CHECKLIST



(This form covers only damages and compensation to individual land users. It does not cover consideration or other fees to the Navajo Nation. Use back if necessary to complete this form.)

1. Project Identification:

Continental Divide Electric Coop. Inc

Type of Project: Electrical Powerline Extension

Purpose Rights-of-way to construction; operation; maintenance of 14.4K electrical distribution line for Work Oder 85482

Location: W/4 of Sec. 02; W/2 E/2 of Sec 9, 11,12, T13N; R19W; PMNM, McKinley County, NM
Identification number(s): Red Rock Phase I Work Order 50940

2. Amount of land affected: 11,671.45' Length; 02.068 mileage, 5.32 Acreage; 20' width

3 Land Status: Trust X Fee _____ Other _____

4. List names of all individuals whose land use rights will be affected by project:

	Names	Census Number	Type of Land Use Right
1.	<u>William Skeet</u>	<u>103,736</u>	<u>Grazing</u>
2.	<u>Henry Parker</u>	<u>604,599</u>	<u>Grazing</u>
3.	_____	_____	_____
4.	_____	_____	_____

5. Are all land users with claims to the affected lands as shown in Branch of Land

Operations records included in the list in Item 4 yes

6. Have Grazing Committee or Land Board Member (whichever is appropriate) for the affected area confirm land user list in Item 4 by signing acknowledgement below.

ACKNOWLEDGEMENT

I acknowledge that due notice was given to the affected community of the proposed project, and according to my records and to the best of my knowledge, the list of individuals in Item 4 includes all land users who have land use rights in the affected lands.

3-27-2017
Date

Donald Amato
Grazing Committee or Land Board Member

16
District No.

Consent to use
NAVAJO NATION L LANDS

TO WHOM IT MAY CONCERN:

I, William Skeet, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs to Permit Continental Divide Electric Cooperative, Inc., of PO Box 1087; Grants, NM 87002-1087 to use a portion of my land use area for the following purpose (s): Rights-of-way to construction; operation; maintenance of 14.4K electrical distribution line for Red Rock Phase I Work Order 85482

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

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

REMARKS: _____

3-25-2017 William Skeet 103236 E4616208
Date Land User Signature (or Thumbprint) Census No. Permit No.

WITNESSES

Ronald Armas

03-27-2017
Date

Ronald Armas
Grazing Committee or Land Board Member

16
District No

Acknowledgement of Field Agent

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

Ronald Armas
Field Agent Signature

Consent to use
NAVAJO NATION L LANDS

TO WHOM IT MAY CONCERN:

I, Henry Parker, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs to Permit CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, Inc. of PO Box 1087; Grants, NM 87002-1087 to use a portion of my land use area for the following purpose (s): Rights of Way for construction, operation and maintenance of 14.4K electrical distribution line for Work Order Red Rock Phase 1 85482

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

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

REMARKS: _____

<u>3/29/2017</u> Date	<u>Henry J Parker</u> Land User Signature (or Thumb print)	<u>604-599</u> Census No.	<u>E46163135C6P</u> Permit No.
--------------------------	---	------------------------------	-----------------------------------

WITNESSES

<u>03-27-2017</u> Date	<u>Donald Asmas</u> Grazing Committee or Land Board Member	<u>16</u> District No
---------------------------	---	--------------------------

Acknowledgement of Field Agent

I acknowledge that the contents of this consent form was read/ or fully explained to the



Document No. 007515

Date Issued: 02/03/2017

EXECUTIVE OFFICIAL REVIEW

Title of Document: CDEC, Red Rock Chapter Phase I Power Lin Contact Name: YAZZIE, ELERINA B

Program/Division: DIVISION OF NATURAL RESOURCES

Email: michellehoskie@frontier.com Phone Number: 928-871-6447

☐ **Business Site Lease** Sufficient Insufficient

1. Division: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. Office of the Controller: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
(only if Procurement Clearance is not issued within 30 days of the initiation of the E.O. review)			
3. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

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

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

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

1. Office of Management and Budget: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. Office of the Controller: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

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

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

☐ **Lease Purchase Agreements**

1. Office of the Controller: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
(recommendation only)			
2. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☐ **Grant Applications**

1. Office of Management and Budget: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. Office of the Controller: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

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

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

☐ **Relinquishment of Navajo Membership**

1. Land Department: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. Elections: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

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

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

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

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

☐ **Rights of Way**

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

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

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

☐ **Assignment of Mineral Lease**

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

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

1. NLD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. F&W	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. HPD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5. NNEPA	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
6. DNR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
7. DOJ <i>(ie)</i>	<i>W&F</i>	Date: <i>5/3/17</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. OPVP	<i>W&F</i>	Date: <i>5-12-17</i>	<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 Land Title Data System (NLTDs)
Navajo Land Title, Navajo Land Title Data System - Windowrock AZ:
Document Information

Document Information	
Document Name:	003_R005_00007515.zip
Revision:	
Version:	1
Document Desc:	
Document Author:	Stevie Hudson GLDD (Navajo Land Title Data System - Windowrock AZ)
Document Status:	Sufficient
DocumentType:	164 Review Process
Effective Date:	07-Mar-2017
Expires:	Never
Uploaded from:	Navajo Land Title Data System (NLTDs) Phase 1: Plan for Quality Management System
	Step 980: 003_R005_00007515
	Task 1: Upload and Manage Documents
Size:	58516 KB
Date Uploaded:	07-Feb-2017
Maintained by:	Project Management Team

No Document Distribution Locations

Tier 1 Document Voting Results						
User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date
Eugenia Quintana EPA (Navajo Land Title Data System - Windowrock AZ)	Air and Toxics - Reviewer	Navajo Nation Environmental Protection Agency	Approved	<i>no comments</i>	<i>No Reply</i>	07-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 regarding your project, should you cross any waterways, ephemeral or perennial. A Clean Water Act Section 401 Certification may be needed. You may contact our office at 928-871-7690. Thank you.	1.	14-Feb-2017
Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. BRCF #16dan105a is attached. Thank you.	1.	07-Feb-2017
Pam Maples EPA (Navajo Land Title Data System - Windowrock AZ)	Storage Tanks Program - Reviewer	Navajo Nation Environmental Protection Agency	Approved	<i>no comments</i>	<i>No Reply</i>	14-Feb-2017
Patrick Antonio EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Supervisor	Navajo Nation Environmental Protection Agency	Approved	1. Unclear on expected acreage of land disturbance (clearing, road access, pole installations, etc.). If greater than 1.0 acres, coverage is required under the federal Construction General Permit for storm water discharges.	1.	09-Feb-2017
Robert Allan DNR (Navajo Land Title Data System - Windowrock AZ)	Deputy Director DNR	DNR Administration	Approved	1. Add Navajo Nation Terms and Conditions	1.	08-Feb-2017
Yolanda Barney EPA (Navajo Land Title Data System - Windowrock AZ)	Public Water System Supervision Program	Navajo Nation Environmental Protection Agency	Approved	<i>no comments</i>	<i>No Reply</i>	08-Feb-2017

Tier 2 Document Voting Results						
User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date
Bitah N. Becker (FBFA)	FBFA Users	FBFA Action Team	Approved	<i>no comments</i>	<i>No Reply</i>	07-Mar-2017
Ronnie Ben EPA (Navajo Land Title Data System - Windowrock AZ)	Underground Injection Control - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. concur with NNEPA staff.	1.	15-Feb-2017
Sam Diswood (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	<i>no comments</i>	<i>No Reply</i>	15-Feb-2017
Steven Prince MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	1. Mr. Zaman has approved this project contingent on the attached Standard Terms and Conditions being permanently inserted into the total package. slp	1.	21-Feb-2017
Tamara Billie NNHP (Navajo Land Title Data System - Windowrock AZ)	HPD Reviewer	Historic Preservation Department	Approved	<i>no comments</i>	<i>No Reply</i>	17-Feb-2017
W. Mike Halona (Navajo Land Title Data System - Windowrock AZ)	Manager III Navajo Land Department	NLD Administration	Approved	<i>no comments</i>	<i>No Reply</i>	15-Feb-2017



RESUBMITTAL
March 2017

NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



DOJ	
4/21/17	1032am
DATE / TIME	
<input type="checkbox"/> 7 Day Deadline	
DOC #:	007515#2
SAS #:	
UNIT:	NAM

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

CLIENT TO COMPLETE

DATE OF REQUEST:	4/21/2017	DIVISION:	NATURAL RESOURCES
CONTACT NAME:	Michelle Hoskie or Stevie Hudson	DEPARTMENT:	GENERAL LAND DEVELOPMENT DEPARTMENT
PHONE NUMBER:	x 6447	E-MAIL:	steviehudson@frontier.com
TITLE OF DOCUMENT: CDEC RED ROCK CHAPTER PHASE I POWER LINE			

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT:	4.21.17 10:54am	REVIEWING ATTORNEY/ADVOCATE:	Immun Chee 5.3.17 (FOR)
DATE TIME OUT OF UNIT:	6/4/17 8am		

DOJ ATTORNEY / ADVOCATE COMMENTS

- Terms & Conditions has been Attached. Updated Application is also attached w/updated ROW Regs. Document is now legally sufficient.

REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
Immun Chee	5/3/17	Blackhat	5/3/17 5:10pm

DOJ Secretary Called: Stevie for Document Pick Up on 5/4/17 at 9:15am By: ah

PICKED UP BY: (Print) DATE / TIME:



Irvin.
• Ask if they
have updated
application -
this ref old
ROW Regs.
There are
no terms/cond
attached

DEPARTMENT OF JUSTICE

DOCUMENT
VIEW
QUEST
FORM



DOJ
03-29-17 925am
DATE / TIME
<input type="checkbox"/> 7 Day Deadline
DOC #: 007515
SAS #:
UNIT: NLR

☐ RESUBMITTAL

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

CLIENT TO COMPLETE

DATE OF REQUEST:	3/28/2017	DIVISION:	NATURAL RESOURCES
CONTACT NAME:	Michelle Hoskie or Stevie Hudson	DEPARTMENT:	GENERAL LAND DEVELOPMENT DEPARTMENT
PHONE NUMBER:	x 6447	E-MAIL:	steviehudson@frontier.com

TITLE OF DOCUMENT: CDEC RED ROCK CHAPTER PHASE I POWER LINE

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 3/29/17 10:30am REVIEWING ATTORNEY/ADVOCATE: Irvin Chee

DATE TIME OUT OF UNIT:

DOJ ATTORNEY / ADVOCATE COMMENTS

- Rtd. doc. to GLDD ofc. to attach the Terms & Conditions & have Minerals do Assessment. Also, ask BIA if they have updated Application. We

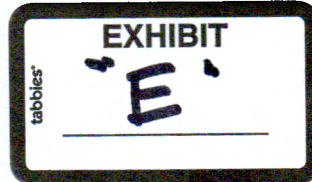
REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
Irvin Chee	4-5-17		

DOJ Secretary Called: for Document Pick Up on at By:

PICKED UP BY: (Print) DATE / TIME:

NNDOJ/DRRF-July 2013

Need an updated application because the application that is attached reference Old ROW Regs. Let BIA know that we need an updated application w/current ROW Regs. Thx.-ic



DCRM 2016-23:
A Cultural Resources Inventory of the Continental Divide Electric Cooperative's Proposed Red Rock
Phase I Powerline Project, McKinley County, New Mexico, Work Order
No. 85482.

Prepared by

Rena Martin, Anthropologist
Jeremy Begay, Senior Archaeologist

HPD Permit No.: B16349

May 31, 2016

Submitted by:

Dinétahdóó Cultural Resources Management, LLC
P.O. Box 2012
Farmington, NM 87499

Submitted to

Navajo Nation Historic Preservation Department
Cultural Resources Compliance Section
P.O. Box 4950
Window Rock, Arizona 86515

Prepared for:

Debbie Olivar, Technical Engineer/ROW
Continental Divide Electric Cooperative, Inc.
P.O. Box 1087
Grants, New Mexico 87020

Abstract

The following report is submitted to the Navajo Nation Historic Preservation Department's Cultural Resources Compliance Program for compliance review as part of the Navajo Nation cultural resources clearance process. The report details the results of the cultural resources inventory conducted in conjunction with the project entitled "*DCRM 2016-23: A Cultural Resources Inventory of the Continental Divide Electric Cooperative's Proposed Red Rock Phase I Powerline Project, McKinley County, New Mexico, Work Order No. 85482.*" The project was conducted at the request of Ms. Debbie Olivar, Right-of-Way Agent (ROW), Continental Divide Electric Cooperative (CDEC) requested the inventory. The project will involve the construction of distribution power line extensions that will serve twelve (12) Navajo residents. The installation activities will consist of vehicular traffic within the rights-of-way, clearing of vegetation, digging holes for the electrical poles, placement of utility poles, backfilling the excavated areas, the stringing of utility lines and fiber optic cables, and the installation of associated equipment. The lines will also be maintained by CDEC. The project area is in the eastern portion of the Navajo Indian Reservation in Red Rock Chapter, Eastern Navajo Agency. The legal descriptions for the projected area are as follows: Sections 2, 9, 10, 11, and 12, Township 13 North, Range 19 West, (NMPM). The project area can be found on the following USGS 7.5-minute quadrangle maps: Twin Buttes, N. Mex, P.R. 1979 and Vanderwagen, N. Mex, P.R. 1979. The total number of acres surveyed in conjunction with this project is 42.84 (17.33); the area of effect is 9.44 acres (3.82 ha). Twelve (12) in-use sites and one isolated occurrence (IO) were identified during the inventory. Archaeological clearance is recommended for the proposed undertaking provided that the recommendations prescribed in the report adhered to during all phase of construction.

Contents

Abstract.....	i
List of Tables.....	ii
Introduction	1
Description of Undertaking	1
Location.....	1
Existing Data Review	2
Area Environmental and Cultural Setting.....	2
Field.....	4
Traditional Cultural Properties	5
Evaluation of Significance.....	5
Recommendations:	7
References	7

List of Tables

Table 1: UTM Coordinates, Legal Description and USGS Map names for Continental Divide Electric Cooperative's Red Rock Phase I Powerline project in McKinley, New Mexico.....	1
Table 2: In-Use Sites Identified along the Continental Divide Electric Cooperative's Proposed Powerline project.	4
Table 3: NHPA, ARPA, AIRFA, and NAGPRA Evaluation of Identified Cultural Resources documented in the Red Rock Phase I Powerline project in McKinley County, New Mexico.	6

Introduction

Between May 18th through 23rd, 2016, Jeffrey Begay, Tristin Moone, and Jeremy Begay archaeologists with Dinéahdó Cultural Resources Management (DCRM), conducted an archaeological inventory of the proposed electric distribution lines for the Continental Divide Electric Cooperative's Proposed Red Rock Chapter Red Rock Phase I Powerline Project, McKinley County, New Mexico. Mr. Steve Morales served as the project Right-of-Way (ROW) Agent. The proposed power line project is associated with CDEC's Work Order No. 85482. Twelve (12) in-use sites were identified during the inventory. This cultural resources inventory was completed under Navajo Nation Cultural Resource Inventory Permit Number B16349.

Description of Undertaking

The Continental Divide Electric Cooperative (CDEC) proposes to construct, operate, and maintain the distribution lines with fiber optic cables which will provide electrical power to the Red Rock community in the Red Rock Chapter, McKinley County, New Mexico. The installation will consist of vehicular traffic within the right-of-way; clearing of vegetation; digging holes for the electrical poles; placement of utility poles; backfilling the excavated areas; stringing of power lines; and finally, maintaining the utility lines as needed. In all, the total area surveyed is 20,735.41 ft (6,320.15 m; 3.93 miles) in length, with a right-of-way measuring 20 ft. wide (6 m). The area-of-effect equals 9.44 acres (3.82 ha).

Location

The project area is located on Navajo Nation Trust Lands and Navajo Allotted Lands in the Red Rock Chapter, McKinley County, New Mexico (Figures 1&2). The project area can be accessed by U.S. Highway 602 on Skeets Rd and by several maintained dirt roads that stem off from the highway. Table 1 displays the UTM coordinates and legal description for the proposed distribution Powerlines.

Table 1: UTM Coordinates, Legal Description and USGS Map names for Continental Divide Electric Cooperative's Red Rock Phase I Powerline project in McKinley, New Mexico.

Designation	UTM Coordinates: Zone 12 (NAD 83)		Legal Description						USGS Map Name (7.5' Quadrangle)
	Northing	Easting	¼	¼	¼	Sec.	T	R	
Tap A-1									
BOL	3916044	699387	SE	NE	SW	12	13N	19W	Vanderwagen, NM., 1963
B1	3916061	699297	SE	NE	SW	12	13N	19W	
B2	3916038	699085	SW	NE	SW	12	13N	19W	
B3	3916035	698792	SW	NW	SW	12	13N	19W	
B4	3916008	698593	SW	NW	SW	12	13N	19W	
B5	3916068	698487	SE	NE	SE	11	13N	19W	
B6	3916265	698445	NW	NE	SE	11	13N	19W	
B7	3916532	698350	SW	SE	NE	11	13N	19W	
B8	3916829	698087	NE	SW	SE	11	13N	19W	
B9	3917066	697777	NE	NE	NW	11	13N	19W	
B10	3917096	697675	NE	NE	NW	11	13N	19W	
B11	3917074	697203	NE	NW	NW	11	13N	19W	
B12	3916913	696981	SE	NE	NE	10	13N	19W	
B13	3916877	696874	SE	NE	NE	10	13N	19W	
B14	3916895	696591	SE	NW	NE	10	13N	19W	
B15	3916860	696412	SW	NW	NE	10	13N	19W	
B16	3916695	696072	NE	SE	NW	10	13N	19W	

B17	3916674	695609	NE	SW	NW	10	13N	19W	Vanderwagen, NM., 1963
EOL	3916451	695031	SE	SW	NE	9	13N	19W	
Tap A-1									
BOL	3917092	697581	NW	NE	NW	11	13N	19W	Vanderwagen, NM., 1963
EOL	3917457	697597	NW	SE	SW	2	13N	19W	
Tap A-2									
BOL	3916679	695724	NE	SW	NW	11	13N	19W	Vanderwagen, NM., 1963
EOL	3916760	695753	NE	SW	NW	11	13N	19W	Twin Buttes, N. Mex, P.R. 1979
Tap A-3									
BOL	3916679	695724	NE	SW	NW	10	13N	19W	Vanderwagen, NM., 1963
EOL	3916607	695699	NE	SW	NW	10	13N	19W	
Tap A-4									
BOL	3916562	695319	NE	SE	NE	9	13N	19W	Vanderwagen, NM., 1963
EOL	3916424	695346	SE	SE	NE	9	13N	19W	
Tap A-5									
BOL	3916487	695124	SW	SE	NE	9	13N	19W	Vanderwagen, NM., 1963
EOL	3916561	695113	NW	SE	NE	9	13N	19W	
Tap A-6									
BOL	3916487	695124	SW	SE	NE	9	13N	19W	Vanderwagen, NM., 1963
EOL	3916418	695134	SW	SE	NE	9	13N	19W	

BOL: Denotes Beginning of Line I.O: Denotes Isolated Occurrences EOL: Denotes End of Line

Existing Data Review

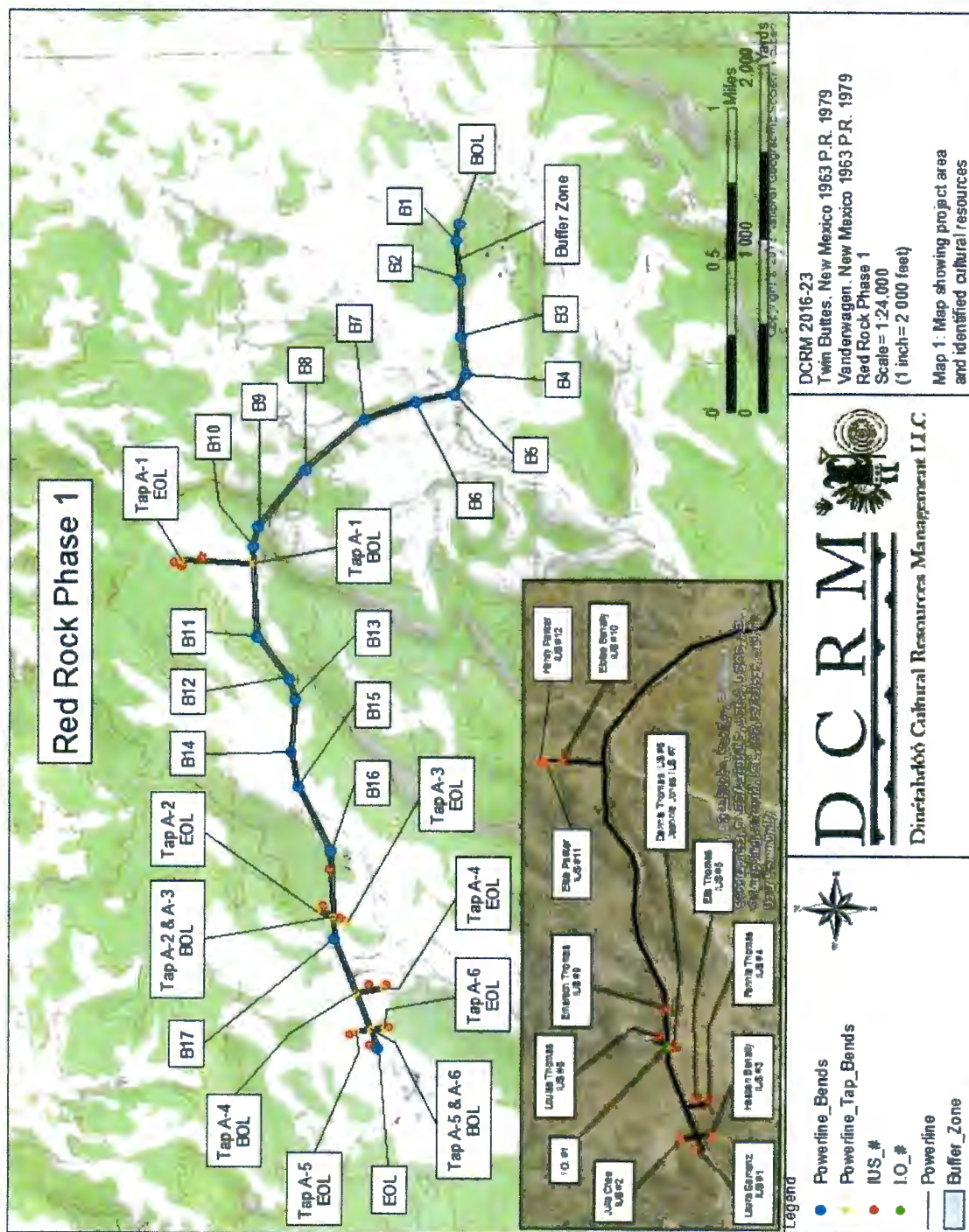
Prior to the fieldwork, a literature search of the scattered project areas was conducted at the Navajo Nation Historic Preservation Department's (NNHPD), Cultural Resources Compliance Section (CRCS) and Traditional Cultural Program in Window Rock, Arizona. The CRCS files indicated that a few previous projects had been conducted within 1 mile (1609.34 m) of the project area.

A search of the Sacred Places files at the Navajo Nation Historic Preservation Department's Traditional Cultural Program indicated that there were no previously identified Traditional Cultural.

Area Environmental and Cultural Setting

The project area is situated on the broad Red Rock syncline, a southeast sedimentary landmass that was tilted during large-scale inland crustal deformation throughout the Laramide Orogeny. The majority of geologic facies in the region are non-marine sedimentary strata which are the sources of the Aeolian deposits of sand in the project area. The environmental setting of the Red Rock powerline is flat with scrub vegetation. The proposed CDEC powerline project is located 5 miles south of Gallup, New Mexico. Vegetation observed in the area consists of snakeweed, rabbit brush, juniper, sage brush, bunch grass, tansy mustardweed, pinion, prickly pear cactus, Indian rice grass, globe mallow, coco weed, buck wheat, and Russian thistle. The homesites to be served is in an isolated area. It has bladed access roads and associated in-use features.

Red Rock. The Navajo name for Red Rock is *Tse'lichii*, which, when translated, means Red Rock (a butte). Red Rock Chapter is continuing to pursue development of its basic infrastructure. Currently, Red Rock is assessing its community issues and implications of programs and how they impact the community. The chapter intends to prepare long range strategic and comprehensive community development plans to realize the needs of its community. Local planning is important since it represents the wishes of community members. (LSR Innovations 2004).



Field Methods

Between May 06th through 23rd, 2016, Jeff Begay and Jeremy Begay archaeologists with Dinéahdóó Cultural Resources Management (DCRM), conducted a cultural resources inventory of the proposed distribution lines with fiber optic cables. Prior to the inventory, the proposed power line extensions were staked by T&D Engineering Services of Albuquerque. The project areas were surveyed by walking two parallel transects on each side of the centerline with intervals spaced no more than 7 m apart.

A 90-foot-wide (20.12 m) corridor was surveyed for each of the proposed power line extensions. This included a 20 ft. (6 m) right-of-way with 35 ft. (7 m) buffer zones on each side of the ROW. The total number of acres surveyed in conjunction with this project is 42.84 (17.33 ha);

The in-use sites were not documented out of respect for the privacy of the individuals; however, pursuant to NNHPD guidelines, the residents and their neighbors were interviewed to identify any potential traditional cultural properties (TCPs) that may be impacted by the undertaking. A description of the IUSs and the results of the interviews can be found below.

Isolated Occurrences

During the survey, one (1) isolated occurrence was identified and recorded. The isolated occurrence consisted of one Cibolan corrugated ceramic sherd at UTM coordinates; 12S, N3916773, E0695720. No other artifacts were observed in the area.

In-Use Sites

During the inventory, twelve (12) occupied or in-use sites (IUS) were identified and recorded. The homes are occupied by Navajo families, and out of respect for their privacy none of the in-use features were mapped. The majority of homeowners and/or neighbors were interviewed regarding the age of their residence, local traditional cultural properties, and any known unmarked burials. A brief description of the identified IUSs and the interview results can be found in Table 2.

Table 2: In-Use Sites Identified along the Continental Divide Electric Cooperative's Proposed Powerline project.

IUS# and Client Name	Summary of Structures	Interviewee	Interview Results (Dates of Occupation and TCP)
IUS #1	2 Houses and 1 Hogan	Julia Chee	No TCP or Burials
IUS #2	1 House fenced, 1 shed, and 1 Corral	Laura Garnenz	No TCP or Burials; 1970's to present (2016)
IUS #3	1 House, 2 Hogan, and 1 Corral	Hasbah Benally	No TCP or Burials
IUS #4	1 House, 2 Hogans, 2 Cottages, and 3 Sheds	Fannie Thomas	No TCP or Burials
IUS #5	1 House, 1 Shed, and 1 Ramada	Ella Thomas	No TCP or Burials
IUS #6	1 Shed	Dennis Thomas	No TCP or Burials
IUS #7	1 Mobile Home	Jeannie Jones	No TCP or Burials
IUS #8	1 Hogan fenced and 1 Shed	Louise Thomas	No TCP or Burials
IUS #9	1 House, 1 Shed, 1 Corral	Emerson Thomas	No TCP or Burials; 1990's to present (2016)
IUS #10	1 House, 2 Hogans	Eloise Benally	No TCP or Burials
IUS #11	1 House, 1 Mobile Home, 1 Hogan	Elsie Parker	No TCP or Burials
IUS #12	1 House, 3 Sheds, and 1 Corral	Henry Parker	No TCP or Burials; 1980's to present (2016)

Traditional Cultural Properties

During the field inventory archaeologists interviewed residents to gather information on the dates of occupancy of their own (and their neighbors') homesites. None of the residents knew of any unmarked burials or TCPs within or near the project area. The interviews were conducted in both Navajo and English.

Evaluation of Significance

All cultural resources that were identified and recorded during the inventory are evaluated for significance under certain federal statutes for the preservation and management of those resources. This process is intended to ensure that cultural resources are not unconsciously destroyed by the proposed undertaking, and to ensure that local communities are involved in the decision-making process. Although the Navajo Nation has enacted the Navajo Nation Cultural Resources Protection Act (NNCRPA), it has not instituted regulations, nor is there a process to evaluate resources under this act.

The National Historic Preservation Act

Under the Section 106 process of the National Historic Preservation Act (NHPA; 36 CFR 60.4), cultural resources may be eligible for nomination to the National Register of Historic Places if they are more than 50 years old and "possess integrity of location, design, setting, material, workmanship, feeling, and association." One or more of the following criteria (a-d) must be applicable:

- a. associated with events that have made a significant contribution to the broad patterns of our history; or
- b. associated with the lives of a person significant in our past; or
- c. embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- d. has yielded, or may be likely to yield, information important in prehistory or history.

As defined in 36 CFR 60.4, cemeteries, birthplaces, or graves of historical figures; properties owned by religious institutions or used for religious purposes; structures that have been moved from their original locations; reconstructed historical buildings; properties primarily commemorative in nature; and properties that have achieved significance within the past 50 years are not ordinarily considered eligible for the National Register. However, such properties may qualify if they are integral parts of districts that do meet the eligibility criteria.

Archaeological Resources Protection Act

The Archaeological Resources Protection Act of 1979 (ARPA; 43 CFR Part 7) has two fundamental purposes:

- to protect irreplaceable archaeological resources on public lands and Indian lands from unauthorized excavation, removal, damage, alteration, or defacement; and
- to increase communication and exchange of information among governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data that were obtained prior to enactment of the Act.

In order for a resource to be considered an archaeological resource and thus merit protection, it must be both more than 100 years old and of archaeological interest.

American Indian Religious Freedom Act

The American Indian Religious Freedom Act (AIRFA [P.L. 95-341]) affirms that American Indians have the right to believe, express, and exercise their traditional religions and have access to sites, use and possession of sacred objects, and freedom of worship through ceremonies and rites. Any site or place (prehistoric or historic) that has religious, ceremonial, or sacred aspects or components needs to be dealt with in light of this law. Anasazi sites related to Navajo cultural traditions qualify for protection, as do all Navajo ceremonial sites, unmarked traditional places, and residential structures whose owners/users want them protected for religious and cultural reasons.

Native American Graves Protection and Repatriation Act

The Native American Graves Protection and Repatriation Act (NAGPRA [P.L. 101-601]) provides protection of Native American graves; establishes procedures and legal standards for the repatriation of human remains, funeral objects, sacred objects, and objects of cultural patrimony, including those from archaeological contexts; and provides the United States district court's jurisdiction over any action brought by any person alleging a violation of the Act. The Act also recognizes certain tribal, Native Hawaiian, and individual rights in regard to burial sites located on federal and Indian lands, and it sets forth procedures for the intentional excavation and inadvertent discoveries of these items.

Navajo Nation law and policy also protects cultural resources on lands under Navajo Nation government jurisdiction. The **Navajo Nation Cultural Resources Protection Act of 1988** (NTC CMY-19-88) is modeled on the federal laws which require consideration of the effects of an undertaking on significant cultural resources. It also authorizes the Navajo Nation Historic Preservation Department to create and maintain a "Navajo Nation Register of Cultural Properties and Cultural Landmarks." The Register is to include "buildings, districts, objects, places, sites, and structures significant in Navajo Nation history, architecture, archaeology, engineering, and culture" on Navajo lands. The Register and its criteria for eligibility have yet to be established.

The **Navajo Nation Policy for the Protection of Jishcháá'** covers all human remains, associated funerary items, and unassociated funerary items on land under Navajo Nation jurisdiction. It emphasizes non-disturbance as the required treatment of these items unless disturbance is unavoidable. It sets forth procedures for intentional excavation and inadvertent discovery of these items.

Table 3: NHPA, ARPA, AIRFA, and NAGPRA Evaluation of Identified Cultural Resources documented in the Red Rock Phase I Powerline project in McKinley County, New Mexico.

Cultural Resource No.	Description	Evaluation	
Isolated Occurrences	1 Cibolan corrugated ceramic sherd.	NRHP	Not Eligible 1. 50-year guideline met 2. Lacks integrity 3. Does not meet criterion a-d
		ARPA	Is Eligible? No 1. 100-year guideline met? Yes 2. Is of archaeological interest? No
		AIRFA	Do not merit consideration
		NAGPRA	Do not merit consideration
In Use Sites (Within the survey area)	In-use Navajo residence 1970s-present.	NRHP	Not Eligible; Navajo Nation policy precludes nomination of in-use sites
		ARPA	Is Eligible? No 1. 100-year guideline met? No 2. Is of archaeological interest? No

Cultural Resource No.	Description	Evaluation	
		AIRFA	Does merit consideration
		NAGPRA	Does merit consideration

Recommendations:

Archaeological clearance is recommended for the proposed undertaking with the following stipulations; 1) all construction activities be confined to the right-of-way corridor and existing roads and 2), any new discoveries of cultural materials be immediately reported to the Navajo Nation Historic Preservation Department.

References

LSR Innovations Research & Planning

2004 *Chapter Images: 2004 Edition*. Division of Community Development, Window Rock, Arizona.

Van Valkenburgh, Richard F.

1974 Navajo Sacred Places. In *Navajo Indians III*, edited by C. Kluckohn, pp. 9-99. Garland, New York.

**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.: "Skeets Road" Red Rock Phase I Power Line, WO#85482

DESCRIPTION: CDEC proposes to construct, operate, and maintain one power line to serve twelve (12) homes. The length of the proposed power line would be 20,735.41 ft. (3.93 miles) with a 20-ft. wide ROW. Total land use for the ROW would be approximately 9.44 acres.

LOCATION: Red Rock Chapter, McKinley County, New Mexico

REPRESENTATIVE: Leonard Robbins, Denali Environmental Services for Continental Divide Electric Cooperative, Inc. (CDEC)

ACTION AGENCY: Bureau of Indian Affairs and Navajo Nation

B.R. REPORT TITLE / DATE / PREPARER: "Skeets Road" Red Rock Phase I Power Line/SEP 2016/DES

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: Nesting habitat is present for non-Endangered migratory birds.


AVOIDANCE / MITIGATION MEASURES: NA

CONDITIONS OF COMPLIANCE*: [1] Vegetation removal within the power line corridor shall avoid the migratory bird breeding season of 01 APR – 31 AUG or surveys will be required. The survey must include a survey buffer of 50 meters outside the edge of the power line corridor. Removal or disturbance of nesting habitat (i.e. trees & shrubs) shall not be allowed within 50 meters of an active nest during incubation to fledging.

FORM PREPARED BY / DATE: Pamela A. Kyselka/03 OCT 2016; amended on 11 JAN 2017

COPIES TO: (add categories as necessary)

☒ BIA ☐

<u>2 NTC § 164 Recommendation:</u>	Signature	Date
<input type="checkbox"/> Approval		01/12/17
<input checked="" type="checkbox"/> Conditional Approval (with memo)		
<input type="checkbox"/> Disapproval (with memo)		
<input type="checkbox"/> Categorical Exclusion (with request letter)		
<input type="checkbox"/> None (with memo)	Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife	

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

Representative's signature

Date

Denali Environmental Services

P. O. Box 1127
Fort Defiance, Arizona 86504
(928) 729-2626 Phone & Fax denali1946@msn.com

Letter of Transmittal

September 14, 2016

Ms. Pam Kyselka
Navajo Department of Fish & Wildlife -NHP
101 Peregrine Cliffs Road
Window Rock, Arizona 86515

WE ARE SENDING YOU

NEPA Environmental Assessment	NHPA Cult Res Field Survey Summary Rprt	X	ESA Biological Evaluation	CERCLA ESA Document
NEPA Environmental Assessment FONSI	NHPA Cultural Res Compliance Form	X	ESA Bio Res Data Request/Response Ltr	CERCLA ESA Request for Proposal
NEPA Categorical Exclusion	HUD Statutory Work Sheet (SWS)		ESA Bio Resources Compliance Form	Clean Water Act SWPPP
NEPA EA Request for Quote	HUD SWS Request for Quote		ESA Bio Resources Request for Quote	Project Change Order
NEPA EA Scope of Work	HUD SWS Scope of Work		ESA Bio Resources Scope of Work	Project Invoice
NEPA EA Other	NHPA/HUD Other		ESA Other	Land Surveys:

PROJECT DESCRIPTION

Copies	Date	Project No.	Description
1 ea.	Sept. 14, 2016		Skeet Rd Red Rock Line A Power Line Biological Evaluation - CDECI

THESE ARE TRANSMITTED AS CHECKED BELOW:

X	For your coordination		See me	Prepare a response
	Circulate among staff	X	For your review & approval	For your use
	As requested		For review and comment	Approved as submitted
	Submit ____ copies for distribution		For your information, no response is necessary	Make copies for your use, and return original

REMARKS: We request a BRCF for the propose project.

Leonard Robbins, Denali

**"SKEETS ROAD" RED ROCK PHASE I POWER LINE PROJECT, LINE A, WO#85482
BIOLOGICAL EVALUATION FOR RIGHT OF WAY APPLICATION
RIGHT OF WAY AT 3.67 MILES TO SERVE TWELVE HOMES
RED ROCK CHAPTER, NEW MEXICO**



**PLS: SW/4 Section 12 Township 13 North Range 19 West, NMPM
Lat. & Long.: 35° 22' 03" N 108° 48' 19" W, NAd 83
UTM: 699,442 m E 3,915,812 m N, Z12**

Prepared by

**CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.
200 East High Street / P.O. Box 1087
Grants, New Mexico 87020**

**DENALI ENVIRONMENTAL SERVICES
P.O. Box 1127
Fort Defiance, Arizona 86504**

September, 2016

TABLE OF CONTENTS

1.0	Introduction.....	3
2.0	Project Description and Project Location.....	3
3.0	Endangered Species Act / Navajo Species of Concern List Authority.....	4
4.0	Method of Survey.....	5
5.0	Findings and Determination of Effect / Mitigation.....	5
6.0	Conclusion / Mitigation.....	13
7.0	List of EA Document Preparers and Cooperating Entity/Agency.....	14
	References.....	14

Figures 1. Project Location Topographic Map

Table 1. Skeet Road Red Rock Power Line Dimensions and Acreage.

Table 2. Skeet Road Red Rock Phase I Power Line Location.

Table 3. Navajo Endangered Species List.

Table 4. Migratory Bird Treaty Act Listed Species.

Table 5. Primary Contacts Made During Preparation of this Document.

Appendix A Navajo Department of Fish & Wildlife Data Response Letter

**"SKEETS ROAD" RED ROCK, NM PHASE I POWER LINE WO#85482
BIOLOGICAL EVALUATION**

1.0 INTRODUCTION

Continental Divide Electric Cooperative, Inc. (CDECI) of Grants, New Mexico is proposing to construct the "Skeets Road" Power Line Project in the Red Rock Chapter, south of Gallup, New Mexico. The proposed electrical lines would provide service to twelve homes. The proposed right of way application would require an environmental document, including a biological evaluation to support the decision-making process.

2.0 DESCRIPTION OF THE PROPOSED ACTION AND PROJECT LOCATION

2.1 Description of the Proposed Action

Portions of existing power line taps and proposed extensions would be included in the right of way application, as shown in the paragraph below. Total right of way length would be 20,735.41 feet (3.93 miles) at 9.44 acres. The proposed electrical line is a single phase 14.4 kilo volt line that would provide electrical service to twelve homes. See cover photo. Right of way width would be 20 feet wide at various lengths from the tap, as shown in Table 1 below.

Table 1. "Skeet Road Red Rock Electric Power Line Project Dimensions and Acreage.

Power Line Dimensions and Acreage						
PL Footage	PL Miles	Acreage	Guy/Anchor Footage	Guy/Anchor Acreage	Total PL Footage	Total Acreage
19,385.41	3.93	8.90	1,350.00	0.54	20,735.41	9.44

Surface trees and shrubs would be trimmed along the electrical right of way. Trees under the line will be cut to avoid any physical interference and to avoid fires during emergency situations. The power line right of way would not be bladed. Construction of a new access road to the proposed project site will not be required; existing access roads would be used.

2.2 Purpose and Need

The power line extensions would allow the twelve families to refrigerate meat, milk and eggs for long periods and buy additional perishable grocery items that would otherwise spoil. Television news media and entertainment can now be enjoyed by the families. The elderly can move about in their homes at night. Outdoor street lighting is a possibility. School age kids can now do their homework with electrical lights and access the internet via satellite. The proposed initiative would also provide telecommunication via direct telephone communication. Overall, the proposed utility would play a vital part in serving the needs and interest of the people and community, often in remote and underserved regions of the Navajo Reservation.

2.3 Project Location

The existing power line and proposed extensions are located in the Red Rock Chapter, west of

Highway 602. USGS 7.5 Minute Quadrangles topographic map, at Figure 1 entitled *Twin Buttes and Vanderwagen, NM*, illustrate the project location. Table 2 below describes the coordinate locations.

Table 2. "Skeet Road" Red Rock Phase I Power Line Location, CDECI WO# 85482.

Description	USGS Quadrangle	Public Land Survey NMPM	Latitude and Longitude, NAd 83	UTM Zone 12
Line A BOP	Twin Buttes & Vanderwagen, NM	SE/4 Section 12 T13N R19W	35° 22' 03" N 108° 48' 19" W	699,442 m E 3,915,812 m N
Tap A-1 EOP	Twin Buttes & Vanderwagen, NM	SW/4 Section 2 T13N R19W	35° 22' 51" N 108° 49' 28" W	697,657 m E 3,917,251 m N

At an elevation of 7100 to 7200 feet amsl, the propose power line would be located on Navajo tribal trust and Indian Allotment land, Red Rock Chapter, McKinley County, New Mexico.

3.0 ENDANGERED SPECIES ACT COORDINATION / NAVAJO SPECIES OF CONCERN LIST / MIGRATORY BIRD TREATY ACT AUTHORITIES

Under Section 7 of the Endangered Species Act of 1973 (as amended) the Navajo Nation Department of Fish & Wildlife (NNDF&W), under contract with the Bureau of Indian Affairs, is required to consult with the USFWS on any proposed action which may affect federally listed threatened or endangered species.

The Navajo Nation Department of Fish and Wildlife, Natural Heritage Program is the clearing house for endangered and threatened species on the Navajo Indian Reservation. In response to the T&E data request for a listing of species, the NNHP program compiled a T&E listing for the project area. The data request/response is compiled for field surveys and biological evaluations. The BE is reviewed by the NNDF&W for existing environment, impact analysis and mitigation measures. In the ultimate a Biological Resource Compliance Form is created for the proposed undertaking. The NNHP data response letter is shown at Appendix A.

3.1 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) ESA requires all federal departments and agencies to conserve threatened and endangered species and the habitats on which they depend, and to consult with the U. S. Fish and Wildlife Service (USFWS), on all actions authorized, funded or carried out by the agency to ensure that the action will not likely jeopardize the continued existence of any threatened and endangered species or adversely modify critical habitat. Federally listed species or special management species (NESL) or their habitats have been identified in or near the project area. The Navajo Department of Fish & Wildlife-Natural Heritage Program T&E data request/response letter is enclosed at Appendix A.

3.2 Navajo Species of Concern List (NESL) The Resource Committee of the Navajo Nation Council, Resolution RCS-41-08, mandates the consideration of Navajo Endangered Species List

(NESL) special management species not federally listed as threatened or endangered. The NESL species listed are specially managed in order to prevent or reduce the need to list the species as threatened or endangered in the future. The NNDF&W will actively seek information on those species to determine if they warrant inclusion in a different group or removal from the list (NNDF&W-NHP, 2008).

3.3 Migratory Bird Treaty Act, as amended (16 U.S.C. 703 et seq.)/ EO 13186 Migratory birds and their habitats are protected under the Migratory Bird Treaty Act (MBTA) (16 USC §703-712) and EO 13186. All federal agencies are required to consider management impacts to protect migratory non-game birds. Executive Order 13186 calls for increased efforts to more fully implement the MBTA.

4.0 METHOD OF SURVEY

4.1 Offsite Survey Methods On August 31, 2016 the Navajo Nation Department of Fish and Wildlife – Natural Heritage Program (NNHP) presented a listing of T&E species that would potentially occur along the existing and proposed power line extensions. The NNHP consultation did not list any potential Federal endangered species. The consultation listed two potential Navajo species of concern: the Golden Eagle and Peregrine Falcon. See Appendix A for the NNHP data response. Via internet access, the U.S. Fish and Wildlife Service website was accessed for the Migratory Bird Treaty Act listing on the Colorado Plateau.

4.2 Onsite Survey Methods Denali conducted onsite field surveys of the propose power line project on August 19, 2016. The entire project area was covered during the field surveys. All plant and wildlife species and signs of wildlife observed in the project area were recorded. Digital photos of the project area were taken. Binoculars were used to survey for raptors and potential nest habitat on surrounding small mesas. Onsite habitat was evaluated for Federal ESA species, Navajo Endangered Species (NESL) and MBTA species. No extraordinary circumstances were noted during the site visit.

4.3 Action Area The action area, or zone of influence, consisted of the propose electrical line rights of way alignment and surrounding terrain, within a ¼-mile radius of the linear project area.

5.0 FINDING AND DETERMINATION OF EFFECTS

5.1 Land Use and Surface Disturbance

At an elevation of 7,100 feet amsl, the area is characterized as a Pinyon-Juniper and Sagebrush Woodland Ecosystem. See cover photo. Rangeland and family home sites are the dominant land uses in the proposed project area. The propose project area is currently grazed by domestic livestock. The land is also use for family gatherings, recreation and traditional ceremonies. Twelve homes would benefit from the existing power line and propose extensions. Local families have traditionally occupied the area for generations and have constructed roads, contemporary housing, hogans and livestock corrals. Paved and dirt roads, water pipelines and electrical service lines are part of the community infrastructure. Water tanks are located on the hill top adjacent to the power line at the beginning of project.

Continental Divide Electric Cooperative, Incorporated operates the electrical power system in the chapter. Electrical power lines are prevalent, with service to family clustered housing and scattered housing at various locations in the vicinity.

Navajo Tribal Utility Authority (NTUA) of Fort Defiance, Arizona currently operates and maintains the water distribution and water service lines. A large percentage of home sites receive service from the Bread Springs Community Water System. Water distribution lines are blue staked, located though out the Skeet Road community.

5.2 Topography and Soils

The proposed project area would be located at an elevation of 7,100 feet amsl on the western flank of the Zuni Mountain Uplift. The general topography at the right of way tract is characterized as rolling hills and distant mesas. The project area is located in the USGS quadrangle maps *Twin Buttes and Vanderwagen, NM*, generally within the Rio Puerco watershed. Surface waters flow south 1-8 degrees into Manuelito Canyon, and west to the Rio Puerco River, south of U.S. I-40. On the plateau, general surface gradient of the project areas slope 1-8 degrees to the south. The surface topography and geology/soils along the proposed project area is not expected to present any specific problems for the project.

Skeets Road, Power Line A is represented by the Gish-Mentmore, Highdye-Evpark-Bryway, Bryway-Galzuni, and Parkelei-Evpark Soil Associations, at 1-8 percent slopes. The soils are characterize as deep fine sandy loams, no chemical or physical adversity, favorable to the P-J/Sagebrush flora during a normal growing year (NRCS, 2016). Sagebrush communities as an indicator, soils are favorably moist, chemically neutral, deep and well developed with the A, B & C horizons. In the project area, soil texture range from fine sandy loam and sand. Soils are generally atypical adjacent to the right of way, however, undisturbed within the proposed right of way tract. The electrical right of ways will not be bladed. Surface vegetation, trees and scrubs, would be trimmed. The project would have no effect on soil conditions long term.

5.3 Biotic Communities – Pinyon/Sagebrush (Brown, D. E., 1994)

The proposed project area is part of the Great Basin Conifer Woodland Ecosystem and is located in high plateau country of northwestern New Mexico (Brown, D. E., 1994). At approximately 7,100 feet amsl, the existing and propose right of way tract is encompassed by the Pinyon-Juniper and Sagebrush Woodland. Pinyon pine *Pinus edulis*, Juniper trees *Juniperus monosperma* and Sagebrush *Artemisia spp.* are the dominant tree and shrub species in this woodland habitat type. Under natural conditions and growing amid the P-J canopy under story are other shrubs, grasses, forbs and annuals. These plants of the woodland ecosystem provide habitat for birds, mammals, insects and reptiles.

The natural open areas of the woodland are typically composed of Blue grama *Bouteloua gracilis*, Galleta *Pleuraphis jamesii*, Dropseed *Sporobolus cryptandrus*, and Indian ricegrass *Oryzopsis hymenoides*, and shrubs, e.g., Sagebrush *Artemisia spp.*, Rabbitbrush *Chrysothamnus nauseosus*,

Threadleaf groundsel *Senecio flaccidus*, Banana yucca *Yucca baccata*, and Broom snakeweed *Gutierrezia sarothrae* (Brown, D. E., 1994).

Annual plants and noxious weeds, such as Cheatgrass *Bromus tectorum*, Russian thistle *Salsola kali*, Tansy mustard *Descurainia obtusa*, Sunflower *Helianthus annuus*, and Kochia weed *Bassia hyssopifolia* occur on the proposed electrical right of way.

Fauna of the typical P-J Woodland habitat is somewhat diverse than that of the other habitat types. Most abundant mammals include the Blacktail jackrabbits *Lepus californicus*, Mountain cottontails *Sylvilagus nuttalli*, Pinyon mice *Peromyscus truei*, Valley gophers *Thomomys bottae*, White-tail prairie dogs *Cynomys gunnisoni*, Porcupines *Erethizon dorsatum*, Mexican woodrats *Neotoma mexicana*, and Ord's kangaroo rats *Dipodomys ordi* (Brown, D. E., 1994).

Characteristic breeding birds of the P-J Ecosystem include the Common night hawk *Cordeiles minor*, Pinyon jay *gymnorhinus cyanocephalus*, Northern flicker *Colaptes auratus*, Western kingbirds *Tyrannus verticalis*, Horned larks *Eremophila alpestris*, Loggerhead shrikes *Lanius ludovicianus*, Sparrows *Spizella spp.*, Grey-headed juncos *junco hyemalis*, and Common ravens *Corvus corax* (Brown, D. E., 1994).

Reptiles include Striped plateau lizards *Sceloporus virgatus*, Plateau whiptails *Cnemidophorus velox*, and Short-horned lizards *Phrynosoma douglassii* (Brown, D. E., 1994).

5.4 Endangered Species Act Threatened and Endangered Species

5.4.1 Existing Conditions

The NNHP consultation letter (NNHP 31, 2016) does not list any Federal ESA species. During the field survey no ESA/USFWS listed species, known or potential species or habitats, were found in the project area. The proposed power line would have no effect on any federally listed species.

5.4.1 Existing Conditions

An onsite field survey for threatened and endangered species was conducted by Denali Environmental Services on August 19, 2016. The entire proposed project area was covered during pedestrian and roadside surveys. No ESA listed species or potential critical habitat, that would warrant special management consideration, were found in the proposed project area.

5.4.2 Effects

The electrical power line construction would have no effect on ESA species, habitats are not present in the project area.

5.4.3 Mitigation

Since Federal ESA fauna are not present, no mitigation measures for the ESA / USFWS threatened and endangered species are recommended.

5.5 Navajo Endangered Species List (NESL) Special Management Species

5.5.1 Existing Conditions

Denali Environmental Services conducted an onsite reconnaissance of the proposed scattered power line projects on August 19, 2016. Two raptor species were listed that warranted special management consideration by the NNHP, the Golden Eagle and Peregrine Falcon. See Table 3. Infrastructure development (road and water line) adjoins the proposed electrical right of way. Families living in the project area have acquired approved home site leases. The project area appears to be altered; flora has gone toward more woody species, after many generations of livestock grazing. Only the sagebrush shrub and P-J canopy is present; the diversity of ground forbs and grasses are not present. Favorable wildlife habitat is not present and generally wildlife species are not likely to occur within the project area. No extraordinary environmental circumstances were noted during the site visit and reconnaissance.

Table 3. Navajo Natural Heritage Program Special Management Species.

SPECIES/NESL STATUS	HABITAT ASSOCIATIONS	POTENTIAL TO OCCUR IN PROJECT OR ACTION AREA
FAUNA		
Golden Eagle (<i>Aquila chrysaetos</i>) NESL G3	Nest on steep cliffs, normally adjacent to foraging habitat of desert grasslands or desert scrub, that provide primary prey of prairie dogs, cottontail and jack rabbits.	NP The action area contains large expanses of dense Pinyon, Juniper and Sagebrush woodland habitat, which may not be suitable for the usual foraging grassland habitat. The woodland lack the prey base as required for the eagle. The species was not present during the field surveys.
Peregrine Falcon <i>Falco peregrinus</i> NESL G4	Foraging habitat surrounding nest site must support populations of their preferred prey. Foraging habitat includes support populations of their preferred prey: doves, pigeons, waterfowl and small birds are their preferred forage.	NP The action area contains large expanses of pinyon/juniper & sagebrush woodland that may not be suitable for foraging & nesting, as the rodent prey base is not present. The species was not present during the field surveys.
K – Known, documented observation within project area		
S – Suitable habitat and species suspected to occur within the project area		
NS – Habitat suitable but species is not suspected to occur within the project area		
NP – Habitat not present and species unlikely to occur within the project area		

Other potential impacts during construction to the P-J fauna would include noise and increase human activity. The new activity disturbance associated with the proposed project would result in an approximate direct short-term loss of wildlife foraging during construction activities.

The action area of the scattered electrical power line contains large expanses of dense woodland habitat, comprised of Pinyon, Juniper & Sagebrush. Woodland openings are generally used for

farming or livestock rangeland. The woodland habitat is generally not suitable for the raptors as the foraging resource is not present.

5.5.2 Effects

If the Golden Eagle and Peregrine Falcon were present, there would be the potential for direct and short-term impacts to the foraging habitat. Given the distance of unknown hunting territories of these raptors and suitable nesting habitat from the proposed location, it is possible that these raptors species may forage in proximity or fly through the proposed project and action areas.

Impacts posed by the proposed powerline and existing home sites can be expected to be minimal. The proposed power line is in a rural setting, and will not have an effect on the habitat or other elements necessary for the continued survival of T&E species, as the eagles and falcon were not found on the project area.

Direct impacts to the Golden Eagle and Peregrine Falcon as a result of the proposed project would include approximately 10 acres of potential foraging habitat. Juniper trees are present on the existing tract and adjacent to the access road. No active and inactive prairie dog mounds or ground squirrels are present in the project and action area. During site preparation, shrubs and grass would be destroyed. Raptors would avoid the project area during construction and operation due to disturbance and activity from human and vehicle presence. Indirect impacts may include a short-term change in vegetation species composition and density due to construction surface disturbance, which could affect the prey base for the raptor species. Due to the current activity (existing home site activity, livestock herding and grazing, and vehicle travel) and absence of a prey base, impacts are expected to be low.

The onsite shrub/grassland along the proposed action area could provide foraging habitat for the raptors, as a variety of small mammals, such as black-tailed jackrabbits, desert cottontails, ground squirrels, and field mice, that would inhabit the open areas adjacent to the woodland. These small mammals would serve as prey for the raptors.

None of the special management NESL species were observed at the time of the onsite visits. The proposed action alternative would have no effects on any of the identified NESL special management species or their habitat.

5.5.3 Mitigation NESL

The single phase electrical powerline would be designed according to the avian protection on power lines. The *Navajo Nation Raptor Electrocutation Prevention Regulations*, Navajo Council Resource and Development Committee Resolution RCS-43-08, would be complied with to reduce the likelihood of potential raptor electrocution. All single or three phase electrical power poles and cross arms would follow the design standards to protect Golden Eagles and Peregrine Falcon. No other direct mitigation is recommended for the fauna species. Therefore, the proposed new powerline construction would not have the potential to significantly impact the natural environment.

5.6 Migratory Bird Treaty Act Birds

5.6.1 Existing Conditions

Migratory birds and their habitats are protected under the Migratory Bird Treaty Act (MBTA) (16 USC §703-712) and EO 13186. All federal agencies are required to consider management impacts to protect migratory non-game birds. Executive Order 13186 calls for increased efforts to more fully implement the MBTA. The U.S. Fish and Wildlife Service (USFWS) list of Birds of Conservation Concern (BCC) was reviewed, specifically as they pertain to the Colorado Plateau physiographic area. The area indicates there are 27 avian species occurring on the southern Rocky Mountains and Colorado Plateau. See Table 9.

Most priority bird species occur on the USFWS, Division of Migratory Bird Management "Birds of Conservation Concern 2008", (BCC 2008 list). The Service designates the Southern Rockies / Colorado Plateau region as Bird Conservation Region (BCR) 16, which the Navajo Indian Reservation and Eastern Navajo Agency are included.

5.6.2 Effects

Although migratory birds could potentially occur in the area, none were observed during the environmental site visits on August 19, 2016. With respect to Table 5, the proposed project construction would have no significant effect on the migratory bird species or their habitat. The proposed action alternative would result in a short-term and small scale loss of vegetation due to construction. No permanent loss of native vegetation is anticipated at the project area. Eolian deposits of native seed from the undisturbed vegetation would also help to propagate native plant species.

Once the habitat has reestablished, wildlife and migratory bird species would be expected to return to the area. To avoid any potential effects to migratory bird species or migratory bird habitat, construction of the project would take place outside the nesting season. No long-term loss of vegetation or wildlife habitat is expected. As a result, the proposed replacement action would have no significant effects on migratory bird species.

5.6.3 Mitigation of Migratory Birds

With respect to Table 4, the proposed power line construction would have no significant effect on the migratory bird species or their habitat. Construction of the project would take place outside the nesting season. NNDF&W policy mandates that prior to construction the proposed activity would require a preconstruction survey of potential nesting birds on the tract, should construction occur during the breeding season. Any bird nests found within the proposed project area will be reported to the NN DF&W biologist for appropriate mitigation prior to construction activities.

The activity will minimize the possibility of unintentional take of migratory birds. The proposed construction would involve vegetative disturbance (brush and tree removal). Construction activities from May 15 to July 31 will not be permitted without a migratory bird nest survey. If any

Table 4. U.S. Fish and Wildlife Service, Division of Migratory Bird Management "Bird of Conservation Concern 2008" for the Southern Rockies/ Colorado Plateau (US F&WS, 2008).

SPECIES	HABITAT ASSOCIATION	EFFECTS	EFFECT RATING
Gunnison Sage Grouse <i>Centrocercus minimus</i>	Inhabits shrub-steppe dominated by sagebrush that provide canopy cover, shelter, & forage.	No suitable habitat.	Zero
American Bittern <i>Botaurus lentiginosus</i>	Wading bird inhabits wetlands, usually dense marsh reeds, rushes and sedges.	No suitable habitat present.	Zero
Bald Eagle <i>Haliaeetus leucocephalus</i>	Nests in old growth ponderosa pine and Douglas fir forest. Forages on fish and waterfowl. Inhabits the coast, rivers, large lakes; also mountain open country.	No suitable habitat.	Zero
Ferruginous hawk <i>Buteo regalis</i>	Inhabits open grasslands or desert scrub ecosystems. Nest often occurs on rock spires and butte formations. In woodland edge habitat, nests on flat-topped junipers.	Little conflict anticipated.	Low
Golden Eagle <i>Aquila crysaetos</i>	Nest on steep cliffs. Foraging habitat of open grasslands or desert scrub; primary prey of prairie dogs, cotton tails & jack rabbits.	Little conflict anticipated.	Low
Peregrine Falcon <i>Falco peregrinus</i>	Inhabits rugged terrain with rocky cliffs and canyons 30 to 1,000 ft. high, adjacent to rivers lakes, or streams. Urban areas with towers and buildings are also inhabited.	Little conflict anticipated.	Low
Prairie Falcon <i>Falco mexicanus</i>	Nests and forages in grassland, and open Juniper Savannah.	Little conflict anticipated.	Low
Snowy Plover <i>Charadrius alexandrinus nivosus/tenuirostris</i>	Shore bird inhabits barren sandy beaches and flats.	Suitable habitat not present, no conflict anticipated.	Zero
Mountain Plover <i>Charadrius montanus</i>	Inhabits grassland plains; usually found on grassy or bare dirt fields.	Grass removal would reduce cover & nesting habitat.	Low
Long-billed Curlew <i>Numenius americanus</i>	Nests in wet & dry upland fields. In migration, a shore bird of wetlands and agriculture fields.	Suitable habitat not present, no conflict anticipated.	Zero
Yellow-billed Cuckoo <i>Coccyzus americanus</i>	No suitable riparian habitat present. Inhabits open woods, orchards, and streamside willow and alder groves.	No conflict anticipated	Zero
Flammulated Owl <i>Otus flammcolus</i>	Inhabits pine-oak woodland, ponderosa pine forest.	Suitable habitat present.	Moderate

Burrowing Owl <i>Athene cunicularia</i>	Inhabits grassland shrub-steppe dominated by mixed grasses. Casual vagrant to prairie dog colonies, occupying abandoned holes.	No suitable habitat.	Zero
Lewis's Woodpecker <i>Melanerpes lewis</i>	Inhabits woodland forests of pine-oak. Nests in oak cavities and pine snags. Forages and stores acorns and insects.	Little conflict anticipated.	Moderate
Willow Flycatcher <i>Empidonax traillii</i>	Inhabits brushy habitats in wet areas; also in pastures, mountain meadows.	No suitable habitat.	Zero
Gray Vireo <i>Vireo vicinior</i>	Found in juniper savannah and open JP woodland, with scrub component. Inhabits mountains and chaparral-juniper scrubland.	Little conflict anticipated.	Moderate
Pinyon Jay <i>Gymnprjornus cyanocephalus</i>	Juniper Savannah, woodland, pine-oak ecosystems associated with high open habitats w/ openings, scattered trees or shrub components.	A multi ecosystem inhabitant, little conflict anticipated.	Moderate
Juniper Titmouse <i>Baeolophus ridgwayi</i>	Inhabits juniper-pinyon woodland.	Little conflict anticipated.	Moderate
Veery <i>Catharus fuscescens</i>	Inhabits dense moist woodlands and streamside thickets. Casual in the Southwest.	Little conflict anticipated.	Low
Bendire's Thrasher <i>Toxostoma bendirei</i>	Brushy desert shrub, especially areas of tall vegetation, cholla cactus, creosote bush and yucca.	Little conflict anticipated.	Low
Grace's Warbler <i>Dendroica graciae</i>	Inhabits coniferous or mixed forests of southwest mountains, especially yellow pines. Usually forages high in the trees.	Little conflict anticipated.	Moderate
Brewer's Sparrow <i>Spizella breweri</i>	Inhabits mountain meadows and sagebrush flats.	Little conflict anticipated.	Moderate
Grasshopper Sparrow <i>Ammodramus savannarum</i>	Inhabits moderately open grassland habitats, with patchy bare ground, and avoid areas with extensive shrub cover. Feeds and nests on ground.	Little conflict anticipated.	Low
Chestnut-collared Longspur <i>Calcarius ornatus</i>	Inhabits upland grassland, generally found in dense grass; gregarious in fall and winter.	Little conflict anticipated.	Low
Black Rosy-Finch <i>Leucosticte atrata</i>	Inhabits high mountains, rocky summits, alpine cirques and snowfields; winters in open country at lower elevations, spreading onto the plains.	No suitable habitat on the project area.	Zero

Brown-capped Rosy Finch <i>Leucosticte australis</i>	Inhabits high mountains, rocky summits, alpine cirques and snowfields; winters in open country at lower elevations, spreading onto the plains.	No suitable habitat on the project area.	Zero
Cassin's Finch <i>Carpodacus cassinii</i>	Woodland Ecosystem. Species inhabits evergreen woodlands.	Suitable habitat in project area.	Moderate

active nests are located within the proposed project area, projects activities will not be permitted until written approval by NNDF&W biologist. The operator will monitor any active nests located from a nest survey.

5.7 Wetlands and Riparian Habitat

The proposed project and action area would not traverse any wetland or riparian habitat on or adjacent to the proposed tract. There are no jurisdictional wetlands within the project area. The Zuni, NM National Wetlands Map were reviewed. Nearby existing livestock watering impoundments in the vicinity do not exhibit hydric soils, nor hydrophilic vegetation, nor do they support a wetland hydrology (U.S. ACOE, 1987). There are no wetland or riparian habitat occurrences on or near the proposed project area. No mitigation measures are recommended for wetland / riparian areas.

6.0 CONCLUSIONS / MITIGATION

The proposed action should not have significant adverse impacts on the biological resource and the environment. The preferred alternative is logical and desirable. Project engineering feasibility has been considered for this power line. No significant adverse impacts to the human environment have been identified in the development of this biological evaluation. No wetland or riparian habitat occurrences. The proposed land use and permitting action should have no effect on ESA threatened and endangered species, NESL sensitive species, or MBTA species.

The proposed action alternative would result in a short-term and small scale loss of vegetation due to construction. No permanent loss of native vegetation is anticipated. Native seed from wind-blown vegetation would also help to propagate ground-level plant species.

Once the habitat has reestablished, natural vegetation and wildlife species would be expected to return to the area. To avoid any potential effects to wildlife species or associated habitat, construction of the project would take place outside the breeding and nesting season of migratory birds. No long-term loss of vegetation or wildlife habitat is expected. As a result, the proposed action would have no significant effects on vegetation or wildlife species. The proposed action would be consistent with current land uses.

No known or potential threatened and endangered species were located during the field surveys. There is no federally designated critical habitat along the proposed right of way. No wetland or riparian habitat occurrences. The proposed project would have no effect on threatened, endangered or any sensitive species.

All areas of proposed construction were inspected in the field to ensure that potential impacts to environment would be minimized through the implementation of regulatory requirements. Environmental consequences to the human environment (land, air, water, fauna and flora) and cultural resources would not be significantly impacted.

7.0 LIST OF EA DOCUMENT PREPARERS AND COOPERATING ENTITY/AGENCY

Table 5. Primary Contacts Made During Preparation of this Document.

PUBLIC CONTACT	TITLE	ORGANIZATION	PRESENT AT ONSITE ?
Leonard Robbins	Environmental Specialist	Denali Environmental Services	Yes
Pam Kyselka	T&E Wildlife Biologist	NNDF&W-NHP	No
Dexter Prall	GIS Technician	NNDF&W-NHP	No

REFERENCES

- Alden, P., Friederici, P., 1999. Field Guide to the Southwestern States Arizona, Nevada, New Mexico, Utah, National Audubon Society, Alfred A. Knopf, New York.
- Brown, D.E., 1994. *Biotic Communities of Southwestern United States and Northwestern Mexico*. University of Utah Press, Salt Lake City, Utah.
- Cooley, M.E., J.W. Harshbarger, J.P. Akers, and W.F. Hardt, 1969. *Regional Hydrology of the Navajo and Hopi Indian Reservations, Arizona, New Mexico, and Utah*. USGS Paper 521-A, USPO, Washington D.C.
- Hiel, K. D., O'Kane S. L. Jr., Reeves, L. M., & Clifford, A., 2013. *Flora of the Four Corner Region, Vascular Plants of the San Juan River Drainage- Arizona, Colorado, New Mexico, Utah*, Missouri Botanical Garden Press, St. Louis, Missouri, USA.
- NNHP, 2008. Navajo Nation Department of Fish and Wildlife, Natural Heritage Program *Navajo Nation Endangered Species List, Species Account*, Navajo Department of Fish and Wildlife, Natural Heritage Program, Window Rock, Arizona.
- NNHP, 2008. Navajo Nation Department of Fish and Wildlife, Natural Heritage Program *Navajo Nation Raptor Electrocution Prevention Regulations*, Navajo Council Resource and Development Committee Resolution RCS-43-08, Navajo Department of Fish and Wildlife, Natural Heritage Program, Window Rock, Arizona.

NNHP, 2016. Navajo Department of Fish & Wildlife, Natural Heritage Program, *Red Rock Phase I Line A Power Line, WO#85482 Continental Divide Electric Cooperative*, T&E data request/response letter from Dexter D. Prall, August 31, 2016, Window Rock, Arizona.

US ACOE, 1987. Wetlands Delineation Manual of 1987, U.S. Army Corps of Engineers, Washington DC.

U.S. Fish and Wildlife Service, 1984. *Zuni, NM National Wetlands Inventory Maps*, U.S. Department of the Interior, Fish and Wildlife Service, Washington D.C.

U.S. Fish and Wildlife Service (US F&WS), 2008. *Birds of Conservation Concern* USFWS, Division of Migratory Bird Management "Birds of Conservation Concern 2008", (BCC 2008 list). Division of Migratory Bird Management, U.S. Department of the Interior, Fish and Wildlife Services, Arlington, Virginia.

U.S. Geological Service, 1963/1979. USGS 7.5 Minute Quadrangle Map: *Twin Buttes & Vanderwagen, NM*, Denver, Colorado.

U.S Natural Resource Conservation Services, Web Soil Survey activated September 14, 2016.

Wilks, Maureen E., compliler, 2005, *New Mexico Geologic Highway Map*: New Mexico Geological Society and New Mexico Bureau of Geology and Mineral Resources, Socorro, New Mexico.

APPENDIX A

Navajo Department of Fish & Wildlife

Threatened & Endangered Species Data Response Letter

AUG 31 REC'D

RECEIVED



PO Box 1480
Window Rock, AZ
86515

P 928.871.6472
F 928 871 7603

<http://nnhp.nndfw.org>

16danl105

31-August-2016

Leonard Robbins - PES
Denali Environmental Services
PO Box 1127
Fort Defiance, AZ 86504

SUBJECT: Red Rock Phase I Line A Power Line, WO# 85482

Leonard Robbins,

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

FAPE = *Falco peregrinus* / Peregrine Falcon NESL G4

3. Quadrangles (7.5 Minute)

Quadrangles

Twin Buttes (35108-D7) / NM

Vander Wagen (35108-C7) / NM

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	None	None	Twin Buttes (35108-D7) / NM	None	FAPE, AQCH	Area 3
Power Line	None	None	Vander Wagen (35108-C7) / NM	None	FAPE, AQCH	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

Nora Talkington
ntalkington@nndfw.org

Biological Reviewer

Pamela Kyselka
928.871.7065
pkyselka@nndfw.org

GIS Supervisor

Dexter D Prall
928.645.2898
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)

Dexter D Prall

Digitally signed by Dexter D Prall
DN: cn=Dexter D Prall, o=Navajo Nation
Department of Fish and Wildlife,
ou=Navajo Natural Heritage Program,
email=prall@nndfw.org, c=US
Date: 2016.08.31 13:24:52 -07'00'

Dexter D Prall, GIS Supervisor - Natural Heritage Program
Navajo Nation Department of Fish and Wildlife

Denali Environmental Services

P. O. Box 1127
Fort Defiance, Arizona 86504

(928) 729-2626 Phone
(928) 729-2626 Fax
denali1946@msn.com

August 15, 2016

E-mail: prall@nndfw.org

Mr. Dexter D. Prall
Navajo Fish & Wildlife Department
Natural Heritage Program
P. O. Box 1480
Window Rock, Arizona 86515

Dear Mr. Prall:

Continental Divide Electrical Cooperative, Inc. of Grants, New Mexico is preparing an Endangered Species Act (ESA) evaluation document for a propose Red Rock Phase I Line A Power Line, WO# 85482. The propose power line extension would be located adjacent to the existing Skeet Road south of Red Rock Chapter, New Mexico. A right of way application and environmental assessment is being prepared for the propose project. In accordance with the Navajo Department of Fish and Wildlife Resource Conservation Plan (RCP) Policy and Procedures, this letter serves to request threatened & endangered species data for the proposed project area.

Description of the Proposed Action

Continental Divide Electrical Cooperative, Inc. is seeking to provide electrical service to 12 homes in the Red Rock. The propose power line would parallel existing Skeets Road on the north side. The electrical line would be a single phase 14.4 kilo volt line, with a 20 feet width and 19,385 feet length at 3.6 miles. The enclosed USGS topographic maps illustrate the project location.

Project Location

Table 1 describes the coordinate locations of the propose ROW on USGS topographic maps entitled *Twin Buttes and Vanderwagen, NM 7.5 Minute Quadrangles*.

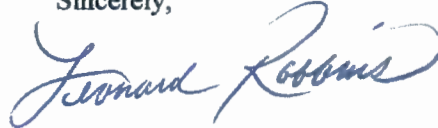
Table 1. USGS Map Waypoint Descriptions of the Propose CDECI Red Rock Electrical Power Line Extension Phase I WO# 85482.

Description	USGS Quadrangle	Public Land Survey Description	Latitude and Longitude NAD 83	UTM, Zone 12
BOP	Vanderwagen, NM	SW/4 Section 12 T13N R19W	35° 22' 03" N 108° 48' 19" W	699,442 m E 3,915,812 m N
EOP	Vanderwagen, NM	NE/4 Section 9 T13N R19W	35° 22' 15.8" N 108° 51' 21.7" W	694,830 m E 3,916,105 m N

Located on Navajo tribal trust lands, the proposed powerline extension is located in Red Rock Chapter, McKinley County, New Mexico, at an elevation of 7,100 ± feet above mean sea level (amsl).

Should you require additional information, you may contact Mr. Leonard Robbins, PES, Denali Environmental Services @ (928) 729-2626 phone and fax, denali1946@msn.com.

Sincerely,

A handwritten signature in blue ink that reads "Leonard Robbins". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Leonard Robbins
Denali Environmental Services, PES

Enclosures: Figure 1 Project Location USGS Maps



**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-16-737**

☒ DCRM

OTHER PROJECT NO.: **DCRM 2016-23**

PROJECT TITLE: A Cultural Resources Inventory of the Continental Divide Electric Cooperative's Proposed Red Rock Phase I Powerline Project, McKinley County, New Mexico, Work Order No. 85482

LEAD AGENCY: BIA/NR

SPONSOR: Debbie Olivar, Technical Engineer/ROW, CDEC, 200 E. High St., PO Box 1087, Grants, NM 87020

PROJECT DESCRIPTION: The proposed undertaking will involve the construct, operate, and maintain a distribution line with fiber optic cables. The powerline measures 20,735.41-ft/3.93-miles in length with a 20-ft wide right-of-way. The area of effect is 9.44-acres. Ground disturbing activities will be intensive and extensive with the use of heavy equipment.

LAND STATUS: Tribal Trust Land & Indian Allotment Land

CHAPTER: Red Rock

LOCATION: T. 13 N., R. 19 W- Sec. 2, 9, 10, 11, 12; Vanderwagen Quadrangle, McKinley County, New Mexico NMPM

PROJECT ARCHAEOLOGIST: Rena Martin & Jeremy Begay

NAVAJO ANTIQUITIES PERMIT NO.: B16349

DATE INSPECTED: 05/6-2016 – 05/23/2016

DATE OF REPORT: 08/22/2016

TOTAL ACREAGE INSPECTED: 42.84– ac

METHOD OF INVESTIGATION: Class III pedestrian inventory with transects spaced 7 m apart.

LIST OF CULTURAL RESOURCES FOUND: (1) Isolated Occurrence (IO); (12) In-Use Sites (IUS)

LIST OF ELIGIBLE PROPERTIES: None

LIST OF NON-ELIGIBLE PROPERTIES: (1) IO; (12) IUS

LIST OF ARCHAEOLOGICAL RESOURCES: None

EFFECT/CONDITIONS OF COMPLIANCE: No historic properties affected.

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

FORM PREPARED BY: **Tamara Billie**

FINALIZED: November 10, 2016

Notification to Proceed

Recommended

Conditions:

☒ Yes ☐ No

☐ Yes ☒ No

Tamara Billie 11/10/16
The Navajo Nation
Historic Preservation Office

Date

Navajo Region Approval

[Signature] Yes ☐ No

BIA – Navajo Regional Office

[Signature] 11/21/16
Date

**SKEET'S ROAD ELECTRICAL POWER LINE ENVIRONMENTAL ASSESSMENT
RED ROCK PHASE I POWER LINE PROJECT, LINE "A" WO# 85482
RED ROCK CHAPTER, NEW MEXICO**



**PLS: SW/4 Section 12 Township 13 North Range 19 West, NMPM
Latitude & Longitude: 35° 22' 03" N 108° 48' 19" W, NAd 83
UTM: 699,442 m E 3,915,812 m N, Zone 12**

Prepared by

**CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.
200 East High Street / P.O. Box 1087
Grants, New Mexico 87020**

**DENALI ENVIRONMENTAL SERVICES
P.O. Box 1127
Fort Defiance, Arizona 86504**

December, 2016

**SKEET'S ROAD POWER LINE ENVIRONMENTAL ASSESSMENT
RED ROCK PHASE I POWER LINE "A" W.O. 85482**

Continental Divide Electric Cooperative, Inc. (CDECI) of Grants, New Mexico is proposing to construct Skeet's Road Electrical Power Line, Red Rock Phase I, Line "A", in the Red Rock Chapter, south of Gallup, New Mexico. The propose distribution line would provide electrical service to 12 existing homes along Skeet's Road. The propose right of way application would require an environmental document to support the decision-making process.

1.0 DESCRIPTION OF THE PROPOSED ACTION AND PROJECT LOCATION

1.1 Description of the Proposed Action

The proposed electrical line is a single phase 14.4 kilo volt line that would provide electrical service to 12 homes. Existing power line, taps and proposed extensions would be included in the right of way application, as shown in the paragraph below. Total right of way length would be 20,735.41 feet (3.93 miles) at 9.44 acres. Right of way width would be 20 feet wide. Dimensions and acreages are shown in Table 1 below.

Table 1. Skeet's Road Red Rock Electric Power Line Project Dimensions and Acreage.

Power Line Dimensions and Acreage						
PL Footage	PL Miles	Acreage	Guy/Anchor Footage	Guy/Anchor Acreage	Total Footage	Total Acreage
19,385.41	3.93	8.90	1,350.00	0.54	20,735.41	9.44

Pinyon and Juniper trees and shrubs located within the right of way would be cut would be cut to avoid any physical interference during operations and to avoid fires. The power line right of way would not be bladed. Construction of a new access road to the proposed project site will not be required; existing community access roads located adjacent to the propose power line would be used.

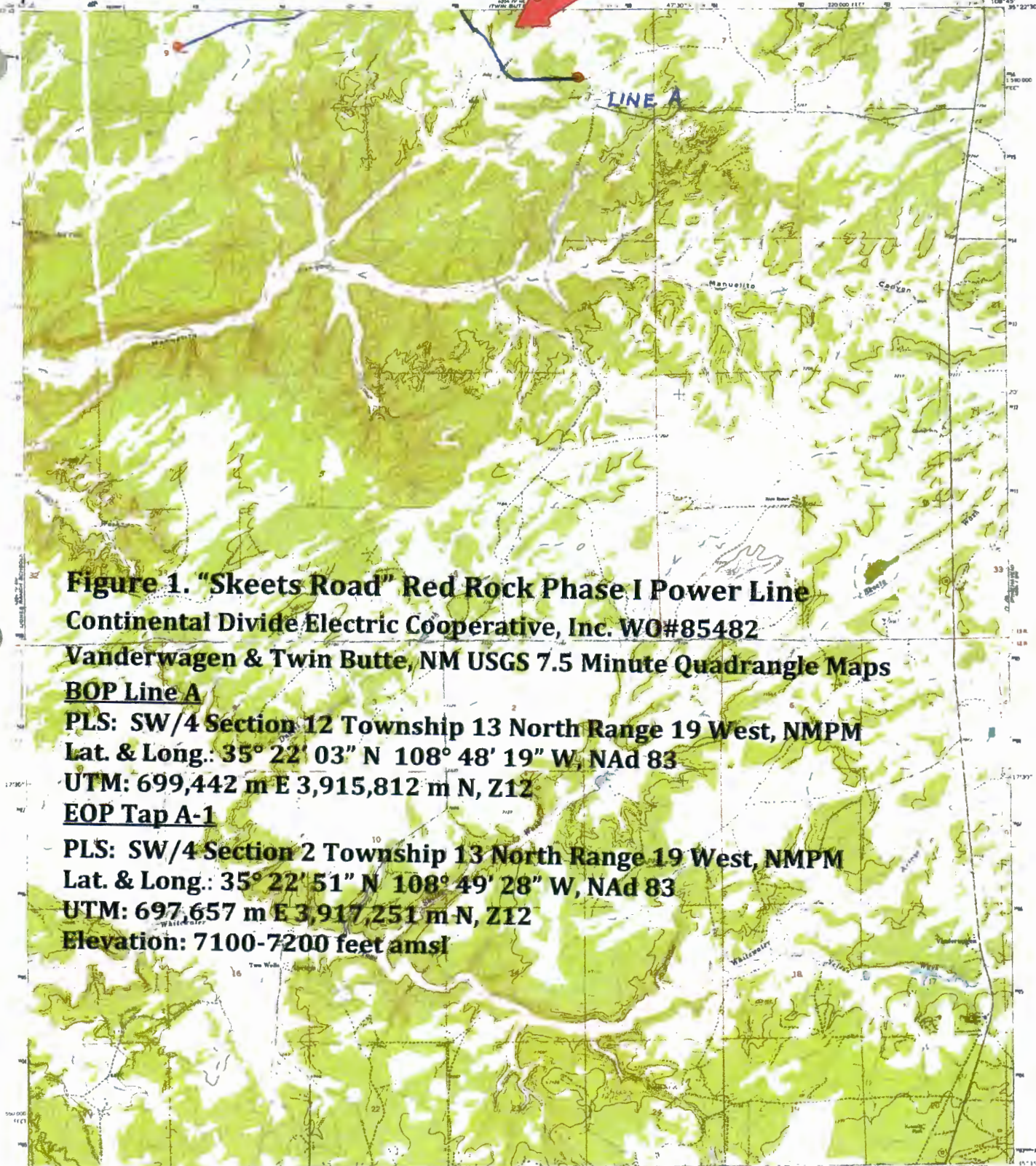
1.2 Purpose and Need

The power line extensions would allow the 12 families to refrigerate meat, milk and eggs for long periods and buy additional perishable grocery items that would otherwise spoil. Television news media and entertainment can now be enjoyed by the families. The elderly can move about in their homes at night. Outdoor street lighting is a possibility. School age kids can now do their homework with electrical lights and access the internet via satellite. The proposed initiative would also provide telecommunication via direct telephone communication. Overall, the proposed utility would play a vital part in serving the needs and interest of the people and community, often in remote and underserved regions of the Navajo Reservation.

1.3 Project Location

Elevation: 7100-7200 feet amsl





**Figure 1. "Skeets Road" Red Rock Phase I Power Line
Continental Divide Electric Cooperative, Inc. WO#85482**

**Vanderwagen & Twin Butte, NM USGS 7.5 Minute Quadrangle Maps
BOP Line A**

PLS: SW/4 Section 12 Township 13 North Range 19 West, NMPM

Lat. & Long.: 35° 22' 03" N 108° 48' 19" W, NAD 83

UTM: 699,442 m E 3,915,812 m N, Z12

EOP Tap A-1

PLS: SW/4 Section 2 Township 13 North Range 19 West, NMPM

Lat. & Long.: 35° 22' 51" N 108° 49' 28" W, NAD 83

UTM: 697,657 m E 3,917,251 m N, Z12

Elevation: 7100-7200 feet amsl

Map prepared and published by the Geological Survey

Control by USGS and BGS/BGMA

Topography by photogrammetric methods from aerial
photographs taken 1963. Field checked 1963.
Hydrologic projection. 1967 North American datum.
10,000-foot grid based on New Mexico coordinate system, west zone.
1000-meter Universal Transverse Mercator grid system.
Zone 12, UTM zone 12.

Five red dashed lines indicate selected fence lines.

Shaded areas represent wetlands and compiled from

aerial photographs taken 1963.

This information not 1963.



SCALE 1:50,000
FOOT
MILE
CONTINUOUS INTERVAL 20 FEET
DOTTED LINES REPRESENT 10 FOOT CONTINUOUS
NATIONAL GEODETIC SURVEY, DATUM OF 1983

THIS MAP COMPLETES THE NATIONAL MAP ACCURACY STANDARD

FOR SALE BY U.S. GEOLOGICAL SURVEY, DENVER, COLORADO 80226, OR RESTON, VIRGINIA 22092

A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST



ROAD CLASSIFICATION
Highway-duty Light duty
Unimproved dirt
State Route

VANDERWAGEN, N. MEX.

85515-41084/5

1963

PHOTOGRAPHED 1973
DATA FROM 1963-1964

2.1 Alternate Site Locations

An alternate site, of sufficient size and elevation within the Red Rock community, at a location as convenient as the proposed location, is generally not available. Alternate locations were reviewed. The proposed right of way location adjacent to Skeet's Road would be the best alternative, that would have the least amount of environmental impact. On adjoining land, allotment holders generally try to retain their grazing allotments intact, and not to become fragmented. As allotted, holistic grazing areas are needed to sustain livestock herds. Other locations would become difficult to acquire.

Alternate site locations would be subject to the same public reviews, resource assessments, approvals and clearance processes, as the preferred alternative; an alternative site would require a restart of land use approvals, starting with the grazing permit holder approvals, environmental assessment, and other special studies, as required.

2.2 No Action Alternative

If the no action alternative is taken, the proposed long term lease will not be approved. The proposed electrical power line would not go as planned. Infrastructure for the residents would become moot. The existing alignment would not be elevated to a higher productive state.

2.3 Approval of the Preferred Alternative

The preferred alternative involves approval of a right of way, which would allow for the construction and operation of the proposed electrical power line. The Diné People living along the roadway would benefit from the proposed action. Details of the preferred alternative, purpose and need, are described in Section 1.0, Description of the Proposed Action. A forum for public involvement in the decision-making process for the project was provided. The Red Rock Chapter support resolution is attached as Appendix B. The proposed power line right of way would be approved by resolution of the Resources and Development Committee of the Navajo Nation Council. After Navajo Nation review, the BIA would provide final approval.

3.0 AFFECTED RESOURCES AND ENVIRONMENTAL EFFECTS

3.1 Resources Not Considered in Detail (Non-Critical)

Initial evaluation of the alternatives indicated that there would likely be little to no direct, indirect, or cumulative effects on several resources. These resources are discussed in Sections 3.1.1 through 3.1.12 to add to the overall understanding of the environmental setting of the project area.

3.1.1 Climate

Gallup Municipal Airport is the nearest weather station to the project area. The proposed power line project is located in a semi-arid climate. The Red Rock Chapter experiences four distinct climatic seasons and has an annual average maximum temperature of 66.0°F and average minimum temperature of 44.3°F. Summer highs reach the 85.1 °F range with lows in the 45.0°F average. Winter highs are usually in the 44°F range with lows at 13.6. Average annual precipitation is 11.08 inches in the Gallup area. The average annual snowfall is 30.6 inches (WRCC 2015). Due to the

small size and nature of the proposed lease area, the proposed project would have no effect on climate. Since there would be no effects on climate, no mitigation would be required.

3.1.2 Geology and Seismicity

The proposed lease area is located on the Crevasse Canyon Formation. Surface soils at the tower site are characterized with alternating beds of tan irregularly bedded and lenticular sandstone, drab siltstone and claystone. The regional geologic structure is stable; there are no regional faults or fissures in the project area (Cooley, M.E, J.W. Harshbarger, J.P. Akers, and W.F. Hardt, 1969), (Wilks, M. E., 2005). Based on the history of the area, geology will not be a factor in this development. There are no surface mineral resources located near the tract. No mitigation is required for any geologic adversity.

3.1.3 Fisheries

There are no fisheries or fishery habitat occurrences in the propose lease area. No mitigation is required for any fishery adversity.

3.1.4 Socioeconomics and Environmental Justice

The proposed project would have no effects on the socioeconomics of the area because it would not directly alter or limit either present-day or future opportunities for agriculture, raising livestock, business, employment, or housing.

There are currently more than 717 homes in the Red Rock Chapter. According to the 2004 census, approximately 2,030 people reside in the Chapter, which would indicate a population density of 30.7 people per square mile. Native Americans make up 96.7 % of the population (NN DED/LSRI, 2004). Red Rock Chapter's economy is primarily based on wage-earning employment. Currently most residents in the chapter area are wage earners, working at various federal, tribal government and commercial jobs in the area. The Red Rock Chapter (including the CHR, Special Diabetes Project, Senior Citizens Center) and Navajo Nation Department of Head Start are the major employers in the area. Employment is also available in Gallup. Full service Indian Health Service Hospitals are located in Gallup and Zuni, New Mexico. In the past, the economy was primarily based on livestock production, but this is no longer the predominate source of income; currently livestock production makes up a small percentage of the chapter's economy (NN DED/LSRI, 2004).

The retired elderly in the area still carry on the ranching life style, as raising livestock has been a sustainable economy in the past. Grazing permit areas, ranches, are relatively small and occasionally overlap; not large enough to sustain a viable operating ranch for the entire family, however. The younger family members, those that have jobs in the region and wish to be with their elders, have moved back to the old homesteads. New houses are built on the family allotments and traditional use areas. The ranch area provides a better quality of life, in contrast to apartment living in nearby border towns.

Executive Order 12898, Environmental Justice - the mandate requires federal agencies to assess projects to ensure there would be no disproportionately high or adverse environmental, health, or safety effects on minority and low income populations. Minorities comprise a large proportion of

the population residing in the action area (96.7%). The new power line project and infrastructure will be for the beneficial use of the population. The project would have no disproportionate effects on minorities or low-income populations; the proposed lease will benefit all sectors of society. The local chapter has approved a supporting resolution at Appendix B. A similar resolution would be approved by the Resource and Development Committee of the Navajo Nation Council. The Bureau of Indian Affairs, as federal trustee, would approve the right of way. The new power line would allow the people to lead better lives in the community, and would further provide a better quality of life for the Diné People.

3.1.5 Land Use and Zoning

The proposed right of way is used for rangeland and livestock production. Land users have acquired grazing permits and, over generations, have built their houses on the permitted area. The land status is Navajo Indian trust land.

Open rangeland, grazed by sheep, cattle and horses of local ownership, occupy most of the area. Housing is located on the permitted area. The Red Rock Chapter House and warehouse is located to the north of project area. State Highway 602 is located east of the project area. Other than individual home sites, grazing permits, and specific land use areas, there are no other regulated land uses and zoning regulations in the community area.

There are no other bankable assets, such as timber, fossil fuels, fossils, or valuable minerals on the tract, surface or subsurface. The proposed project will not impact any Indian trust assets of the individual allotment owners or the Navajo Nation government. The new infrastructure would benefit the population.

3.1.6 Prime Farmland

There are no Prime Farmland occurrences in vicinity of the proposed project area. Dry farm land is very limited in the project area. The NRCS designates the land capability subclass as "non-irrigated" (NRCS, 2016). Prime Farmland would not be a factor in this development; no mitigation is required for any farmland adversity.

3.1.7 Recreation

Recreation resources would not be impacted as a result of the lease application. As related to the local land use, rodeos are a favorite sport on the Navajo Reservation. The "Chicken Pulls" or rodeos are a traditional sport in the region.

Outdoor recreation in the area, include fishing, boating, picnicking, hiking at Ramah Lake. The nearby Zuni Mountains also provide fishing, picnicking, hiking and camping. Archery and rifle hunting for big game, mule deer, elk and turkey, is a possibility on the Zuni Mountains east of the project area. Winter varmint hunting are favorites. Locally, horseback riding is another source of outdoor recreation. Motorcycles and ATVs are other sources of outdoor recreation.

3.1.8 Traffic

The existing Skeet's Road would be located adjacent to the propose power line. Motorized traffic using the access road will not be a factor during operation and maintenance of the power line. The propose power line is located in a predominantly rural setting.

3.1.9 Noise

Noise from motorized traffic using the public access road will not be a factor during operation and maintenance of the power line. The project area is located in a rural setting. Wires of the power line would emit a low volume hum during periods of high wind during the spring windy season. The ambient noise would not be a problem for anyone living adjacent to the development. No published noise ordinance for tower construction activities exists in the Navajo Nation code. Due to the remoteness of the project area and low volume of traffic on the access road and highway, noise emission from the tower would not be a factor to residents living in the project area.

3.1.10 Floodplain

The tract is not located on a floodplain; nor located in a flood prone area. The proposed project area has a broad drainage basin on the north and south sides. Surface waters generally flow south. Floodplain maps were reviewed for flood prone areas; the project area is excluded from any floodplain designation.

3.1.11 Wetlands and Riparian Habitat

There are no wetlands or riparian areas on the mesa where the power line would be located. The mesa was field checked. There are no riparian habitats on the base slopes surrounding the mesa. The Zuni, NM National Wetlands Inventory Map was reviewed. The proposed lease area does not exhibit any hydric soils, nor hydrophilic vegetation, nor does it support a wetland hydrology (U.S. ACOE, 1987). The proposed tower site lease would not impact riparian habitat or wetland resources resulting from the development; no mitigation is required.

3.1.12 Hazardous, Toxic, and Radiological Waste

Other than roaming livestock grazing, there are no previous industrial uses of the area. The propose project site currently does not contain any damaged or discarded automotive or industrial equipment. No fill dirt has been brought onto the property that originated from a contaminated site. There is no evidence of leaks and spills of hazardous substance, radiological waste, or spills of petroleum products on the existing tract.

No Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste sites, nor RCRA Subtitle D, non-hazardous solid waste sites occur on or near the project area. No Comprehensive Environmental Response Conservation and Liabilities Act (CERCLA) hazardous substance (including radiological waste) occur near the project area. No Toxic Substance Control Act (TSCA) waste sites occur on or near the existing site. Hence, there will be no residual hazardous effects on the proposed right of way.

CRITICAL ELEMENTS

3.2 Topography and Soils

3.2.1 Existing Conditions

The tract topography exhibit steep slopes 2-10 percent on all sides of the mesa. Precipitation generally drains south. Onsite landform is a steep sloping mesa top, with clayey and fine sandstone faces.

Skeets Road, Power Line A is represented by the Gish-Mentmore, Highdye-Evpark-Bryway, Bryway-Galzuni, and Parkelei-Evpark Soil Associations, at 1-8 percent slopes. Undisturbed surface soils are light-colored clay entisols under the pinyon and juniper canopy and grassy areas. There is no alluvial sediment in the project area. Sedimentary rock parent material consists mainly of sandstone located on nearby mesas on the north and south horizons. Soil texture ranges from loamy, sandy loam and clayey. Soils are generally disturbed along the proposed tract and access road. Because of the linear nature of the propose project, the project would have no effect on soil conditions long term. The electrical right of way will not be bladed.

3.2.2 Effects

The topography and soils as they exist now would not impact the proposed undertaking, and any future construction.

3.2.3 Mitigation

No mitigation is required for the project topography and soils.

3.3 Water Resources and Water Quality

3.3.1 Existing Conditions

Surface water drain north toward the Rio Puerco drainage west of Gallup, and eventually to the Little Colorado River near Holbrook, Arizona. Primary discharges of these drainages occur during the spring months, during the spring snow thaw, and during occasional intense summer thundershowers in late summer. Torrential thunderstorms can produce flood-stage flows within minutes (Cooley, M. E., J. W. Harshbarger, J. P. Akers, & W. F. Hardt, 1969). NTUA operates the Red Rock Community Water System and provides Safe Drinking Water to the community. The NTUA water tank is located approximately six miles northwest of the project area.

3.3.2 Effects

Present and future project construction work or other related activities will not have impact on any springs, wells or aquifer recharge areas. No impacts to the Red Rock Community Water System or natural ground water in the vicinity may be expected by the approval of the right of way application. Previous water line construction and access road surface disturbance has stabilized.

3.3.3 Mitigation

Blading of the powerline will not be required. No mitigation to the water resources would be required.

3.4 Vegetation and Wildlife- Biotic Resources

Pinyon-Juniper Grassland Savannas are dry and cold in the winter. Mean annual precipitation would range from seven to twelve inches, and the annual growing season would range from 125 - 200 days (April to September). "These transitional areas also receive a larger percentage of their precipitation during the winter and spring months; May through August rainfall averages less than 5 inches" (Turner, R.M. & Brown, 1994). At lower elevations the contact is most frequently with Great Basin desert grassland.

3.4.1 Existing Conditions

The Skeet's Road Power Line Phase I is located in the Pinyon-Juniper Grassland Savannah Ecosystem of northwest New Mexico. At an elevation of 7,100 amsl, conifer woodland groves of pinyon pine *Pinus edulis* and juniper *Juniperus monosperma* trees are located onsite. Under natural conditions, growing amid the P-J canopy under story are shrubs, grasses, forbs and annuals. These plants form the ecological backbone of the woodland ecosystem: they provide food, shelter, and nesting sites for birds, mammals, insects, and reptiles. Under natural conditions, understory shrubs include sagebrush, rabbit brush, yucca and snakeweed. Grass cover may be almost a mixture of dropseeds, galleta, blue grama and others (Brown, D.E., and C.H. Lowe, 1994).

The natural open areas are typically composed of annuals, grasses, e.g. cheatgrass *Bromus tectorum* blue grama *Bouteloua gracilis*, galleta *Pleuraphis jamesii*, dropseeds *Sporobolus cryptandrus* and Indianrice grass *Oryzopsis hymenoides*, and shrubs, e.g. rabbitbrush *Chrysothamnus nauseosus*, sagebrush *Artemisia spp.*, threadleaf groundsel *Senecio flaccidus*, banana yucca *Yucca baccata* and broom snakeweed *Gutierrezia sarothrae*.

Annual plants such as cheatgrass *Bromus tectorum*, Russian thistle *Salsolia kali*, tansy mustard *Descurainia obtusa*, sun flower *Helianthus annuus* and kochia weed *Bassia hyssopifolia* occur on the site.

The fauna of the Juniper Savannah is somewhat diverse than that of other habitats. Mule deer *Odocoileus hemionus* may roam the area in transit during late fall and winter months. Other big game species are not found in the project area, as marginal foraging habitat exists. Construction of the proposed site in the residential and rural setting will not have an effect on the natural habitat necessary for the continued survival of these species.

Most abundant small mammals include blacktail jack rabbits *Lepus californicus*, mountain cottontails *Sylvilagus nuttalli*, pinyon mice *Peromyscus truei*, valley gophers *Thomomys bottae*, porcupines *Erethizon dorsatum*, Mexican woodrats *Neotoma mexicana* and Ord's kangaroo rats *Dipodomys ordi*.

Characteristic breeding birds of this ecosystem include common night hawks *Chordeiles minor*, pinyon jay *gymnorhinus cyanocephalus*, Northern flickers *Colaptes auratus*, Western kingbirds *Tyrannus verticalis*, horned larks *Eremophila alpestris*, loggerhead shrikes *Lanius ludovicianus*, sparrows *Spizella spp.*, grey-headed juncos *Junco hyemalis* and common ravens *Corvus corax*.

Reptiles include striped plateau lizards *Sceloporus virgatus*, plateau whiptails *Cnemidophorus velox* and short-horned lizards *Phrynosoma douglassii*.

3.4.2 Effects

The area presently provides suitable foraging and nesting habitat for small mammals and birds. Due to the size of the small acreage of the small project, small mammals and birds are not expected to be impacted. As initial field surveys indicate, flora and fauna species are not present on the proposed lease area. Therefore the proposed project would not cause a huge loss of potential nesting, cover and forage habitat of terrestrial flora and fauna species.

3.4.3 Mitigation

Indirect mitigation is recommended for all fauna and flora on the proposed area. Natural vegetative cover can be restored over time. The proposed undertaking will have minimal effect on vegetation and potential habitat in the area.

3.5 Federal Endangered Species Act Fauna and Flora

3.5.1 Existing Conditions

Denali staff conducted an onsite reconnaissance of the 3.9 mile right of way location and associated infrastructure August 19, 2016. The entire area was inspected by driving and walking the propose project right of way and action area. In accordance with *Biological Resource Land Clearance Policy and Procedures* (BRLCP&P), Navajo Natural Heritage Program (NNHP) was consulted for a data request (listing of T&E species). The NNHP consultation did not list any Federal ESA species in the propose project area. The program provided a data response and qualified the propose right of way and surrounding area as an Area 3, a low wildlife sensitive area. ESA fauna and flora suitable habitat is not found within the propose project area.

3.5.2 Effects

Impacts posed by the propose power line can be expected to be minimal. The project area is in a rural residential setting, and will not have an effect on the habitat or other elements necessary for the continued survival of T&E species, as these species are generally not found on the project area. During the field survey no ESA/USFWS listed species, known or potential species or habitats, were found in the project area. The NNHP concurs with the field report: no Federal ESA or Navajo NESL species would be impacted. No extraordinary circumstances were noted during the site visit. See Appendix D for the Biological Resource Compliance Form and biological resource consultations.

3.5.3 Mitigation

The propose power line would have no effect on the federally listed species. No Federal ESA mitigation is recommended for this project.

3.6 Navajo Endangered Species List (NESL) Special Management Species

3.6.1 Existing Conditions

Denali staff conducted an onsite reconnaissance of the 3.9 mile right of way location and associated infrastructure August 19, 2016. The entire propose right of way tract was inspected by driving and walking the project area and action area. In accordance with *Biological Resource Land Clearance Policy and Procedures* (BRLCP&P), Navajo Natural Heritage Program (NNHP) was consulted for a data request (listing of T&E species). Two NESL species were listed that warranted special management consideration by the NNHP, the Golden Eagle and Peregrine Falcon. See Table 2. The data response also qualified the propose right of way and surrounding area as an Area 3, a low wildlife sensitive area.

The project area appears to be sterile after many generations of livestock grazing. The P-J habitat structure and composition has changed due to previous land uses; infrastructure development (roads and water lines) adjoins the proposed electrical right of way. Families living in the project area have acquired home site leases and livestock grazing permits. The intense understory of ground forbs and grasses are not present, only the sagebrush shrub and P-J canopy is present. If the Golden Eagle and Peregrine Falcon were present, there would be the potential for direct and short-term impacts to the species foraging habitat. Given the distance of unknown hunting territories of these raptors and suitable nesting habitat from the proposed location, it is possible

that these raptors species may forage in proximity or fly through the proposed project and action areas. Wildlife habitat for prey species is not present and raptor species are not likely to occur within the project area. These two raptor species were not present during the field survey. The proposed new powerline construction does not have the potential to significantly impact the natural environment.

Table 2. Navajo Natural Heritage Program Navajo Endangered Species List Special Management Species.

SPECIES/NESL STATUS	HABITAT ASSOCIATION	POTENTIAL TO OCCUR IN PROJECT OR ACTION AREA
FAUNA		
Golden Eagle (Aquila chrysaetos) NESL G3	Nest on steep cliffs, normally adjacent to foraging habitat of desert grasslands or desert scrub, that provide primary prey of prairie dogs, cottontail and jack rabbits.	NP The action area contains large expanses pinyon/juniper savannah & open desert shrub habitat not suitable for foraging habitat. The specie was not present during the field surveys.
Peregrine Falcon (Falco peregrinus) NESL G4	Foraging habitat surrounding nest site must support populations of their preferred prey. Foraging habitat includes support populations of their preferred prey: doves, pigeons, waterfowl and small birds are their preferred forage.	NP The action area contains large expanses pinyon/juniper savannah & open fields (rangeland/farm) habitat not suitable for foraging habitat. The species was not present during the field surveys.
K – Known, documented observation within project area		
S – Suitable habitat and species suspected to occur within the project area		
NS – Habitat suitable but species is not suspected to occur within the project area		
NP – Habitat not present and species unlikely to occur within the project area		

3.6.2 Effects

Impacts posed by the propose powerline and existing home sites can be expected to be minimal. The proposed powerline and is in a rural setting, and will not have an effect on the habitat or other elements necessary for the continued survival of T&E species, as the eagle and falcon species were not found on the project area.

Direct impacts to the Golden Eagle as a result of the proposed project would include approximately 4.73 acres of potential foraging habitat. Juniper trees are present on the propose right of way and adjacent access road. No active prairie dog mounds or other prey species are present in the project and action area. During site preparation, some shrubs and grass would be destroyed. Raptors would avoid the project area during construction and operation due to disturbance and activity from human and vehicle presence. Indirect impacts may include a short-term change in vegetation species composition and density due to construction surface disturbance, which could affect the prey base for the raptor species. Due to the current activity (existing home site activity, livestock herding and grazing, and vehicle travel) and absence of a prey base, impacts are expected to be low.

The onsite shrub/grassland along the proposed action area would provide foraging habitat for the Ferruginous hawk, as a variety of small mammals, such as the prairie dog, black-tailed jackrabbits, desert cottontails, ground squirrels, and field mice that would inhabit the grassland. These small mammals would serve as prey for the raptor.

Other potential impacts during construction to the P-J fauna would include noise and increase human activity. The new activity disturbance associated with the proposed project would result in an approximate direct short-term loss of wildlife foraging during construction activities. None of the special management NESL species were observed at the time of the environmental site visit. The proposed action alternative would have no effects on any of the identified NESL special management species or their habitat.

3.6.3 Mitigation - NESL

The single phase electrical powerline would be designed according to the Avian Power Line Interaction Committee's *Suggested Practices for Avian Protection on Power Lines*, a guideline for powerline construction. No effects to the Golden eagle and Peregrine falcon are anticipated. No other direct mitigation is recommended for this species.

3.7 Migratory Birds

3.7.1 Existing Conditions

Migratory birds and their habitats are protected under the Migratory Bird Treaty Act (MBTA) (16 USC §703-712) and EO 13186. All federal agencies are required to consider management impacts to protect migratory non-game birds. Executive Order 13186 calls for increased efforts to more fully implement the MBTA. The U.S. Fish and Wildlife Service (USFWS) list of Birds of Conservation Concern (BCC) was reviewed, specifically as they pertain to the Colorado Plateau physiographic area. The list indicates there are 27 avian species occurring on the southern Rocky Mountains and Colorado Plateau. See Table 3.

Most priority bird species occur on the USFWS, Division of Migratory Bird Management "Birds of Conservation Concern 2008" (BCC 2008 list). The Service designates the Southern Rockies / Colorado Plateau region as Bird Conservation Region 16, in which the Navajo Indian Reservation and Eastern Navajo Agency are located. Although migratory birds could potentially occur in the area, none were observed during the site visit.

3.7.2 Effects

Basis of Significance. An alternative would be considered to have a significant effect on vegetation and wildlife if it would:

- 1) Result in the substantial loss or degradation of any plant community providing high quality wildlife habitat; or
- 2) Permanently displace substantial numbers of resident wildlife species or migratory bird species.

No Action. This alternative would have no effect on existing vegetation and wildlife, including potential migratory birds, in the project area. The grassland savannah habitats and associated wildlife species would be expected to remain the same.

Table 3. U.S. Fish and Wildlife Service, Division of Migratory Bird Management "Bird of Conservation Concern 2008" for the Southern Rockies/ Colorado Plateau (US F&WS, 2008).

SPECIES	HABITAT ASSOCIATION	EFFECTS	EFFECT RATING
Gunnison Sage Grouse <i>Centrocercus minimus</i>	Inhabits shrub-steppe dominated by sagebrush that provide canopy cover, shelter, & forage.	No conflict anticipated. Species not present.	Zero
American Bittern <i>Botaurus lentiginosus</i>	Wading bird inhabits wetlands, usually dense marsh reeds, rushes and shedges.	No suitable habitat present. Species not present.	Zero
Bald Eagle <i>Haliaeetus leucocephalus</i>	Coast, rivers, large lakes; in migration, also mountains, open country.	No conflict anticipated.	Low
Ferruginous hawk <i>Buteo regalis</i>	Inhabits open grasslands or desert scrub ES. Nest often occurs on rock spires and butte formations. In woodland edge habitat, flat-topped junipers.	No conflict anticipated	Low
Golden Eagle <i>Aquila crysaetos</i>	Open grasslands or desert scrub, In mountainous canyon terrain. Nest on cliffs and trees	No conflict anticipated	Low
Peregrine Falcon <i>Falco peregrinus</i>	Inhabits rugged terrain with rocky cliffs and canyons 30 to 1,000 ft. high, adjacent to rivers lakes, or streams. Urban areas with towers and buildings are also inhabited	Little conflict anticipated.	Low
Prairie Falcon <i>Falco mexicanus</i>	Nests and forages in grassland, and open Juniper Savannah.	No conflict anticipated.	Low
Snowy Plover <i>Charadrius alexandrinus nivosus/tenuirostris</i>	Shore bird inhabits barren sandy beaches and flats.	Suitable habitat not present, no conflict anticipated.	Zero
Mountain Plover <i>Charadrius montanus</i>	Inhabits grassland plains; usually found on grassy or bare dirt fields.	Grass removal would reduce cover & nesting habitat.	Low
Long-billed Curlew <i>Numenius americanus</i>	Nests in wet & dry upland fields. In migration, a shore bird of wetlands and agriculture fields.	Suitable habitat not present, no conflict anticipated.	Zero
Yellow-billed Cuckoo <i>Coccyzus americanus</i>	No suitable riparian habitat present. Inhabits open woods, orchards, and streamside willow and alder groves.	No conflict anticipated. Species not present.	Zero

Flammulated Owl <i>Otus flammcolus</i>	Inhabits pine-oak woodland, ponderosa pine forest.	Suitable habitat. Species not present.	Low
Burrowing Owl <i>Athene cunicularia</i>	Inhabits grassland shrub-steppe dominated by mixed grasses, Casual vagrant to prairie dog colonies, occupying abandoned holes.	No suitable habitat available for the owl.	Zero
Lewis's Woodpecker <i>Melanerpes lewis</i>	Inhabits woodland forests of pine-oak. Nests in oak cavities and pine snags. Forages and stores acorns and insects.	Suitable habitat.	Low
Southwest Willow Flycatcher <i>Empidonax traillii</i>	Inhabits brushy habitats in wet areas; also in pastures, mountain meadows.	No suitable habitat. Species not present.	Zero
Gray Vireo <i>Vireo vicinior</i>	Inhabits semi-arid foothills in oaks, P-J woodland with scrub component. Inhabits mountains and juniper scrubland.	Suitable habitat. Little conflict anticipated.	Low
Pinyon Jay <i>Gymnprjomus cyanocephalus</i>	Savannah, P-J woodland, pine-oak ecosystems associated with high open habitats w/ openings, scattered trees or shrub components.	A multi-ecosystem inhabitant, no conflict anticipated.	Low
Juniper Titmouse <i>Baeolophus ridgwayi</i>	Inhabits pinyon-juniper woodland year around.	Suitable habitat.	Low
Veery <i>Catharus fuscescens</i>	Inhabits dense moist riparian habitat along streamside thickets. Casual in the SW.	No suitable habitat.	Zero
Bendire's Thrasher <i>Toxostoma bendirei</i>	Inhabits brushy desert shrub, especially areas of tall vegetation, cholla cactus, creosote bush and yucca.	No conflict anticipated. Species not present.	Zero
Grace's Warbler <i>Dendroica graciae</i>	Inhabits montane open, park-like forests of SW mountains, especially tall yellow pines. Usually forages high in the trees.	No suitable habitat present.	Zero
Brewer's Sparrow <i>Spizella breweri</i>	Inhabits sage steppe habitats, esp. big sage openings and sagebrush flats.	Suitable habitat present.	Low
Grasshopper Sparrow <i>Ammodramus savannarum</i>	Inhabits moderately open grassland habitats, with patchy bare ground (feeds and nests on ground). Avoids areas with extensive shrub cover.	Little conflict anticipated.	Low

Chestnut-collared Long-Spur <i>Calcarius ornatus</i>	Inhabits upland grassland, generally found in dense grass; gregarious in fall and winter.	Little conflict anticipated.	Low
Black Rosy-Finch <i>Leucosticte atrata</i>	Inhabits high mountains, rocky summits, alpine cirques and snowfields; winters in open country at lower elevations, spreading onto the plains.	No suitable habitat in the project area. Species not present.	Zero
Brown-capped Rosy Finch <i>Leucosticte australis</i>	Inhabits high mountains, rocky summits, alpine cirques and snowfields; winters in open country at lower elevations, spreading onto the plains..	No suitable habitat on the project area. Species not present.	Zero
Cassin's Finch <i>Carpodacus cassinii</i>	Species inhabits montane evergreen woodland ecosystem.	Suitable habitat in project area.	Low

Proposed Action. This alternative would result in a short-term and small scale loss of vegetation due to future construction. The remaining project activities are expected to occur within the existing project area. No permanent loss of native vegetation is anticipated; native seed from the disturbed vegetation would also help to propagate the natural plant species. No long-term loss of vegetation or wildlife habitat is expected. As a result, the proposed action would have no significant effects on migratory bird species.

3.7.3 Mitigation

In the unlikely event that construction would occur within the breeding and nesting season, NN DF&W policy mandates that prior to construction; the proposed activity would require a pre-construction survey of potential nesting birds on the right of way tract. Any bird nests found during the survey, within the proposed project area, will be reported to the NNHP biologist for appropriate mitigation prior to construction activities.

3.8 Air Quality

3.8.1 Existing Conditions

Ambient air quality in the project area may be regarded as good. Primary pollutants in the project area is wind-blown dust from loose topsoil common during times of high wind during the spring and dust from vehicular traffic along unimproved roads in the vicinity. Total suspended particulate matter PM10 is the federal measure of air borne particulate matter; since the finer particles of dust at PM 10 has been more closely correlated to negative health effects than TSP, i.e., the finer particles inhaled by humans.

3.8.2 Effects

Air quality will be affected locally by dust and a negligible amount of hydrocarbons generated by

construction equipment. These pollutants will not be generated in sufficient concentrations to produce measurable adverse effects to human health. Operational power line will not have a significant long-term effect on the ambient air quality in the project area.

3.8.3 Mitigation

Disturbed soils during any future site preparation would be dampened by watering for dust suppression and soil compaction.

3.9 Esthetics and Visual Resources

3.9.1 Existing Conditions

No visibility studies have been conducted in the project area. However, regional visibility in the project area can be considered to be good.

3.9.2 Effects

Locally, the primary ambient air pollutant in the project area is occasional wind-blown dust from loose topsoil common during times of gusting winds during the spring, and dust from vehicular traffic along unimproved roads in the area.

3.9.3 Mitigation

Disturbed soils during any future site preparation would be dampened by watering for dust suppression and soil compaction.

3.10 Cultural Resources

Dinetahdoo Cultural Resource Management of Farmington, New Mexico conducted the archeological survey of the site and crafted a field inventory report entitled: *A Cultural Resource Inventory of Continental Divide Electric Cooperative's Proposed Red Rock Phase I Power Line Project, McKinley County, New Mexico, Work Order No. 85482*. The Navajo Nation Historic Preservation Department Cultural Resources Compliance Form NHPD-16-737 indicates "No historic properties affected" as effect/conditions of compliance, shown at Appendix C.

3.10.2 Effects

With respect to the findings, no impacts to archaeological resources will result from the approval of this right of way. "No Historic Properties Affected" is recommended for the proposed project site.

3.10.3 Mitigation

A Cultural Resource Compliance Form, NNHPD Number HPD-16-737, has been created for this undertaking. CDECI acknowledges the following statement with respect to cultural resources during construction: *In the event of the 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.*

3.11 Native American Religious Concern

3.11.1 Existing Conditions

As part of the archeological inventory, interviews regarding traditional cultural properties were conducted. No sacred sites or traditional cultural resources were identified within the proposed right of way. There are several pieces of legislation or executive orders that are considered in an evaluation of Native American Religious Concerns (i.e., American Indian Religious Freedom Act

[AIRFA] of 1978, Executive Order 13007, The Native American Graves Protection and Repatriation Act [NAGPRA] of 1990, and the Archaeological Resources Protection Act [ARPA] of 1979).

Traditional Cultural Properties are a separate class of cultural resources which may occur in the project study area, which may or may not coincide with archaeological sites and artifact loci, and may fall under the purview of one or more of the cited legislation. The National Park Service has defined TCPs as follows:

A traditional cultural property can be defined generally as one (a property) that is eligible for the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community (National Register Bulletin 38).

The field survey did not identify any known TCPs on the existing right of way tract. Additionally, no traditional cultural properties have been identified by the local Native American tribes as a result of coordination efforts. Identification efforts for Native American Religious Concerns include interviews with chapter coordinators were conducted. Results of the interviews indicate there are no known traditional cultural properties within the proposed project area. There are no blessed structures, tipi grounds, or other ceremonial features associated with any in-use area.

3.11.2 Effects

Basis of Significance. An alternative would be to have a significant effect on Native American religious concerns if TCPs would have been identified or affected during the cultural resource field survey. During passage of the project resolution, no traditional cultural property issues were voiced during the community chapter meeting.

No Action. This alternative would have no effect on existing traditional cultural properties or American Indian Religion in the project area. This alternative would not prevent access to other sacred sites, nor would it interfere or otherwise hinder the performance of traditional ceremonies and rituals.

Proposed Action. This alternative would have no effect on existing traditional cultural properties or American Indian Religion in the project area. This alternative would not prevent access to other sacred sites nor would it interfere or otherwise hinder the performance of traditional ceremonies and rituals.

3.11.3 Mitigation Measures

No site specific Native American Religious Concerns have been recorded. In the event of any discoveries during project implementation, the NNHPD would be notified immediately.

4.0 CUMULATIVE IMPACTS AND CONSIDERATIONS FOR SELECTION OF THE PREFERRED ALTERNATIVE

Cumulative effects are effects of the project in consideration with other past, present, or reasonably foreseeable projects in the local area. There are no past projects that resulted in identifiable long-term effects having a cumulative relationship with the effects of the proposed project.

In the future, there are no other power line proposals planned in the reasonably foreseeable future in the area. The proposed right of way application action will not have significant impact on the human environment. The approval of the requested use area would have minimal effect on the resource use patterns in the project area. The grazing permit holder has relinquished trust land to

the development. It is the practice of the Navajo Nation to compensate the traditional land user for the grazing resource loss.

Climate change results from the incremental addition of greenhouse gases a (GHG) emissions from millions of individual sources, which collectively have a large impact on a global scale. Climate change is a particularly complex challenge given its global nature and the inherent interrelationships among its sources, causation, mechanisms of action, and impacts (CEQ, 2016). With respect to cumulative impacts on regional air quality and climate change from greenhouse gas emissions, the lack of scientific tools designed to predict climate change on regional or local scales limits the ability to quantify potential future impacts of the proposed project. Analyzing greenhouse gases emission and the effects of climate change relevant to a proposed action – particularly how climate change may change an action's effects of a propose project – is currently not available. The propose action, construction of a new power line, is not listed among the standard of performance for new stationary source in accordance with 40 Code of Federal Regulation part 60, National Ambient Air Quality Standard.

Native American lands, people, and culture are likely to be disproportionately affected by climate change. Effect of climate change on the lands and people of Southwestern Native Nations are likely to be greater than elsewhere because of endangered cultural practices, limited water rights, and social, economic, and political marginalization, all of which are relatively common among indigenous people (Garfin, G., A. Jardine, R. Merideth, M. Black, and S. LeRoy, eds., 2013).

5.0 COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS

Clean Air Act, as amended and recodified (42 U.S.C. 7401 et seq.) Compliance. The proposed project is not expected to violate any Federal air quality standards and would not degrade the attainment of air quality objectives of the air shed.

Clean Water Act § 402 Compliance. The Environmental Protection Agency administers Section 402 of the Clean Water Act (formerly the Federal Water Pollution Control Act). Operators are normally required to obtain all necessary permits and approvals for projects requiring CWA permits prior to any disturbance activities. The proposed power line would be constructed in increments of less than 9.44 acres. Surface disturbance would be at a minimum.

Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) Compliance. No Federally listed species or special management species (NESL) or their habitats have been identified in or near the project area. ESA requires all federal departments and agencies to conserve threatened and endangered species and the habitats on which they depend, and to consult with the U. S. Fish and Wildlife Service (USFWS), on all actions authorized, funded or carried out by the agency to ensure that the action will not likely jeopardize the continued existence of any threatened and endangered species or adversely modify critical habitat. At Appendix D, the operator has consulted with the Navajo Department of Fish and Wildlife, Natural Heritage Program.

Executive Order 11988, Floodplain Management Compliance. This order directs all Federal agencies to avoid to the extent possible the adverse effects associated with the modification of

floodplains, and to avoid support of floodplain development wherever there is a practicable alternative. Floodplains would have no effect on the proposed project.

Executive Order 12898 Environmental Justice Compliance. The order directs all Federal agencies to identify and address disproportionate adverse effects of their programs, policies, and activities on minority and low-income populations. The proposed action will benefit all sectors of society; no minority or low income populations would be directly adversely affected from proposed action. Indirect effects could include positive effects due to overall benefit related to the proposed power line in the area. The project would increase the quality of life for the residents.

Farmland Protection Policy Act (7 U.S.C. 4201 et seq.) Compliance. There are no effects on prime farmland or farmland of statewide importance because no prime farmland exist in the project area.

Migratory Bird Treaty Act, as amended (16 U.S.C. 703 et seq.)/ EO 13186 Compliance. Migratory birds and their habitats are protected under the Migratory Bird Treaty Act (MBTA) (16 USC §703-712) and EO 13186. All federal agencies are required to consider management impacts to protect migratory non-game birds. Executive Order 13186 calls for increased efforts to more fully implement the MBTA. The proposed action would have no significant effect on the bird species or their habitat.

National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.) Compliance. The final EA and signed FONSI are in full compliance with NEPA.

National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.) Compliance. The Navajo Nation Historic Preservation Department requires NHPA compliance and consultation with all development projects on the Navajo Nation. NNHPD has determined that NHPA § 106 responsibilities are adhered to, as no historic properties would be affected. See Appendix C.

Recourse Conservation and Recovery Act (RCRA), Comprehensive Environmental Response Conservation and Liabilities Act (CERCLA), or Toxic Substance Control Act (TSCA) Compliance. There are no Recourse Conservation and Recovery Act (RCRA), Comprehensive Environmental Response Conservation and Liabilities Act (CERCLA), or Toxic Substance Control Act (TSCA) sites on the proposed right of way.

6.0 PUBLIC INVOLVEMENT

The Red Rock Chapter has passed a resolution approving the power line. See Appendix B. In the future, the Resource and Development Committee of the Navajo Nation Council, would review and consider the right of way application, and create a resolution for passage. The Division of Environmental, Cultural Resources and Safety Management of the Navajo Regional Office, BIA, would make a Finding of No Significant Impact determination as result of their review.

7.0 COORDINATION AND REVIEW OF THE EA

Dinetahdoo Cultural Resource Management of Farmington, New Mexico conducted the archeological survey of the site and crafted a field inventory report. A NHPD concurrence letter and Cultural Resource Compliance Form is created for the project.

CDECI consulted with the Navajo Department of Fish and Wildlife, Navajo Nation. The consultation would assure mandated protection of ESA threatened and endangered species and Tribal species of concern. The Navajo Department of Fish and Wildlife website was consulted for the Biological Resources Land Clearance Policy and Procedures. A Biological Resource Compliance Form was created for the project.

8.0 CONCLUSIONS

The preferred alternative is reasonable. No extraordinary environmental circumstances were noted during the reconnaissance. No significant adverse impacts to the human environment have been identified in the development of this environment assessment.

9.0 LIST OF PREPARERS / CONSULTATION AND COORDINATION

This environmental assessment was prepared by Mr. Leonard Robbins, PES, Denali Environmental Services, P. O. Box 1127, Fort Defiance, Arizona 86504.

10.0 REFERENCES

- Brown, D.E., 1994. *Biotic Communities of Southwestern United States and Northwestern Mexico*. University of Utah Press, Salt Lake City, Utah.
- Cooley, M.E, J.W. Harshbarger, J.P. Akers, and W.F. Hardt, 1969. *Regional Hydrology of the Navajo and Hopi Indian Reservations, Arizona, New Mexico, and Utah*. USGS Paper 521-A, USPO, Washington D C.
- Dinetahdoo Cultural Resource Management, 2016. *A Cultural Resource Inventory of Continental Divide Electric Cooperative's Proposed Red Rock Phase I Power Line Project, McKinley County, New Mexico, Work Order No. 85482*. The Navajo Nation Historic Preservation Department Cultural Resources Compliance Form NHPD-16-737, DCRM, Farmington, New Mexico.
- Hiel, K. D., O'Kane S. L. Jr., Reeves, L. M., & Clifford, A., 2013. *Flora of the Four Corner Region, Vascular Plants of the San Juan River Drainage- Arizona, Colorado, New Mexico, Utah*, Missouri Botanical Garden Press, St. Louis, Missouri, USA.
- NN DED/LSRI, 2004. *Navajo Nation Chapter Images*, 2004 Edition. Navajo Nation Division of Economic Development/ Edited by LSR Innovations. Window Rock, Arizona.
- U.S. ACOE, 1987. *Wetlands Delineation Manual of 1987*, U.S. Army Corps of Engineers, Washington D. C.
- USDA, NRCS, 2016. Red Rock, NM, U.S. Department of Agriculture, Natural Resource Conservation Service, Web Soil Survey activated June, 2016.
- U.S. Fish and Wildlife Service, 1983. *National Wetlands Inventory Map, Zuni, NM*, U.S. Fish and Wildlife Service, Washington D.C.

U.S. Geological Survey, Twin Buttes, NM 1969 7.5 Minute Quadrangle, Denver, Colorado.

Western Regional Climate Center (WRCC), 2014. Gallup, New Mexico, Period of Record Monthly Climate Summary. <http://www.wrcc.dri.edu>, accessed May 20, 2014.

Wilks, M. E., compiler, 2005, *New Mexico Geologic Highway Map*: New Mexico Geological Society and New Mexico Bureau of Geology and Mineral Resources, Socorro, New Mexico.

[illegible]

The survey is subject to any faults that may be discussed by a (data) analyst and identified by Matthew C. Coates, New Mexico Professional Surveyor Number 22002, on hearing claims that the comments paid for in total at a \$100 survey made by me or under my direct supervision, that the survey reflects the "significant findings for Surveying in New Mexico", and to the level of my professional knowledge, information, and belief, it correctly represents the facts found at the time of survey.

00775

1. BASIS OF REWARD - Awarding system based on the New Mexico State Police Computer system, used 100% every April/June/Decem of 1983.

	see also non-enzymatic glycosylation 16; ZAP-70
3 kb.	primer sets 41 P.I. proteins, B.C.P., proteins, and T.A.P., proteins,

Discussion

[illegible]

offing but not involved by: LOSTS 7.3 mils. QUOTE
Venezuelan, incl
Fruit Shakes, mild

functions, and therefore indicate an almost barrier-free bond
between the two types of impurity, even though, in a crystal

1 INCH = 800 FEET



9550 San Mateo Blvd NE, Suite 200
Albuquerque, NM 87113

CONTINENTAL DIVIDE ELECTRIC CO-OP, INC.

CONCLUSIONS

NEW MEXICO 22 MCKINLEY
01 JAN 1962 1500Z

ALBUQUERQUE, NEW MEXICO

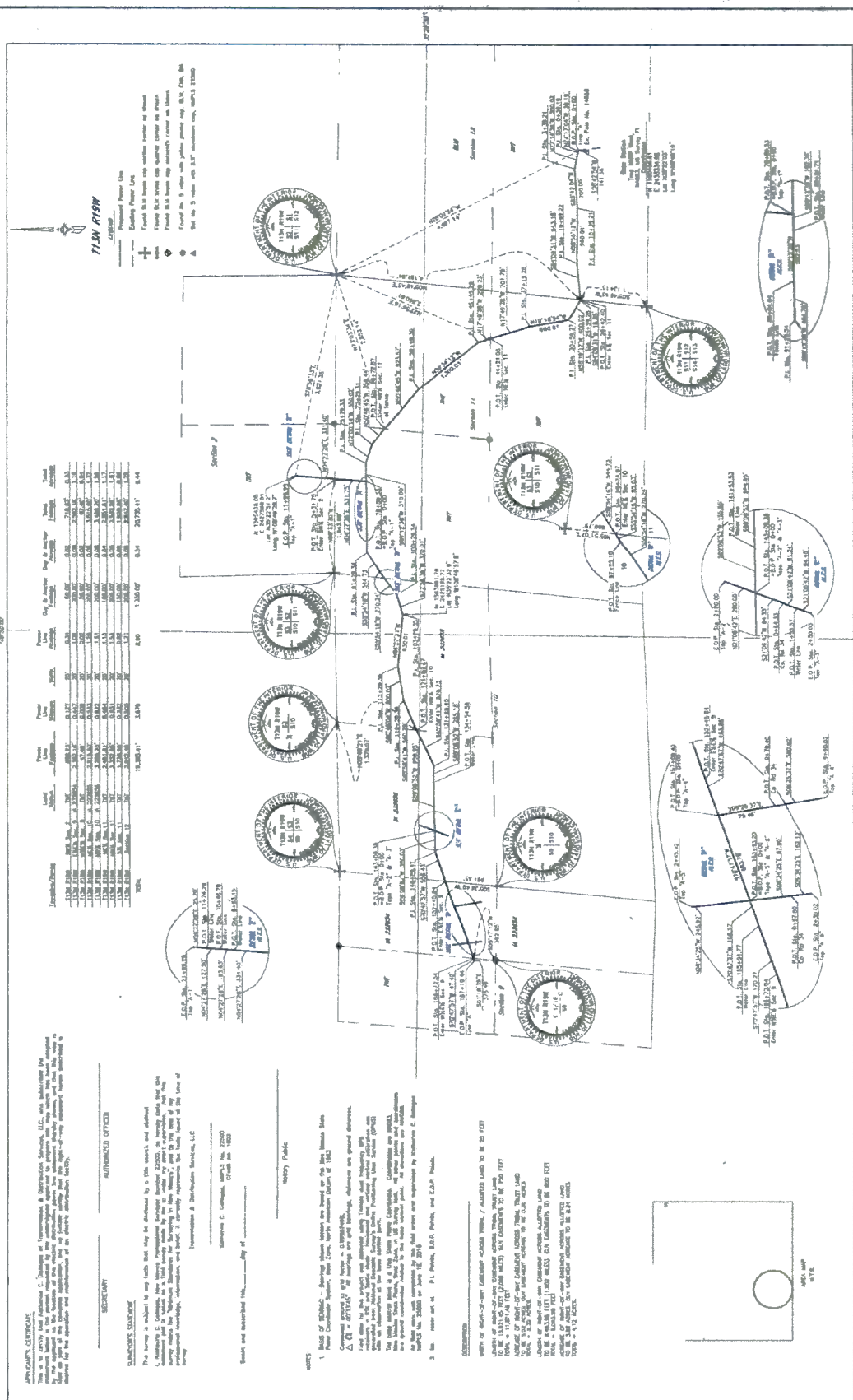
WILLIAM M. GARDNER

RED ROCK PHASE I
POWER LINE PROJECT

PERMIT MAP 1 OF 1

COUNTY DETAIL

Σ



**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE I POWER LINE PROJECT
LINE "A"
RED ROCK, MCKINLEY COUNTY, NEW MEXICO
WORK ORDER NUMBER 85482**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Red Rock Phase I Power Line Project, Line "A" located within sections 2, 9, 10, 11, and 12, Township 13 North, Range 19 West, New Mexico Principal Meridian, Tribal Trust Land and Allotted Land, Red Rock Chapter, McKinley County, State of New Mexico, and being more particularly described as follows:

A strip of Land, twenty (20) feet wide, being ten (10) feet on either side of the following described centerline in Tribal Trust and Allotted Land

BEGINNING at B.O.P. Station 0+00, existing pole number 14658, located in S½ section 12, T13N, R19W, NMPM, said parcel being Tribal Trust Land, from which point the found BLM brass cap for the northwest corner of section 12, T13N, R19W, NMPM, bears N28°02'24"W a distance of 4,687.14 feet, and from which point the Base Station having True New Mexico State Plane West, NAD83, US Survey Feet Coordinates of N 1590456.81, E 2433334.08, Latitude 35°22'03", Longitude -108°48'19", bears S08°42'54"W a distance of 141.36 feet,

Thence N74°17'04"W a distance of 39.19 feet to P.I. Station 0+39.19,

Thence N77°14'36"W a distance of 300.02 feet to P.I. Station 3+39.21,

Thence S85°42'04"W a distance of 700.00 feet to P.I. Station 10+39.21,

Thence N88°56'12"W a distance of 960.01 feet to P.I. Station 19+99.22,

Thence S84°09'31"W a distance of 643.18 feet to P.O.T. Station 26+42.40, at which point the centerline of the easement enters the S½ section 11, T13N, R19W, NMPM, said parcel being Tribal Trust Land, from which point the found BLM brass cap for the southeast corner of section 11, T13N, R19W, NMPM, bears S05°49'43"W a distance of 1,134.15 feet,

Thence continuing S84°09'31"W a distance of 16.85 feet to P.I. Station 26+59.25,

Thence N58°19'17"W a distance of 400.02 feet to P.I. Station 30+59.27,

Thence N10°18'54"W a distance of 660.01 feet to P.I. Station 37+19.28,

Thence N17°49'28"W a distance of 701.78 feet to P.O.T. Station 44+21.06, at which point the centerline of the easement enters the NE¼ section 11, T13N, R19W, NMPM, said parcel being Tribal Trust Land, from which point the found BLM brass cap for the northeast corner of section 11, T13N, R19W, NMPM, bears N22°56'16"E a distance of 2,860.61 feet,

Thence continuing N17°49'28"W a distance of 228.23 feet to P.I. Station 46+49.29,

Thence N39°34'12"W a distance of 1,300.01 feet to P.I. Station 59+49.30,

Thence N50°46'45"W a distance of 923.57 feet to P.O.T. Station 68+72.87, at which point the centerline of the easement crosses a fence and enters the NW¼ section 11, T13N, R19W, NMPM, said parcel being Tribal Trust Land, from which point the found BLM brass cap for the northeast corner of section 11, T13N, R19W, NMPM, bears N73°03'34"E a distance of 2,852.14 feet,

Thence N50°46'45"W a distance of 356.44 feet to P.I. Station 72+29.31,

Thence N72°00'14"W a distance of 350.02 feet to P.I. Station 75+79.33,

Thence S89°12'38"W a distance of 310.00 feet to P.O.T. Station 78+89.33,

Thence continuing S89°12'38"W a distance of 192.38 feet to P.O.T. Station 80+81.71, at which point the centerline of the easement crosses a water line,

Thence continuing S89°12'38"W a distance of 582.93 feet to P.O.T. Station 86+64.64, at which point the centerline of the easement crosses a fence line,

Thence continuing S89°12'38"W a distance of 464.70 feet to P.I. Station 91+29.34,

Thence S55°54'16"W a distance of 544.73 feet to P.O.T. Station 96+74.07, at which point the centerline of the easement enters the NE¼ section 10, T13N, R19W, NMPM, said parcel being Indian Allotment 222655, from which point the found BLM brass cap for the northwest corner of section 11, T13N, R19W, NMPM, bears N05°51'07"E a distance of 869.79 feet,

Thence continuing S55°54'16"W a distance of 85.03 feet to P.O.T. Station 97+59.10, at which point the centerline of the easement crosses a fence line,

Thence continuing S55°54'16"W a distance of 270.24 feet to P.I. Station 100+29.34,

Thence S72°58'36"W a distance of 370.01 feet to P.I. Station 103+99.35,

Thence N84°27'21"W a distance of 930.01 feet to P.I. Station 113+29.36,

Thence S80°48'04"W a distance of 600.02 feet to P.I. Station 119+29.38,

Thence S65°58'41"W a distance of 560.29 feet to P.O.T. Station 124+89.67, at which point the centerline of the easement enters the NW¼ section 10, T13N, R19W, NMPM, said parcel being Indian Allotment 222656, from which point the found BLM brass cap for the quarter corner common to sections 10 and 3, T13N, R19W, NMPM, bears N05°48'21"E a distance of 1,370.07 feet,

Thence continuing S65°58'41"W a distance of 679.73 feet to P.I. Station 131+69.40,

Thence S89°08'52"W a distance of 285.18 feet to P.O.T. Station 134+54.58, at which point the centerline of the easement crosses a water line,

Thence continuing S89°08'52"W a distance of 698.95 feet to P.O.T. Station 141+53.53, at which point the centerline of the easement crosses a water line,

Thence continuing S89°08'52"W a distance of 155.85 feet to P.O.T. Station 143+09.38,

Thence continuing S89°08'52"W a distance of 380.03 feet to P.I. Station 146+89.41,

Thence S70°47'57"W a distance of 556.43 feet to P.O.T. Station 152+45.84, at which point the centerline of the easement enters the E½E½ section 9, T13N, R19W, NMPM, said parcel being Indian Allotment 222654, from which point the found BLM brass cap for the quarter corner common to sections 10 and 9, T13N, R19W, NMPM, bears S05°36'40"W a distance of 891.35 feet,

Thence continuing S70°47'57"W a distance of 463.58 feet to P.O.T. Station 157+09.42,

Thence continuing S70°47'57"W a distance of 683.78 feet to P.O.T. Station 163+93.20,

Thence continuing S70°47'57"W a distance of 108.57 feet to P.O.T. Station 165+01.77, at which point the centerline of the easement crosses a water line,

Thence continuing S70°47'57"W a distance of 170.27 feet to P.O.T. Station 166+72.04, at which point the centerline of the easement enters the W½E½ section 9, T13N, R19W, NMPM, said parcel being Tribal Trust Land, from which point the found BLM brass cap for the section corner for the east center sixteenth corner of section 9, T13N, R19W, NMPM, bears S05°17'12"W a distance of 392.65 feet,

Thence continuing S70°47'57"W a distance of 47.40 feet to E.O.P. Station 167+19.44, the terminus for the above described centerline for Line A, and from which point the found BLM brass cap for the east center sixteenth corner of section 9, T13N, R19W, NMPM, bears S01°18'35"E a distance of 375.49 feet,

The above described right-of-way easement contains 7.68 acres, more or less, in area. The right-of-way easement is 3.166 miles in length.

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE I POWER LINE PROJECT
TAP "A-1"
MCKINLEY COUNTY, NEW MEXICO
WORK ORDER NUMBER 85482**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Rock Point Phase I Power Line Project, Tap "A-1" located within the NW¼ section 11, and the SW¼ section 2, Township 13 North, Range 19 West, New Mexico Principal Meridian, Tribal Trust Land, Red Rock, McKinley County, State of New Mexico, and being more particularly described as follows:

A strip of land, twenty (20) feet wide, being ten (10) feet on each side of the following described centerline:

BEGINNING at P.O.T. Station 78+89.33 of Line "A", said point being B.O.P. Station 0+00 for Tap "A-1", located in the NW¼ section 11, T13N, R19W, NMPM, said parcel being Tribal Trust Land,

Thence N04°27'28"E a distance of 531.75 feet to P.O.T. Station 5+31.75, at which point the centerline of the easement enters the SW¼ section 2, T13N, R19W, NMPM, said parcel being Tribal Trust Land, from which point the found BLM brass cap for the northwest corner of section 11, T13N, R19W, NMPM, bears N89°33'30"W a distance of 1,643.68 feet,

Thence continuing N04°27'28"E a distance of 331.40 feet to P.O.T. Station 8+63.15, at which point the centerline of the easement crosses a water line,

Thence continuing N04°27'28"E a distance of 183.63 feet to P.O.T. Station 10+46.78, at which point the centerline of the easement crosses a water line,

Thence continuing N04°27'28"E a distance of 127.50 feet to P.O.T. Station 11+74.28, at which point the centerline of the easement crosses a water line,

Thence continuing N04°27'28"E a distance of 25.70 feet to E.O.P. Station 11+99.98, the terminus for the above described centerline for Tap "A-1", from which point the found BLM brass cap for the northeast corner of section 11, T13N, R19W, NMPM, bears S78°56'33"E a distance of 3,621.35 feet,

The above described right-of-way easement contains 0.55 acres, more or less, in area. The right-of-way easement is 0.227 miles in length.

Notice: This is a single page of a multi-page document. No individual page can be interpreted alone and must be considered in the context of the entire document, including but not limited to descriptions, surveyor statements, and plat

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE I POWER LINE PROJECT
TAP "A-2"
MCKINLEY COUNTY, NEW MEXICO
WORK ORDER NUMBER 85482**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Rock Point Phase I Power Line Project, Tap "A-2" located within the NW¼ section 10, Township 13 North, Range 19 West, New Mexico Principal Meridian, Allotted Land, Red Rock, McKinley County, State of New Mexico, and being more particularly described as follows:

A strip of land, twenty (20) feet wide, being ten (10) feet on each side of the following described centerline:

BEGINNING at P.O.T. Station 143+09.38 of Line "A", said point being B.O.P. Station 0+00 for Tap "A-2", located in the NW¼ section 10, T13N, R19W, NMPM, said parcel being Indian Allotment 222656,

Thence N21°06'42"E a distance of 280.00 feet to E.O.P. Station 2+80.00, the terminus for the above described centerline for Tap "A-2",

The above described right-of-way easement contains 0.13 acres, more or less, in area. The right-of-way easement is 0.053 miles in length.

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE I POWER LINE PROJECT
TAP "A-3"
MCKINLEY COUNTY, NEW MEXICO
WORK ORDER NUMBER 85482**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Rock Point Phase I Power Line Project, Tap "A-3" located within the NW¼ section 10, Township 13 North, Range 19 West, New Mexico Principal Meridian, Allotted Land, Red Rock, McKinley County, State of New Mexico, and being more particularly described as follows:

A strip of land, twenty (20) feet wide, being ten (10) feet on each side of the following described centerline:

BEGINNING at P.O.T. Station 143+09.38 of Line "A", said point being B.O.P. Station 0+00 for Tap "A-3", located in the NW¼ section 10, T13N, R19W, NMPM, said parcel being Indian Allotment 222656,

Thence S21°06'42"W a distance of 64.33 feet to P.O.T. Station 0+64.33, at which point the centerline of the easement crosses County Road 34,

Thence continuing S21°06'42"W a distance of 91.24 feet to P.O.T. Station 1+55.57, at which point the centerline of the easement crosses a water line,

Thence continuing S21°06'42"W a distance of 94.46 feet to E.O.P. Station 2+50.03, the terminus for the above described centerline for Tap "A-3",

The above described right-of-way easement contains 0.11 acres, more or less, in area.
The right-of- way easement is 0.047 miles in length

Notice: This is a single page of a multi-page document. No individual page can be interpreted alone and must be considered in the context of the entire document, including but not limited to descriptions, surveyor statements, and plat

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE I POWER LINE PROJECT
TAP "A-4"
MCKINLEY COUNTY, NEW MEXICO
WORK ORDER NUMBER 85482**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Rock Point Phase I Power Line Project, Tap "A-4" located within the E½E½ section 9, Township 13 North, Range 19 West, New Mexico Principal Meridian, Allotted Land, Red Rock, McKinley County, State of New Mexico, and being more particularly described as follows:

A strip of land, twenty (20) feet wide, being ten (10) feet on each side of the following described centerline:

BEGINNING at P.O.T. Station 157+09.42 of Line "A", said point being B.O.P. Station 0+00 for Tap "A-4", located in the E½E½ section 9, T13N, R19W, NMPM, said parcel being Indian Allotment 222654,

Thence S09°25'37"E a distance of 79.40 feet to P.O.T. Station 0+79.40, at which point the centerline of the easement crosses County Road 34,

Thence continuing S09°25'37"E a distance of 380.62 feet to E.O.P. Station 4+60.02, the terminus for the above described centerline for Tap "A-4",

The above described right-of-way easement contains 0.21 acres, more or less, in area.
The right-of- way easement is 0.087 miles in length

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE I POWER LINE PROJECT
TAP "A-5"
MCKINLEY COUNTY, NEW MEXICO
WORK ORDER NUMBER 85482**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Rock Point Phase I Power Line Project, Tap "A-5" located within the E½E½ section 9, Township 13 North, Range 19 West, New Mexico Principal Meridian, Allotted Land, Red Rock, McKinley County, State of New Mexico, and being more particularly described as follows:

A strip of land, twenty (20) feet wide, being ten (10) feet on each side of the following described centerline:

BEGINNING at P.O.T. Station 163+93.20 of Line "A", said point being B.O.P. Station 0+00 for Tap "A-5", located in the E½E½ section 9, T13N, R19W, NMPM, said parcel being Indian Allotment 222654,

Thence N06°34'25"W a distance of 245.92 feet to E.O.P. Station 2+45.92, the terminus for the above described centerline for Tap "A-5",

The above described right-of-way easement contains 0.11 acres, more or less, in area.
The right-of- way easement is 0.047 miles in length

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE I POWER LINE PROJECT
TAP "A-6"
MCKINLEY COUNTY, NEW MEXICO
WORK ORDER NUMBER 85482**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Rock Point Phase I Power Line Project, Tap "A-6" located within the E $\frac{1}{2}$ E $\frac{1}{2}$ section 9, Township 13 North, Range 19 West, New Mexico Principal Meridian, Allotted Land, Red Rock, McKinley County, State of New Mexico, and being more particularly described as follows:

A strip of land, twenty (20) feet wide, being ten (10) feet on each side of the following described centerline:

BEGINNING at P.O.T. Station 163+93.20 of Line "A", said point being B.O.P. Station 0+00 for Tap "A-6", located in the E $\frac{1}{2}$ E $\frac{1}{2}$ section 9, T13N, R19W, NMPM, said parcel being Indian Allotment 222654,

Thence S06°34'25"E a distance of 67.90 feet to P.O.T. Station 0+67.90, at which point the centerline of the easement crosses County Road 34,

Thence continuing S06°34'25"E a distance of 162.12 feet to E.O.P. Station 2+30.02, the terminus for the above described centerline for Tap "A-6",

The above described right-of-way easement contains 0.1 1 acres, more or less, in area.
The right-of- way easement is 0.043 miles in length

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE I POWER LINE PROJECT
MCKINLEY COUNTY, NEW MEXICO
CDEC WORK ORDER NUMBER 85482**

GUY EASEMENT DESCRIPTION

<u>GUY NO.</u>	<u>STATION</u>	<u>BEARING</u>	<u>LENGTH</u>	<u>WIDTH</u>	<u>ACREAGE</u>
LINE A					
1	0+39.19	S77°14'36"E	50'	20'	0.02
2	3+39.21	N04°13'44"E	50'	20'	0.02
3	10+39.21	S01°37'04"E	50'	20'	0.02
4	19+99.22	N02°23'20"W	50'	20'	0.02
5	26+59.25	S12°55'07"W	50'	20'	0.02
6	30+59.27	S55°40'54"W	50'	20'	0.02
7	37+19.28	N75°55'49"E	50'	20'	0.02
8	46+49.29	N61°18'10"E	50'	20'	0.02
9	59+49.30	N44°49'31"E	50'	20'	0.02
10	72+29.31	N28°36'30"E	50'	20'	0.02
11	75+79.33	N08°36'12"E	50'	20'	0.02
12	91+29.34	N17°26'33"W	50'	20'	0.02
13	100+29.34	S25°33'34"E	50'	20'	0.02
14	103+99.35	S05°44'23"E	50'	20'	0.02
15	113+29.36	N01°49'39"W	50'	20'	0.02
16	119+29.38	N16°36'38"W	50'	20'	0.02
17	131+69.40	S12°26'13"E	50'	20'	0.02
18	146+89.41	N10°01'36"W	50'	20'	0.02
19	167+19.44	S70°47'57"W	50'	20'	0.02
TAP A-1					
20	0+00	S04°27'28"W	50'	20'	0.02
21	11+99.98	N04°27'28"E	50'	20'	0.02
TAP A-2					
22	2+80.00	N21°06'42"E	50'	20'	0.02
TAP A-3					
23	2+50.03	S21°06'42"W	50'	20'	0.02
TAP A-4					
24	0+00.00	N09°25'37"W	50'	20'	0.02
25	4+60.02	S09°25'37"E	50'	20'	0.02
TAP A-5					
26	2+45.92	N06°34'25"W	50'	20'	0.02
TAP A-6					
27	2+30.02	S06°34'25"E	<u>50'</u>	<u>20'</u>	<u>0.02</u>
TOTAL			1,350'		0.18

TOTAL 27 GUYS

27 Guys X 0.02 acres = 0.54 ACRES

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE I POWER LINE PROJECT
MCKINLEY COUNTY, NEW MEXICO
CDEC WORK ORDER NUMBER 85482**

SUMMARY DESCRIPTION

<u>SEGMENT</u>	<u>LENGTH</u>	<u>MILES</u>	<u>WIDTH</u>	<u>ACREAGE</u>
LINE "A"	16,719.44'	3.166	20'	7.68
TAP "A-1"	1,199.98'	0.227	20'	0.55
TAP "A-2"	280.00'	0.053	20'	0.13
TAP "A-3"	250.03'	0.047	20'	0.11
TAP "A-4"	460.02'	0.087	20'	0.21
TAP "A-5"	245.92'	0.047	20'	0.11
TAP "A-6"	230.02'	0.043	20'	0.11
SUBTOTAL	19,385.41'	3.670		9.46
GUY EASEMENTS	1,350.00'			0.54
TOTAL	20,735.41'			10.00

CDEC'S RED ROCK PHASE I
POWER LINE PROJECT
MCKINLEY COUNTY, NEW MEXICO
CDEC WORK ORDER NUMBER 85482

SECTION SUMMARY

	LAND STATUS	POWER LINE		POWER LINE		GUY FOOTAGE	GUY ACREAGE	TOTAL ACREAGE	TOTAL FOOTAGE
		LENGTH	MILES	ACREAGE	ACREAGE				
T13N R19W									
	TNT	668.23'	0.127	0.31		50.00'	0.02	0.33	718.23'
	TNT	47.40'	0.009	0.02		50.00'	0.02	0.04	97.40'
	TNT	2,451.81'	0.464	1.13		100.00'	0.04	1.17	2,551.81'
	TNT	3,332.95'	0.631	1.53		200.00'	0.08	1.61	3,532.95'
	TNT	1,778.66'	0.337	0.82		150.00'	0.06	0.88	1,928.66'
	TNT	2,642.40'	0.500	1.21		200.00'	0.08	1.29	2,842.40'
TRIBAL TRUST LAND TOTAL		10,921.45'	2.068	5.02		750.00'	0.30	5.32	11,671.45'
T13N R19W									
	IA 222654	2,362.16'	0.447	1.08		200.00'	0.08	1.16	2,562.16'
	IA 222655	2,815.60'	0.533	1.29		200.00'	0.08	1.37	3,015.60'
	IA 222656	3,286.20'	0.622	1.51		200.00'	0.08	1.59	3,486.20'
ALLOTTED LAND TOTAL		8,463.96'	1.602	3.88		600.00'	0.24	4.12	9,063.96'



**THE
NAVAJO
NATION**

TSE' LICHII COMMUNITY CHAPTER

(8 Miles South of Gallup)

P.O. Box 2548

Gallup, NM 87305

(805) 905-8071/8135 FAX: (805) 905-1048

Ray Jack, President
Stewart C. Begay, Vice-President
Louise Hoskie, Secretary/Treasurer

RRC-016-2014-058
Resolution of the Tse'Lichii' Chapter

Charles C. Damon, Council Delegate
Anderson Lee, Community Service Coordinator
Raylynn Hoskie, Accounts Maintenance Specialist

**APPROVING THE TSE' LICHII' CHAPTER PHASE II ELECTRICAL POWER
LINE EXTENSION INVOLVING APPROXIMATELY THIRTY FIVE (35)
MILES TO SERVE TWENTY FIVE (25) HOMES WITHIN THE TSE' LICHII'
COMMUNITY**

WHEREAS:

1. Tse'Lichii' Chapter is a certified Navajo Nation Chapter and as such is empowered by the Navajo Nation Council to make favorable decisions on behalf of the community; And
2. Tse'Lichii' Chapter has completed a House Wiring Project as Phase I for basic infrastructure to provide electricity to homes still without the comfort of such utility improvement to their homes especially in remote areas of the community and to continue with the Phase II project involving the power line extension from the main service line available to connect directly to the homes; And
3. Tse'Lichii' Chapter continuously seek to develop any and all type of infrastructural improvements such as in this case electrical power line to improve the living condition of the people especially school age children depending on upgrade lighting system to do their homework after school – dealing with today's modern society and generation depending on advanced technology a computer; living in the rural remote area of the community or even where electric power available nearby and membership cannot afford to make improvement on their own and depend upon the Chapter to assist ; And
4. Tse'Lichii' Chapter shall seek funds from resources such as State of New Mexico, Navajo Nation Government, any other entities with the assistance in legislating the purpose of the resolution from LGSC-ENA Office, Navajo Nation Council Delegate, State Senator, State Governor, State Representatives to do any all things possible to have the Tse'Lichii' Chapter Phase II Electrical Power Line Extension become a reality within the Tse'Lichii' community and put before the membership for discussion and approval.

NOW, THEREFORE BE IT RESOLVED THAT:

Tse'Lichii' Chapter hereby approves the Tse'Lichii' Chapter Phase II Electrical Power Line Extension involving approximately thirty five (35) miles to serve twenty five (25) homes within the Tse'Lichii' community.

Resolution #RRC-016-2014-058
July 13, 2014 @ 1:00 PM

CERTIFICATION

WE HEREBY CERTIFY THAT THE FOREGOING RESOLUTION was duly considered by Tse'Lichii' Chapter at a duly called meeting at which time a quorum was present on this 13th day of July 2014.

1st Motion: *Lucille Begay*
2nd Motion: *Lacey Cleveland*
Vote: *42-0-13*



Ray Jack, President



Louise Hoskie, Secretary-Treasurer
lh



Stewart C. Begay, Vice-President



Charles Damon, Council Delegate



Resolution # RRC-016-2015-060
Tse'Lichii' (Red Rock) Chapter - (5 Miles South of Gallup)
P.O. Box 2548
Gallup, NM 87305
(505) 985-8071/8135 Fax: (505) 985-1049
E-Mail: redrockchapter@navajochapter.org

Ray Jack, President
Stewart C. Begay, Vice-President
Louise Houde, Secretary-Treasurer

Seth Damon, Council Delegate
Anderson Lee, Community Services Coordinator
Raylynn Houde, Accounts Maintenance Specialist

RRC-016-2015-060
Resolution of the Tse'Lichii' Chapter

**RESPECTFULLY REQUESTING THE NAVAJO NATION COMMUNITY
HOUSING INFRASTRUCTURE DEVELOPMENT (CHID) TO RELEASE THE
FULL AMOUNT OF \$520,617.00 TSE'lichii' POWER LINE EXTENSION
PROJECT FUND GO DIRECTLY TO TSE'lichii' CHAPTER ACCOUNT**

WHEREAS:

1. Tse'Lichii' Chapter is a certified Navajo Nation Chapter and as such is empowered by the Navajo Nation Council to render favorable decisions on behalf of the community; And
2. Tse'Lichii' Chapter membership passed a resolution identified as "Tse'Lichii' Power Line Extension Project" within the community with identified homeowners with name list with map attached to the resolution to request the CDEC, Grants Office to initiate an up to date estimate cost for basic studies, clearances and engineering survey for the Tse'Lichii' Chapter; And
3. The 23rd Navajo Nation Council and then Navajo Nation President Ben Shelley approved the \$520,617.00 to the Tse'Lichii' Chapter to be utilized within its respective community in the areas of infrastructure project for the betterment of its membership and identified as "Power Line Extension Project" and funds have been deposit with the Navajo Nation Community Infrastructure Development (CHID); And
4. Tse'Lichii' Chapter respectfully requests the Navajo Nation Community Infrastructure Development (CHID) to release the full amount of \$520,617.00 to Tse'Lichii' Chapter account to have the Chapter administration oversee the funds for accurate reports of expenditures on detailed budget/actual transactions - summary budget to actual on quarterly basis within the fiscal year; And
5. The Tse'Lichii' Chapter to have control of the funds for expenditure will enable the Chapter to start the "Tse'Lichii' Power Line Extension Project" on a timely manner with the Continental Divide Electric Coop., (CDEC) Grants Office; and put before the Chapter membership for discussion and approve.

NOW, THEREFORE BE IT RESOLVED THAT:

Tse'Lichii' Chapter hereby in respect requests the Navajo Nation Community Housing Infrastructure Development (CHID) to release the full amount of \$520,617.00 Tse'Lichii' Power Line Extension Project fund go directly to Tse'Lichii' Chapter account.

CERTIFICATION

WE HEREBY CERTIFY THAT THE FOREGOING RESOLUTION was duly considered by Tse'Lichil' Chapter at a duly called meeting at which time a quorum was present and moved for adoption on this 19th day of July 2015.

1st Motion: *Robert Ortiz*
2nd Motion: *Pauline Benally*
Vote: *32-0-4*



Ray Jack, President



Stewart C. Begay, Vice-President



Louise Heskie, Secretary-Treasurer
lh



Seth Damon, Council Delegate

CULTURAL RESOURCE COMPLIANCE FORM

ROUTE COPIES TO:

☒ DCRM

NNHPD NO.: HPD-16-737

OTHER PROJECT NO.: DCRM 2016-23

PROJECT TITLE: A Cultural Resources Inventory of the Continental Divide Electric Cooperative's Proposed Red Rock Phase I Powerline Project, McKinley County, New Mexico, Work Order No. 85482

LEAD AGENCY: BIA/NR

SPONSOR: Debbie Olivar, Technical Engineer/ROW, CDEC, 200 E. High St., PO Box 1087, Grants, NM 87020

PROJECT DESCRIPTION: The proposed undertaking will involve the construct, operate, and maintain a distribution line with fiber optic cables. The powerline measures 20,735.41-ft/3.93-miles in length with a 20-ft wide right-of-way. The area of effect is 9.44-acres. Ground disturbing activities will be intensive and extensive with the use of heavy equipment.

LAND STATUS: Tribal Trust Land & Indian Allotment Land
CHAPTER: Red Rock

LOCATION: T. 13 N., R. 19 W- Sec. 2, 9, 10, 11, 12; Vanderwagen Quadrangle, McKinley County New Mexico NMPM

PROJECT ARCHAEOLOGIST: Rena Martin & Jeremy Begay
NAVAJO ANTIQUITIES PERMIT NO.: B16349
DATE INSPECTED: 05/6-2016 – 05/23/2016
DATE OF REPORT: 08/22/2016
TOTAL ACREAGE INSPECTED: 42.84- ac
METHOD OF INVESTIGATION: Class III pedestrian inventory with transects spaced 7 m apart.
LIST OF CULTURAL RESOURCES FOUND: (1) Isolated Occurrence (IO); (12) In-Use Sites (IUS)
LIST OF ELIGIBLE PROPERTIES: None
LIST OF NON-ELIGIBLE PROPERTIES: (1) IO: (12) IUS
LIST OF ARCHAEOLOGICAL RESOURCES: None

EFFECT/CONDITIONS OF COMPLIANCE: No historic properties affected.

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

FORM PREPARED BY: Tamara Billie
FINALIZED: November 10, 2016

Notification to Proceed
Recommended
Conditions:

☒ Yes ☐ No
☐ Yes ☒ No


The Navajo Nation
Historic Preservation Office

Date

 Navajo Region Approval

☒ Yes ☐ No


BIA – Navajo Regional Office

Date

DCRM 2016-23:
A Cultural Resources Inventory of the Continental Divide Electric Cooperative's Proposed Red Rock
Phase I Powerline Project, McKinley County, New Mexico, Work Order
No. 85482.

Prepared by

Rena Martin, Anthropologist
Jeremy Begay, Senior Archaeologist

Denali Environmental Services

OCT 15 REC'D 2016 / JP
RECEIVED

HPD Permit No.: B16349

May 31, 2016

Submitted by:

Dinétahdóó Cultural Resources Management, LLC
P.O. Box 2012
Farmington, NM 87499

Submitted to

Navajo Nation Historic Preservation Department
Cultural Resources Compliance Section
P.O. Box 4950
Window Rock, Arizona 86515

Prepared for:

Debbie Olivar, Technical Engineer/ROW
Continental Divide Electric Cooperative, Inc.
P.O. Box 1087
Grants, New Mexico 87020

Abstract

The following report is submitted to the Navajo Nation Historic Preservation Department's Cultural Resources Compliance Program for compliance review as part of the Navajo Nation cultural resources clearance process. The report details the results of the cultural resources inventory conducted in conjunction with the project entitled "*DCRM 2016-23: A Cultural Resources Inventory of the Continental Divide Electric Cooperative's Proposed Red Rock Phase I Powerline Project, McKinley County, New Mexico, Work Order No. 85482.*" The project was conducted at the request of Ms. Debbie Olivar, Right-of-Way Agent (ROW), Continental Divide Electric Cooperative (CDEC) requested the inventory. The project will involve the construction of distribution power line extensions that will serve twelve (12) Navajo residents. The installation activities will consist of vehicular traffic within the rights-of-way, clearing of vegetation, digging holes for the electrical poles, placement of utility poles, backfilling the excavated areas, the stringing of utility lines and fiber optic cables, and the installation of associated equipment. The lines will also be maintained by CDEC. The project area is in the eastern portion of the Navajo Indian Reservation in Red Rock Chapter, Eastern Navajo Agency. The legal descriptions for the projected area are as follows: Sections 2, 9, 10, 11, and 12, Township 13 North, Range 19 West, (NMPM). The project area can be found on the following USGS 7.5-minute quadrangle maps: Twin Buttes, N. Mex, P.R. 1979 and Vanderwagen, N. Mex, P.R. 1979. The total number of acres surveyed in conjunction with this project is 42.84 (17.33); the area of effect is 9.44 acres (3.82 ha). Twelve (12) in-use sites and one isolated occurrence (IO) were identified during the inventory. Archaeological clearance is recommended for the proposed undertaking provided that the recommendations prescribed in the report adhered to during all phase of construction.

Introduction

Between May 18th through 23rd, 2016, Jeffrey Begay, Tristin Moone, and Jeremy Begay archaeologists with Dinéahdóó Cultural Resources Management (DCRM), conducted an archaeological inventory of the proposed electric distribution lines for the Continental Divide Electric Cooperative's Proposed Red Rock Chapter Red Rock Phase I Powerline Project, McKinley County, New Mexico. Mr. Steve Morales served as the project Right-of-Way (ROW) Agent. The proposed power line project is associated with CDEC's Work Order No. 85482. Twelve (12) in-use sites were identified during the inventory. This cultural resources inventory was completed under Navajo Nation Cultural Resource Inventory Permit Number B16349.

Description of Undertaking

The Continental Divide Electric Cooperative (CDEC) proposes to construct, operate, and maintain the distribution lines with fiber optic cables which will provide electrical power to the Red Rock community in the Red Rock Chapter, McKinley County, New Mexico. The installation will consist of vehicular traffic within the right-of-way; clearing of vegetation; digging holes for the electrical poles; placement of utility poles; backfilling the excavated areas; stringing of power lines; and finally, maintaining the utility lines as needed. In all, the total area surveyed is 20,735.41 ft (6,320.15 m; 3.93 miles) in length, with a right-of-way measuring 20 ft. wide (6 m). The area-of-effect equals 9.44 acres (3.82 ha).

Location

The project area is located on Navajo Nation Trust Lands and Navajo Allotted Lands in the Red Rock Chapter, McKinley County, New Mexico (Figures 1&2). The project area can be accessed by U.S. Highway 602 on Skeets Rd and by several maintained dirt roads that stem off from the highway. Table 1 displays the UTM coordinates and legal description for the proposed distribution Powerlines.

Table 1: UTM Coordinates, Legal Description and USGS Map names for Continental Divide Electric Cooperative's Red Rock Phase I Powerline project in McKinley, New Mexico.

Designation	UTM Coordinates: Zone 12 (NAD 83)		Legal Description						USGS Map Name (7.5' Quadrangle)
	Northing	Easting	¼	¼	¼	Sec.	T	R	
Tap A-1									
BOL	3916044	699387	SE	NE	SW	12	13N	19W	Vanderwagen, NM., 1963
B1	3916061	699297	SE	NE	SW	12	13N	19W	
B2	3916038	699085	SW	NE	SW	12	13N	19W	
B3	3916035	698792	SW	NW	SW	12	13N	19W	
B4	3916008	698593	SW	NW	SW	12	13N	19W	
B5	3916068	698487	SE	NE	SE	11	13N	19W	
B6	3916265	698445	NW	NE	SE	11	13N	19W	
B7	3916532	698350	SW	SE	NE	11	13N	19W	
B8	3916829	698087	NE	SW	SE	11	13N	19W	
B9	3917066	697777	NE	NE	NW	11	13N	19W	
B10	3917096	697675	NE	NE	NW	11	13N	19W	
B11	3917074	697203	NE	NW	NW	11	13N	19W	
B12	3916913	696981	SE	NE	NE	10	13N	19W	
B13	3916877	696874	SE	NE	NE	10	13N	19W	
B14	3916895	696591	SE	NW	NE	10	13N	19W	
B15	3916860	696412	SW	NW	NE	10	13N	19W	
B16	3916695	696072	NE	SE	NW	10	13N	19W	

B17	3916674	695609	NE	SW	NW	10	13N	19W	Vanderwagen, NM., 1963
EOL	3916451	695031	SE	SW	NE	9	13N	19W	
Tap A-1									
BOL	3917092	697581	NW	NE	NW	11	13N	19W	Vanderwagen, NM., 1963
EOL	3917457	697597	NW	SE	SW	2	13N	19W	
Tap A-2									
BOL	3916679	695724	NE	SW	NW	11	13N	19W	Vanderwagen, NM., 1963
EOL	3916760	695753	NE	SW	NW	11	13N	19W	Twin Buttes, N. Mex, P.R. 1979
Tap A-3									
BOL	3916679	695724	NE	SW	NW	10	13N	19W	Vanderwagen, NM., 1963
EOL	3916607	695699	NE	SW	NW	10	13N	19W	
Tap A-4									
BOL	3916562	695319	NE	SE	NE	9	13N	19W	Vanderwagen, NM., 1963
EOL	3916424	695346	SE	SE	NE	9	13N	19W	
Tap A-5									
BOL	3916487	695124	SW	SE	NE	9	13N	19W	Vanderwagen, NM., 1963
EOL	3916561	695113	NW	SE	NE	9	13N	19W	
Tap A-6									
BOL	3916487	695124	SW	SE	NE	9	13N	19W	Vanderwagen, NM., 1963
EOL	3916418	695134	SW	SE	NE	9	13N	19W	

BOL: Denotes Beginning of Line I.O: Denotes Isolated Occurrences EOL: Denotes End of Line

Existing Data Review

Prior to the fieldwork, a literature search of the scattered project areas was conducted at the Navajo Nation Historic Preservation Department's (NNHPD), Cultural Resources Compliance Section (CRCS) and Traditional Cultural Program in Window Rock, Arizona. The CRCS files indicated that a few previous projects had been conducted within 1 mile (1609.34 m) of the project area.

A search of the Sacred Places files at the Navajo Nation Historic Preservation Department's Traditional Cultural Program indicated that there were no previously identified Traditional Cultural.

Area Environmental and Cultural Setting

The project area is situated on the broad Red Rock syncline, a southeast sedimentary landmass that was tilted during large-scale inland crustal deformation throughout the Laramide Orogeny. The majority of geologic facies in the region are non-marine sedimentary strata which are the sources of the Aeolian deposits of sand in the project area. The environmental setting of the Red Rock powerline is flat with scrub vegetation. The proposed CDEC powerline project is located 5 miles south of Gallup, New Mexico. Vegetation observed in the area consists of snakeweed, rabbit brush, juniper, sage brush, bunch grass, tansy mustardweed, pinion, prickly pear cactus, Indian rice grass, globe mallow, coco weed, buck wheat, and Russian thistle. The homesites to be served is in an isolated area. It has bladed access roads and associated in-use features.

Red Rock. The Navajo name for Red Rock is *Tse'lichii*, which, when translated, means Red Rock (a butte). Red Rock Chapter is continuing to pursue development of its basic infrastructure. Currently, Red Rock is assessing its community issues and implications of programs and how they impact the community. The chapter intends to prepare long range strategic and comprehensive community development plans to realize the needs of its community. Local planning is important since it represents the wishes of community members. (LSR Innovations 2004).

Field Methods

Between May 06th through 23rd, 2016, Jeff Begay and Jeremy Begay archaeologists with Dinéahdóó Cultural Resources Management (DCRM), conducted a cultural resources inventory of the proposed distribution lines with fiber optic cables. Prior to the inventory, the proposed power line extensions were staked by T&D Engineering Services of Albuquerque. The project areas were surveyed by walking two parallel transects on each side of the centerline with intervals spaced no more than 7 m apart.

A 90-foot-wide (20.12 m) corridor was surveyed for each of the proposed power line extensions. This included a 20 ft. (6 m) right-of-way with 35 ft. (7 m) buffer zones on each side of the ROW. The total number of acres surveyed in conjunction with this project is 42.84 (17.33 ha);

The in-use sites were not documented out of respect for the privacy of the individuals; however, pursuant to NNHPD guidelines, the residents and their neighbors were interviewed to identify any potential traditional cultural properties (TCPs) that may be impacted by the undertaking. A description of the IUSs and the results of the interviews can be found below.

Isolated Occurrences

During the survey, one (1) isolated occurrence was identified and recorded. The isolated occurrence consisted of one Cibolan corrugated ceramic sherd at UTM coordinates; 12S, N3916773, E0695720. No other artifacts were observed in the area.

In-Use Sites

During the inventory, twelve (12) occupied or in-use sites (IUS) were identified and recorded. The homes are occupied by Navajo families, and out of respect for their privacy none of the in-use features were mapped. The majority of homeowners and/or neighbors were interviewed regarding the age of their residence, local traditional cultural properties, and any known unmarked burials. A brief description of the identified IUSs and the interview results can be found in Table 2.

Table 2: In-Use Sites Identified along the Continental Divide Electric Cooperative's Proposed Powerline project.

IUS# and Client Name	Summary of Structures	Interviewee	Interview Results (Dates of Occupation and TCP)
IUS #1	2 Houses and 1 Hogan	Julia Chee	No TCP or Burials
IUS #2	1 House fenced, 1 shed, and 1 Corral	Laura Garnenz	No TCP or Burials; 1970's to present (2016)
IUS #3	1 House, 2 Hogan, and 1 Corral	Hasbah Benally	No TCP or Burials
IUS #4	1 House, 2 Hogans, 2 Cottages, and 3 Sheds	Fannie Thomas	No TCP or Burials
IUS #5	1 House, 1 Shed, and 1 Ramada	Ella Thomas	No TCP or Burials
IUS #6	1 Shed	Dennis Thomas	No TCP or Burials
IUS #7	1 Mobile Home	Jeannie Jones	No TCP or Burials
IUS #8	1 Hogan fenced and 1 Shed	Louise Thomas	No TCP or Burials
IUS #9	1 House, 1 Shed, 1 Corral	Emerson Thomas	No TCP or Burials; 1990's to present (2016)
IUS #10	1 House, 2 Hogans	Eloise Benally	No TCP or Burials
IUS #11	1 House, 1 Mobile Home, 1 Hogan	Elsie Parker	No TCP or Burials
IUS #12	1 House, 3 Sheds, and 1 Corral	Henry Parker	No TCP or Burials; 1980's to present (2016)

Traditional Cultural Properties

During the field inventory archaeologists interviewed residents to gather information on the dates of occupancy of their own (and their neighbors') homesites. None of the residents knew of any unmarked burials or TCPs within or near the project area. The interviews were conducted in both Navajo and English.

Evaluation of Significance

All cultural resources that were identified and recorded during the inventory are evaluated for significance under certain federal statutes for the preservation and management of those resources. This process is intended to ensure that cultural resources are not unconsciously destroyed by the proposed undertaking, and to ensure that local communities are involved in the decision-making process. Although the Navajo Nation has enacted the Navajo Nation Cultural Resources Protection Act (NNCRPA), it has not instituted regulations, nor is there a process to evaluate resources under this act.

The National Historic Preservation Act

Under the Section 106 process of the National Historic Preservation Act (NHPA; 36 CFR 60.4), cultural resources may be eligible for nomination to the National Register of Historic Places if they are more than 50 years old and "possess integrity of location, design, setting, material, workmanship, feeling, and association." One or more of the following criteria (a-d) must be applicable:

- a. associated with events that have made a significant contribution to the broad patterns of our history; or
- b. associated with the lives of a person significant in our past; or
- c. embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- d. has yielded, or may be likely to yield, information important in prehistory or history.

As defined in 36 CFR 60.4, cemeteries, birthplaces, or graves of historical figures; properties owned by religious institutions or used for religious purposes; structures that have been moved from their original locations; reconstructed historical buildings; properties primarily commemorative in nature; and properties that have achieved significance within the past 50 years are not ordinarily considered eligible for the National Register. However, such properties may qualify if they are integral parts of districts that do meet the eligibility criteria.

Archaeological Resources Protection Act

The Archaeological Resources Protection Act of 1979 (ARPA; 43 CFR Part 7) has two fundamental purposes:

- to protect irreplaceable archaeological resources on public lands and Indian lands from unauthorized excavation, removal, damage, alteration, or defacement; and
- to increase communication and exchange of information among governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data that were obtained prior to enactment of the Act.

In order for a resource to be considered an archaeological resource and thus merit protection, it must be both more than 100 years old and of archaeological interest.

American Indian Religious Freedom Act

The American Indian Religious Freedom Act (AIRFA [P.L. 95-341]) affirms that American Indians have the right to believe, express, and exercise their traditional religions and have access to sites, use and possession of sacred objects, and freedom of worship through ceremonies and rites. Any site or place (prehistoric or historic) that has religious, ceremonial, or sacred aspects or components needs to be dealt with in light of this law. Anasazi sites related to Navajo cultural traditions qualify for protection, as do all Navajo ceremonial sites, unmarked traditional places, and residential structures whose owners/users want them protected for religious and cultural reasons.

Native American Graves Protection and Repatriation Act

The Native American Graves Protection and Repatriation Act (NAGPRA [P.L. 101-601]) provides protection of Native American graves; establishes procedures and legal standards for the repatriation of human remains, funeral objects, sacred objects, and objects of cultural patrimony, including those from archaeological contexts; and provides the United States district court's jurisdiction over any action brought by any person alleging a violation of the Act. The Act also recognizes certain tribal, Native Hawaiian, and individual rights in regard to burial sites located on federal and Indian lands, and it sets forth procedures for the intentional excavation and inadvertent discoveries of these items.

Navajo Nation law and policy also protects cultural resources on lands under Navajo Nation government jurisdiction. The **Navajo Nation Cultural Resources Protection Act of 1988** (NTC CMY-19-88) is modeled on the federal laws which require consideration of the effects of an undertaking on significant cultural resources. It also authorizes the Navajo Nation Historic Preservation Department to create and maintain a "Navajo Nation Register of Cultural Properties and Cultural Landmarks." The Register is to include "buildings, districts, objects, places, sites, and structures significant in Navajo Nation history, architecture, archaeology, engineering, and culture" on Navajo lands. The Register and its criteria for eligibility have yet to be established.

The **Navajo Nation Policy for the Protection of Jishcháá'** covers all human remains, associated funerary items, and unassociated funerary items on land under Navajo Nation jurisdiction. It emphasizes non-disturbance as the required treatment of these items unless disturbance is unavoidable. It sets forth procedures for intentional excavation and inadvertent discovery of these items.

Table 3: NHPA, ARPA, AIRFA, and NAGPRA Evaluation of Identified Cultural Resources documented in the Red Rock Phase I Powerline project in McKinley County, New Mexico.

Cultural Resource No.	Description	Evaluation	
Isolated Occurrences	1 Cibolan corrugated ceramic sherd.	NRHP	Not Eligible 1. 50-year guideline met 2. Lacks integrity 3. Does not meet criterion a-d
		ARPA	Is Eligible? No 1. 100-year guideline met? Yes 2. Is of archaeological interest? No
		AIRFA	Do not merit consideration
		NAGPRA	Do not merit consideration
In Use Sites (Within the survey area)	In-use Navajo residence 1970s-present.	NRHP	Not Eligible; Navajo Nation policy precludes nomination of in-use sites
		ARPA	Is Eligible? No 1. 100-year guideline met? No 2. Is of archaeological interest? No

Cultural Resource No.	Description	Evaluation	
		AIRFA	Does merit consideration
		NAGPRA	Does merit consideration

Recommendations:

Archaeological clearance is recommended for the proposed undertaking with the following stipulations; 1) all construction activities be confined to the right-of-way corridor and existing roads and 2), any new discoveries of cultural materials be immediately reported to the Navajo Nation Historic Preservation Department.

References

LSR Innovations Research & Planning

2004 *Chapter Images: 2004 Edition*. Division of Community Development, Window Rock, Arizona.

Van Valkenburgh, Richard F.

1974 Navajo Sacred Places. In *Navajo Indians III*, edited by C. Kluckohn, pp. 9-99. Garland, New York.

[Print](#)[Close](#)

From: **Steve Morales** (SMorales@cdec.coop)

Sent: Wed 9/21/16 4:31 PM

To: Leonard Robbins (denalil946@msn.com)

3 attachments

DCRM 2016-23 Red Rock Phase I FINAL Arch Report.pdf (928.6 KB) , DCRM 2016-13 Red Rock Phase II PL FINAL Arch Report.pdf (541.6 KB) , Red Rock Ph 2 Cultural.pdf (147.5 KB)

FYI Red Rock projects Arch.

DCRM 2016-23:
A Cultural Resources Inventory of the Continental Divide Electric Cooperative's Proposed Red Rock
Phase I Powerline Project, McKinley County, New Mexico, Work Order
No. 85482.

Prepared by

Rena Martin, Anthropologist
Jeremy Begay, Senior Archaeologist

HPD Permit No.: B16349

May 31, 2016

Submitted by:

Dinétahdóó Cultural Resources Management, LLC
P.O. Box 2012
Farmington, NM 87499

Submitted to

Navajo Nation Historic Preservation Department
Cultural Resources Compliance Section
P.O. Box 4950
Window Rock, Arizona 86515

Prepared for:

Debbie Olivar, Technical Engineer/ROW
Continental Divide Electric Cooperative, Inc.
P.O. Box 1087
Grants, New Mexico 87020

Abstract

The following report is submitted to the Navajo Nation Historic Preservation Department's Cultural Resources Compliance Program for compliance review as part of the Navajo Nation cultural resources clearance process. The report details the results of the cultural resources inventory conducted in conjunction with the project entitled "*DCRM 2016-23: A Cultural Resources Inventory of the Continental Divide Electric Cooperative's Proposed Red Rock Phase I Powerline Project, McKinley County, New Mexico, Work Order No. 85482.*" The project was conducted at the request of Ms. Debbie Olivar, Right-of-Way Agent (ROW), Continental Divide Electric Cooperative (CDEC) requested the inventory. The project will involve the construction of distribution power line extensions that will serve twelve (12) Navajo residents. The installation activities will consist of vehicular traffic within the rights-of-way, clearing of vegetation, digging holes for the electrical poles, placement of utility poles, backfilling the excavated areas, the stringing of utility lines and fiber optic cables, and the installation of associated equipment. The lines will also be maintained by CDEC. The project area is in the eastern portion of the Navajo Indian Reservation in Red Rock Chapter, Eastern Navajo Agency. The legal descriptions for the projected area are as follows: Sections 2, 9, 10, 11, and 12, Township 13 North, Range 19 West, (NMPM). The project area can be found on the following USGS 7.5-minute quadrangle maps: Twin Buttes, N. Mex, P.R. 1979 and Vanderwagen, N. Mex, P.R. 1979. The total number of acres surveyed in conjunction with this project is 42.84 (17.33); the area of effect is 9.44 acres (3.82 ha). Twelve (12) in-use sites and one isolated occurrence (IO) were identified during the inventory. Archaeological clearance is recommended for the proposed undertaking provided that the recommendations prescribed in the report adhered to during all phase of construction.

Contents

Abstract.....	i
List of Tables.....	ii
Introduction	1
Description of Undertaking	1
Location.....	1
Existing Data Review	2
Area Environmental and Cultural Setting.....	2
Field.....	4
Traditional Cultural Properties	5
Evaluation of Significance.....	5
Recommendations:	7
References	7

List of Tables

Table 1: UTM Coordinates, Legal Description and USGS Map names for Continental Divide Electric Cooperative's Red Rock Phase I Powerline project in McKinley, New Mexico.....	1
Table 2: In-Use Sites Identified along the Continental Divide Electric Cooperative's Proposed Powerline project.	4
Table 3: NHPA, ARPA, AIRFA, and NAGPRA Evaluation of Identified Cultural Resources documented in the Red Rock Phase I Powerline project in McKinley County, New Mexico.	6

Introduction

Between May 18th through 23rd, 2016, Jeffrey Begay, Tristin Moone, and Jeremy Begay archaeologists with Dinétahdóó Cultural Resources Management (DCRM), conducted an archaeological inventory of the proposed electric distribution lines for the Continental Divide Electric Cooperative's Proposed Red Rock Chapter Red Rock Phase I Powerline Project, McKinley County, New Mexico. Mr. Steve Morales served as the project Right-of-Way (ROW) Agent. The proposed power line project is associated with CDEC's Work Order No. 85482. Twelve (12) in-use sites were identified during the inventory. This cultural resources inventory was completed under Navajo Nation Cultural Resource Inventory Permit Number B16349.

Description of Undertaking

The Continental Divide Electric Cooperative (CDEC) proposes to construct, operate, and maintain the distribution lines with fiber optic cables which will provide electrical power to the Red Rock community in the Red Rock Chapter, McKinley County, New Mexico. The installation will consist of vehicular traffic within the right-of-way; clearing of vegetation; digging holes for the electrical poles; placement of utility poles; backfilling the excavated areas; stringing of power lines; and finally, maintaining the utility lines as needed. In all, the total area surveyed is 20,735.41 ft (6,320.15 m; 3.93 miles) in length, with a right-of-way measuring 20 ft. wide (6 m). The area-of-effect equals 9.44 acres (3.82 ha).

Location

The project area is located on Navajo Nation Trust Lands and Navajo Allotted Lands in the Red Rock Chapter, McKinley County, New Mexico (Figures 1&2). The project area can be accessed by U.S. Highway 602 on Skeets Rd and by several maintained dirt roads that stem off from the highway. Table 1 displays the UTM coordinates and legal description for the proposed distribution Powerlines.

Table 1: UTM Coordinates, Legal Description and USGS Map names for Continental Divide Electric Cooperative's Red Rock Phase I Powerline project in McKinley, New Mexico.

Designation	UTM Coordinates: Zone 12 (NAD 83)		Legal Description						USGS Map Name (7.5' Quadrangle)
	Northing	Easting	¼	¼	¼	Sec.	T	R	
Tap A-1									
BOL	3916044	699387	SE	NE	SW	12	13N	19W	Vanderwagen, NM., 1963
B1	3916061	699297	SE	NE	SW	12	13N	19W	
B2	3916038	699085	SW	NE	SW	12	13N	19W	
B3	3916035	698792	SW	NW	SW	12	13N	19W	
B4	3916008	698593	SW	NW	SW	12	13N	19W	
B5	3916068	698487	SE	NE	SE	11	13N	19W	
B6	3916265	698445	NW	NE	SE	11	13N	19W	
B7	3916532	698350	SW	SE	NE	11	13N	19W	
B8	3916829	698087	NE	SW	SE	11	13N	19W	
B9	3917066	697777	NE	NE	NW	11	13N	19W	
B10	3917096	697675	NE	NE	NW	11	13N	19W	
B11	3917074	697203	NE	NW	NW	11	13N	19W	
B12	3916913	696981	SE	NE	NE	10	13N	19W	
B13	3916877	696874	SE	NE	NE	10	13N	19W	
B14	3916895	696591	SE	NW	NE	10	13N	19W	
B15	3916860	696412	SW	NW	NE	10	13N	19W	
B16	3916695	696072	NE	SE	NW	10	13N	19W	

B17	3916674	695609	NE	SW	NW	10	13N	19W	Vanderwagen, NM., 1963
EOL	3916451	695031	SE	SW	NE	9	13N	19W	
Tap A-1									
BOL	3917092	697581	NW	NE	NW	11	13N	19W	Vanderwagen, NM., 1963
EOL	3917457	697597	NW	SE	SW	2	13N	19W	
Tap A-2									
BOL	3916679	695724	NE	SW	NW	11	13N	19W	Vanderwagen, NM., 1963
EOL	3916760	695753	NE	SW	NW	11	13N	19W	Twin Buttes, N. Mex, P.R. 1979
Tap A-3									
BOL	3916679	695724	NE	SW	NW	10	13N	19W	Vanderwagen, NM., 1963
EOL	3916607	695699	NE	SW	NW	10	13N	19W	
Tap A-4									
BOL	3916562	695319	NE	SE	NE	9	13N	19W	Vanderwagen, NM., 1963
EOL	3916424	695346	SE	SE	NE	9	13N	19W	
Tap A-5									
BOL	3916487	695124	SW	SE	NE	9	13N	19W	Vanderwagen, NM., 1963
EOL	3916561	695113	NW	SE	NE	9	13N	19W	
Tap A-6									
BOL	3916487	695124	SW	SE	NE	9	13N	19W	Vanderwagen, NM., 1963
EOL	3916418	695134	SW	SE	NE	9	13N	19W	

BOL: Denotes Beginning of Line I.O: Denotes Isolated Occurrences EOL: Denotes End of Line

Existing Data Review

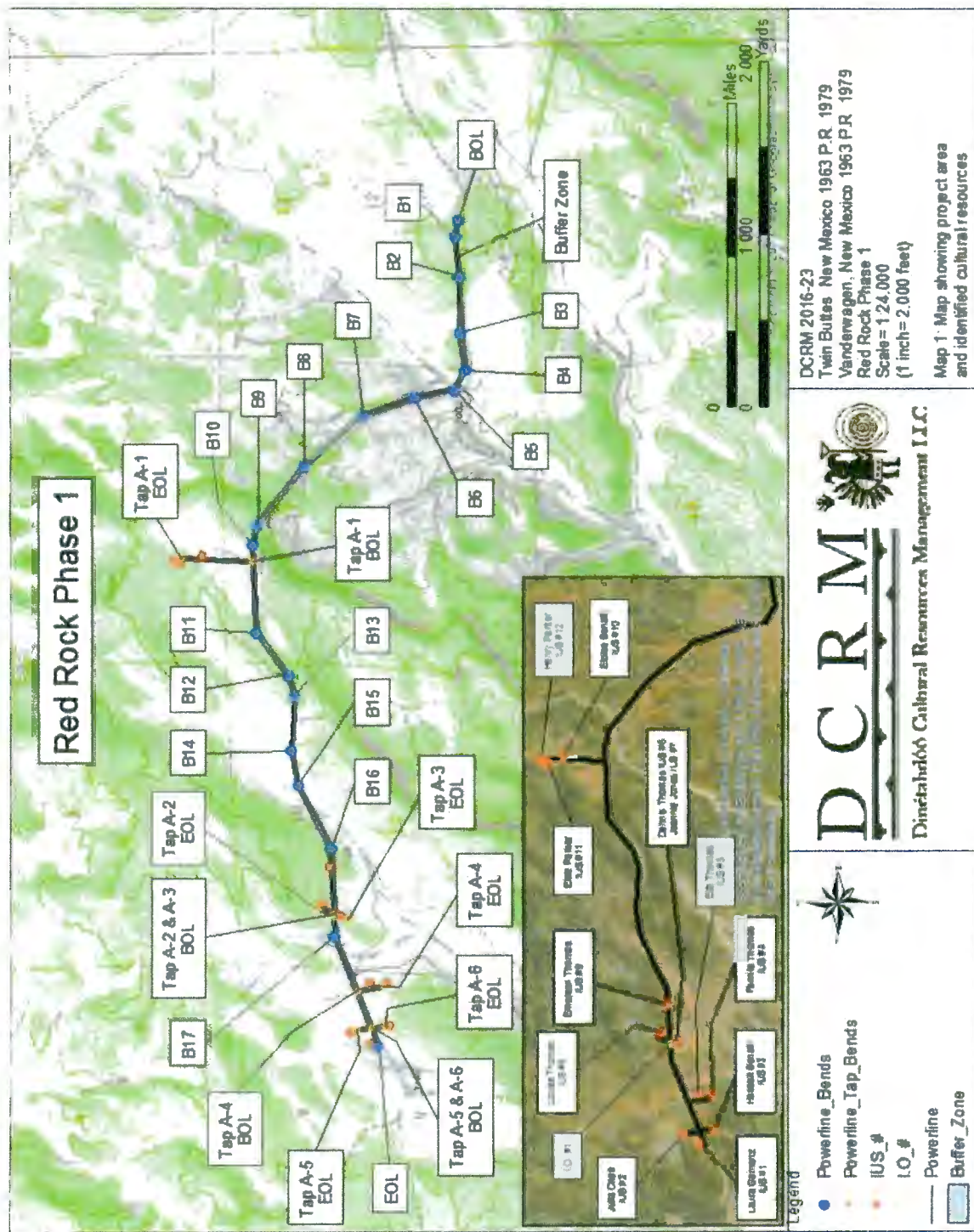
Prior to the fieldwork, a literature search of the scattered project areas was conducted at the Navajo Nation Historic Preservation Department's (NNHPD), Cultural Resources Compliance Section (CRCS) and Traditional Cultural Program in Window Rock, Arizona. The CRCS files indicated that a few previous projects had been conducted within 1 mile (1609.34 m) of the project area.

A search of the Sacred Places files at the Navajo Nation Historic Preservation Department's Traditional Cultural Program indicated that there were no previously identified Traditional Cultural.

Area Environmental and Cultural Setting

The project area is situated on the broad Red Rock syncline, a southeast sedimentary landmass that was tilted during large-scale inland crustal deformation throughout the Laramide Orogeny. The majority of geologic facies in the region are non-marine sedimentary strata which are the sources of the Aeolian deposits of sand in the project area. The environmental setting of the Red Rock powerline is flat with scrub vegetation. The proposed CDEC powerline project is located 5 miles south of Gallup, New Mexico. Vegetation observed in the area consists of snakeweed, rabbit brush, juniper, sage brush, bunch grass, tansy mustardweed, pinion, prickly pear cactus, Indian rice grass, globe mallow, coco weed, buck wheat, and Russian thistle. The homesites to be served is in an isolated area. It has bladed access roads and associated in-use features.

Red Rock. The Navajo name for Red Rock is *Tse'lichii*, which, when translated, means Red Rock (a butte). Red Rock Chapter is continuing to pursue development of its basic infrastructure. Currently, Red Rock is assessing its community issues and implications of programs and how they impact the community. The chapter intends to prepare long range strategic and comprehensive community development plans to realize the needs of its community. Local planning is important since it represents the wishes of community members. (LSR Innovations 2004).



Field Methods

Between May 06th through 23rd, 2016, Jeff Begay and Jeremy Begay archaeologists with Dinétahdó Cultural Resources Management (DCRM), conducted a cultural resources inventory of the proposed distribution lines with fiber optic cables. Prior to the inventory, the proposed power line extensions were staked by T&D Engineering Services of Albuquerque. The project areas were surveyed by walking two parallel transects on each side of the centerline with intervals spaced no more than 7 m apart.

A 90-foot-wide (20.12 m) corridor was surveyed for each of the proposed power line extensions. This included a 20 ft. (6 m) right-of-way with 35 ft. (7 m) buffer zones on each side of the ROW. The total number of acres surveyed in conjunction with this project is 42.84 (17.33 ha);

The in-use sites were not documented out of respect for the privacy of the individuals; however, pursuant to NNHPD guidelines, the residents and their neighbors were interviewed to identify any potential traditional cultural properties (TCPs) that may be impacted by the undertaking. A description of the IUSs and the results of the interviews can be found below.

Isolated Occurrences

During the survey, one (1) isolated occurrence was identified and recorded. The isolated occurrence consisted of one Cibolan corrugated ceramic sherd at UTM coordinates; 12S, N3916773, E0695720. No other artifacts were observed in the area.

In-Use Sites

During the inventory, twelve (12) occupied or in-use sites (IUS) were identified and recorded. The homes are occupied by Navajo families, and out of respect for their privacy none of the in-use features were mapped. The majority of homeowners and/or neighbors were interviewed regarding the age of their residence, local traditional cultural properties, and any known unmarked burials. A brief description of the identified IUSs and the interview results can be found in Table 2.

Table 2: In-Use Sites Identified along the Continental Divide Electric Cooperative's Proposed Powerline project.

IUS# and Client Name	Summary of Structures	Interviewee	Interview Results (Dates of Occupation and TCP)
IUS #1	2 Houses and 1 Hogan	Julia Chee	No TCP or Burials
IUS #2	1 House fenced, 1 shed, and 1 Corral	Laura Garnenz	No TCP or Burials; 1970's to present (2016)
IUS #3	1 House, 2 Hogan, and 1 Corral	Hasbah Benally	No TCP or Burials
IUS #4	1 House, 2 Hogans, 2 Cottages, and 3 Sheds	Fannie Thomas	No TCP or Burials
IUS #5	1 House, 1 Shed, and 1 Ramada	Ella Thomas	No TCP or Burials
IUS #6	1 Shed	Dennis Thomas	No TCP or Burials
IUS #7	1 Mobile Home	Jeannie Jones	No TCP or Burials
IUS #8	1 Hogan fenced and 1 Shed	Louise Thomas	No TCP or Burials
IUS #9	1 House, 1 Shed, 1 Corral	Emerson Thomas	No TCP or Burials; 1990's to present (2016)
IUS #10	1 House, 2 Hogans	Eloise Benally	No TCP or Burials
IUS #11	1 House, 1 Mobile Home, 1 Hogan	Elsie Parker	No TCP or Burials
IUS #12	1 House, 3 Sheds, and 1 Corral	Henry Parker	No TCP or Burials; 1980's to present (2016)

Traditional Cultural Properties

During the field inventory archaeologists interviewed residents to gather information on the dates of occupancy of their own (and their neighbors') homesites. None of the residents knew of any unmarked burials or TCPs within or near the project area. The interviews were conducted in both Navajo and English.

Evaluation of Significance

All cultural resources that were identified and recorded during the inventory are evaluated for significance under certain federal statutes for the preservation and management of those resources. This process is intended to ensure that cultural resources are not unconsciously destroyed by the proposed undertaking, and to ensure that local communities are involved in the decision-making process. Although the Navajo Nation has enacted the Navajo Nation Cultural Resources Protection Act (NNCRPA), it has not instituted regulations, nor is there a process to evaluate resources under this act.

The National Historic Preservation Act

Under the Section 106 process of the National Historic Preservation Act (NHPA; 36 CFR 60.4), cultural resources may be eligible for nomination to the National Register of Historic Places if they are more than 50 years old and "possess integrity of location, design, setting, material, workmanship, feeling, and association." One or more of the following criteria (a-d) must be applicable:

- a. associated with events that have made a significant contribution to the broad patterns of our history; or
- b. associated with the lives of a person significant in our past; or
- c. embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- d. has yielded, or may be likely to yield, information important in prehistory or history.

As defined in 36 CFR 60.4, cemeteries, birthplaces, or graves of historical figures; properties owned by religious institutions or used for religious purposes; structures that have been moved from their original locations; reconstructed historical buildings; properties primarily commemorative in nature; and properties that have achieved significance within the past 50 years are not ordinarily considered eligible for the National Register. However, such properties may qualify if they are integral parts of districts that do meet the eligibility criteria.

Archaeological Resources Protection Act

The Archaeological Resources Protection Act of 1979 (ARPA; 43 CFR Part 7) has two fundamental purposes:

- to protect irreplaceable archaeological resources on public lands and Indian lands from unauthorized excavation, removal, damage, alteration, or defacement; and
- to increase communication and exchange of information among governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data that were obtained prior to enactment of the Act.

In order for a resource to be considered an archaeological resource and thus merit protection, it must be both more than 100 years old and of archaeological interest.

American Indian Religious Freedom Act

The American Indian Religious Freedom Act (AIRFA [P.L. 95-341]) affirms that American Indians have the right to believe, express, and exercise their traditional religions and have access to sites, use and possession of sacred objects, and freedom of worship through ceremonies and rites. Any site or place (prehistoric or historic) that has religious, ceremonial, or sacred aspects or components needs to be dealt with in light of this law. Anasazi sites related to Navajo cultural traditions qualify for protection, as do all Navajo ceremonial sites, unmarked traditional places, and residential structures whose owners/users want them protected for religious and cultural reasons.

Native American Graves Protection and Repatriation Act

The Native American Graves Protection and Repatriation Act (NAGPRA [P.L. 101-601]) provides protection of Native American graves; establishes procedures and legal standards for the repatriation of human remains, funeral objects, sacred objects, and objects of cultural patrimony, including those from archaeological contexts; and provides the United States district court's jurisdiction over any action brought by any person alleging a violation of the Act. The Act also recognizes certain tribal, Native Hawaiian, and individual rights in regard to burial sites located on federal and Indian lands, and it sets forth procedures for the intentional excavation and inadvertent discoveries of these items.

Navajo Nation law and policy also protects cultural resources on lands under Navajo Nation government jurisdiction. The **Navajo Nation Cultural Resources Protection Act of 1988** (NTC CMY-19-88) is modeled on the federal laws which require consideration of the effects of an undertaking on significant cultural resources. It also authorizes the Navajo Nation Historic Preservation Department to create and maintain a "Navajo Nation Register of Cultural Properties and Cultural Landmarks." The Register is to include "buildings, districts, objects, places, sites, and structures significant in Navajo Nation history, architecture, archaeology, engineering, and culture" on Navajo lands. The Register and its criteria for eligibility have yet to be established.

The **Navajo Nation Policy for the Protection of Jishcháá'** covers all human remains, associated funerary items, and unassociated funerary items on land under Navajo Nation jurisdiction. It emphasizes non-disturbance as the required treatment of these items unless disturbance is unavoidable. It sets forth procedures for intentional excavation and inadvertent discovery of these items.

Table 3: NHPA, ARPA, AIRFA, and NAGPRA Evaluation of Identified Cultural Resources documented in the Red Rock Phase I Powerline project in McKinley County, New Mexico.

Cultural Resource No.	Description	Evaluation	
Isolated Occurrences	I Cibolan corrugated ceramic sherd.	NRHP	Not Eligible 1. 50-year guideline met 2. Lacks integrity 3. Does not meet criterion a-d
		ARPA	Is Eligible? No 1. 100-year guideline met? Yes 2. Is of archaeological interest? No
		AIRFA	Do not merit consideration
		NAGPRA	Do not merit consideration
In Use Sites (Within the survey area)	In-use Navajo residence 1970s-present.	NRHP	Not Eligible; Navajo Nation policy precludes nomination of in-use sites
		ARPA	Is Eligible? No 1. 100-year guideline met? No 2. Is of archaeological interest? No

Cultural Resource No.	Description	Evaluation	
		AIRFA	Does merit consideration
		NAGPRA	Does merit consideration

Recommendations:

Archaeological clearance is recommended for the proposed undertaking with the following stipulations; 1) all construction activities be confined to the right-of-way corridor and existing roads and 2), any new discoveries of cultural materials be immediately reported to the Navajo Nation Historic Preservation Department.

References

LSR Innovations Research & Planning

2004 *Chapter Images: 2004 Edition*. Division of Community Development, Window Rock, Arizona.

Van Valkenburgh, Richard F.

1974 Navajo Sacred Places. In *Navajo Indians III*, edited by C. Kluckohn, pp. 9-99. Garland, New York.



United States Department of the Interior
Bureau of Indian Affairs
Navajo Region
P. O. Box 1060
Gallup, New Mexico 87305

MC: 460 Branch of Environmental Quality Act Compliance & Review

JAN 03 2017

Leonard Robbins
Denali Environmental Services
P.O. Box 1127
Fort Defiance, Arizona 86504

Dear Mr. Robbins:

The Environmental Assessment (EA), **EA-17-16386**, received December 23, 2016, for the Skeet's Road Electric Power Line for 12 Homes, W.O. # 85482, right-of-way project was reviewed in the Branch of Environmental Quality Act Compliance and Review, Navajo Regional Office.

Continental Divide Electric Cooperative, Inc. (CDEC) of Grants, New Mexico, proposes to construct and operate Skeet's Road Electric Power Line, Red Rock Phase 1, Line "A", in the Red Rock Chapter, south of Gallup, New Mexico. The proposed distribution line would provide electricity to 12 existing homes along Skeet's Road. The proposed electric line is a single phase 14.4 kilo volt line. The right-of-way length would be 20,735.41 feet (3.93 miles) long, 20 feet wide, encompassing 9.44 acres of Navajo Tribal Trust and Indian Trust Allotment land.

In accordance with Section 102 (2) (c) of the National Environmental Policy Act (NEPA) of 1969, as amended, and the Council of Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations (CFR) Parts 1500-1508), the Bureau of Indian Affairs, Navajo Regional Office, finds that the Proposed Action is not a major federal action that will significantly impact the quality of the human environment. Therefore, an Environmental Impact Statement is not required for implementing the Proposed Action. This Finding of No Significant Impact (FONSI) is supported by the Environmental Assessment (EA) and the supporting appendices and documents.

If you have questions, you may contact Ms. Harrilene Yazzie, Supervisory Environmental Protection Specialist at (505) 863-8287.

Sincerely,

Regional Director, Navajo

Enclosure

**FINDING OF NO SIGNIFICANT IMPACT
ENVIRONMENTAL ASSESSMENT EA-17-16386
SKEET'S ROAD ELECTRIC POWER LINE FOR 12 HOMES, WO # 85482**

CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.

Location: Twin Buttes and Vanderwagon, NM, USGS 7.5 Minute Series Maps

Line A: BOP: SE/4, Section 12, T13N, R19W, NMPM

EOP: Tap A-1: SW/4, Section 2, T13N, R19W, NMPM

Red Rock Chapter, South of Gallup, McKinley County, New Mexico

The proposed action is the approval of a Right-of-Way Grant by the Bureau of Indian Affairs for Continental Divide Electric Cooperative, Inc. (CDECI) of Grants, New Mexico, to construct and operate a distribution line to provide electricity to twelve (12) existing homes west of Highway 602, along Skeet's Road in Red Rock Chapter south of Gallup, New Mexico. The proposed electric line is a single phase 14.4 kilo volt line. The right-of-way length would be 20,735.41 feet (3.93 miles) long, 20 feet wide, encompassing 9.44 acres of Navajo Tribal Trust and Indian Trust Allotment land. The Tsé Lichíí' Chapter passed a resolution approving the proposed electric power line (Appendix B). The project is sponsored by Continental Divide Electric Cooperative, Inc., 200 East High Street, P.O. Box 1087, Grants, New Mexico 87020.

The BIA's deliberation as to whether a Finding of No Significant Impact (FONSI) is appropriate, or, whether an Environmental Impact Statement (EIS) should be prepared, took into consideration, the following issues, which are addressed in the environmental assessment (EA).

1. **Beneficial and adverse environmental impacts:** The EA demonstrates that there will be no significant adverse or beneficial impacts on the quality of the human environment, including: topography and soils, water resources and water quality, vegetation and wildlife, Federal threatened and endangered species, Navajo endangered species, migratory birds, air quality, esthetics and visual resources, cultural resources and Native American Religious Concerns.
2. **Public health and safety:** The new power line and infrastructure will be for the beneficial use of the population. It would allow the people to lead better lives in the community and would further provide a better quality of life for the community residents (EA, Part 3.14).
3. **Unique characteristics of the geographic area:** The project area is not unique within its geographical setting and is similar to other areas in the region. There are no prime farmlands, wild and scenic rivers, wilderness areas, refuges, park lands, unique ecological areas, or other unique or rare characteristics of the land and aquatic environs that will be significantly affected.
4. **Degree to which the effects on the quality of the human environment are likely to be highly controversial:** There are no known scientific controversies over the effects of the proposed project on the human environment.
5. **Degree to which the effects are highly uncertain or involve unique or unknown risks:** There are no known effects on the human environment that are highly uncertain or involve unique or unknown risks.

6. **Degree to which this action will establish a precedent for future actions with significant effects:** This project will not set a precedent for similar projects that may be implemented by the BIA or other agencies.
7. **Relationship to other actions with cumulatively significant impacts:** There are no known incremental effects of the action that become significant when added to other past, present, or reasonably foreseeable future actions that have affected, or will affect, the project area.
8. **Degree to which the action may affect districts, sites, objects, or structures listed on, or eligible for, the National Register of Historic Places, or may cause loss of significant cultural resources:** A cultural resources inventory of the project area has been completed by Dinéh't'ahdóó Cultural Resource Management (DCRM). The Navajo Nation Historic Preservation Department issued NNHPD No. HPD-16-737 stating "No historic properties affected" (EA, Appendix C, CRCF).

In the event of a discovery of a previously unidentified or incorrectly identified cultural resource(s), all operations in the immediate vicinity of the discovery must cease, and the NNHPD must be notified.

9. **Degree to which the action may affect threatened, endangered, or sensitive species or their habitat:** A Biological Resources Compliance Form, NNDFW Review No. 16dan1105, was issued by the Navajo Nation Department of Fish and Wildlife *conditionally* approving the proposed action. A condition of compliance is that vegetation removal within the power line corridor shall avoid the migratory bird breeding season of April 1 to August 31 or surveys will be required. The survey must include a survey buffer of 50 meters outside the edge of the power line corridor. Removal or disturbance of nesting habitat (trees and shrubs) shall not be allowed within 50 meters of an active nest during incubation to fledging. There are no avoidance/mitigation measures.
10. **Whether the action violates Federal or local laws or requirements imposed for the protection of the environment:** The proposed project will not violate any Federal or Tribal environmental laws or requirements.
11. **Indian Trust Assets:** The project area does not contain Indian Trust assets in the form of perennial water resources, fisheries, saleable timber, paleontology resources or agricultural resources. The project area is not part of any right-of-way avoidance and exclusion areas, wilderness area, special management area, area of critical environmental concern, or other protected area.
12. **Climate Change, its effects on the proposed action and its environmental impacts:** With respect to cumulative impacts on regional air quality and climate change from greenhouse gas emissions, the lack of scientific tools designed to predict climate change on regional or local scales limits the ability to quantify potential future impacts of the proposed project. Analyzing greenhouse gas emissions and the effects of climate change relevant to a proposed project is currently not available. The proposed action, construction of a new power line, is not listed among the standards of performance for new statutory sources in accordance with 40 Code of Federal Regulations, Part 60, National Ambient Air Quality Standard (EA, Part 4.0). Native American lands, people and culture are likely to be disproportionately affected by climate change. Effect of climate change on the lands and people of Southwestern Native Nations are likely to be greater than elsewhere because of endangered cultural practices, limited water rights, and social, economic, and political marginalization, all of which are relatively common among indigenous people.

CONCLUSION

The proposed action is the Preferred Alternative. It does not constitute a major federal action, which normally requires preparation of an environmental impact statement (EIS).

Based on the foregoing, it has been determined that an EIS is not required for this project and thus will not be prepared.



Regional NEPA Coordinator

12/29/2016

Date



**PRESIDENT
RUSSELL BEGAYE
VICE PRESIDENT
JONATHAN NEZ**

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

11 January 2017

16danl105a

Leonard Robbins
Denali Environmental Services
Post Office Box 1127
Fort Defiance, Arizona 86504

Dear Leonard,

The Navajo Nation Department of Fish and Wildlife (NNDFW) reviewed the Biological Evaluation for Continental Divide Electric Cooperative's proposed "**Skeets Road**" **Red Rock Phase I Power Line** project located in Red Rock Chapter, New Mexico. The purpose of this letter is to inform you that we are granting the proposed project a Conditional Approval. Pursuant to the Migratory Bird Treaty Act (U.S. Code Title 16, Chapter 7, 703-712), migratory birds not listed under the NESL or ESA are prohibited from take by Federal law. Vegetation removal within the power line corridor shall avoid the migratory bird breeding season of 01 APR – 31 AUG or surveys will be required. The survey must include a survey buffer of 50 meters outside the edge of the power line corridor. Removal or disturbance of nesting habitat (i.e. trees & shrubs) shall not be allowed within 50 meters of an active nest during incubation to fledging.

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

Date



NAVAJO TRIBAL UTILITY AUTHORITY

AN ENTERPRISE OF THE NAVAJO NATION

November 9, 2016

Debbie Olivar
Continental Divide Electric Cooperative, Inc.
200 E. High Street
P.O. Box 1087
Grants, New Mexico 87020

RE: Utility Encroachment Permission for Red Rock Chapter Phase I

Dear Ms. Olivar:

The Navajo Tribal Utility Authority (NTUA) received your request for permission to cross existing waterlines in **Township 13 North, Range 19 West, Sections 10 and 2**, NMPM Red Rock, McKinley County, New Mexico. Permission is hereby granted with the acceptance of the specifications and conditions of NTUA:

1. All proposed utilities crossing NTUA's existing waterline, shall cross perpendicularly through the centerline Right-of-Way.
2. No physical improvements are allowed.
3. The Permittee shall be responsible for any and all damages to NTUA water lines during the construction work.
4. Minimum separation of water line crossing is 18" vertical clearance and 15 feet minimum horizontal clearance from other underground pipelines. Minimum vertical clearance for all overhead powerline shall have a minimum of 18 feet clearance.
5. Install Tee Post at utilities intersection and at any vertical visibility separations.
6. The existing waterline shall not cross between the power line and down guy/anchors.
7. The Permittee must apply for a new permit crossing for any new encroachments, crossing or construction.

Please notify the Water/Wastewater Department three days prior to construction at (928) 729-6114.

Sincerely,

Gregory Bahe, Supervisor
Water/Wastewater Department

XC: Thomas Bayless, Water/Wastewater Manager
Project File

Home Office: P.O. BOX 170 FT. DEFANCE, AZ 86504	KAYENTA P.O. BOX 37 KAYENTA, AZ 86035	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 DEFANCE P.O. BOX 587 FT. DEFANCE, AZ 86504	DILCON HC 63 BOX D WINSLOW, AZ 86047	CROWNPOINT P.O. BOX 1825 CROWNPOINT, NM 87313
---	---	--	---	--	---	--	---

CALL 800-528-5011 OR 928-729-5721 FOR ALL OFFICES.



NAVAJO TRIBAL UTILITY AUTHORITY

AN ENTERPRISE OF THE NAVAJO NATION

November 9, 2016

Debbie Olivar
Continental Divide Electric Cooperative, Inc.
200 E. High Street
P.O. Box 1087
Grants, New Mexico 87020

RE: Utility Encroachment Permission for Red Rock Chapter Phase I

Dear Ms. Olivar:

The Navajo Tribal Utility Authority (NTUA) received your request for permission to cross existing waterline in Township 13 North, Range 19 West, Section 10 (NW4), NMPM Red Rock, McKinley County, New Mexico. Permission is hereby granted with the acceptance of the specifications and conditions of NTUA:

1. All proposed utilities crossing NTUA's existing waterline, shall cross perpendicularly through the centerline Right-of-Way.
2. No physical improvements are allowed.
3. The Permittee shall be responsible for any and all damages to NTUA water lines during the construction work.
4. Minimum separation of water line crossing is 18" vertical clearance and 15 feet minimum horizontal clearance from other underground pipelines. Minimum vertical clearance for all overhead powerline shall have a minimum of 18 feet clearance.
5. Install Tee Post at utilities intersection and at any vertical visibility separations.
6. The existing waterline shall not cross between the power line and down guy/anchors.
7. The Permittee must apply for a new permit crossing for any new encroachments, crossing or construction.

Please notify the Water/Wastewater Department three days prior to construction at (928) 729-6114.

Sincerely,

Gregory Bahe, Supervisor
Water/Wastewater Department

XC: Thomas Bayless, Water/Wastewater Manager
Project File

Home Office: P.O. BOX 170 FT. DEFANCE, 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 DEFANCE P.O. BOX 587 FT. DEFANCE, AZ 86504	DILCON HC 63 BOX D WINSLOW, AZ 86047	CROWNPOINT P.O. BOX 1825 CROWNPOINT, NM 87313
---	---	--	---	--	---	--	---

CALL 800-528-5011 OR 928-729-5721 FOR ALL OFFICES.

MCKINLEY COUNTY RIGHT-OF-WAY APPLICATION/PERMIT

Applicant, Continental Divide Electric Cooperative, Inc., hereby requests permission to excavate, or dig a trench, or bore in Right-of-Way of McKinley County Road Name Skeets Road, Number CNTY.RD. 34, at Red Rock Area E/2 E/2 Section 9, T13N, R19W, NMPM McKinley Cty. NM & NW/4 Section 10, T13N, R19W, NMPM McKinley Cty. NM on or from the date(s) 8/15/16 to 8/15/2066, for the purpose of Providing Electrical Service to 12 Home. The length of time estimated for the project is Two Weeks. The utility/infrastructure shall be placed at a minimum of 36" below the bottom of the bar ditch. Applicant agrees to repair and replace the road surface by the project to at least the quality of the surface prior to the project. Applicant agrees to adequately compact the smooth the road surface immediately upon completion of the project. Applicant agrees to conduct the project in a manner so the one (1) lane of through traffic is available on the roadway at all times, unless special permission is obtained for complete closure. Applicant agrees to install and maintain all traffic control in compliance with effective MUTCD guidelines and to mark the project and notify the public using the affected roadway of work in progress. Applicant agrees to put up barriers and warning devices, and to light the work in progress so as to warn the public using the affected roadway of any danger. Applicant agrees to indemnify and hold harmless the County of any claim or liability of any kind whatsoever, which arises out of the use of this permit. The location and/or duration of this permit may not be changed without prior express approval of the County.

Continental Divide Elec. Coop. (Jose Molina)
(Print) Applicant/Permittee Name


(505)285-6656
Contact Number(s)

MCKINLEY COUNTY

Received: 10/12/16
Issued: 10/26/16


Signature
August 15, 2016
Date

Reviewed and Approved:
County Road Department

By: 
Dated: 10-26-16

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE I POWER LINE PROJECT
LINE "A"
RED ROCK, MCKINLEY COUNTY, NEW MEXICO
WORK ORDER NUMBER 85482**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Red Rock Phase I Power Line Project, Line "A" located within sections 2, 9, 10, 11, and 12, Township 13 North, Range 19 West, New Mexico Principal Meridian, Tribal Trust Land and Allotted Land, Red Rock Chapter, McKinley County, State of New Mexico, and being more particularly described as follows:

A strip of Land, twenty (20) feet wide, being ten (10) feet on either side of the following described centerline in Tribal Trust and Allotted Land

BEGINNING at B.O.P. Station 0+00, existing pole number 14658, located in S½ section 12, T13N, R19W, NMPM, said parcel being Tribal Trust Land, from which point the found BLM brass cap for the northwest corner of section 12, T13N, R19W, NMPM, bears N28°02'24"W a distance of 4,687.14 feet, and from which point the Base Station having True New Mexico State Plane West, NAD83, US Survey Feet Coordinates of N 1590456.81, E 2433334.08, Latitude 35°22'03", Longitude -108°48'19", bears S08°42'54"W a distance of 141.36 feet,

Thence N74°17'04"W a distance of 39.19 feet to P.I. Station 0+39.19,

Thence N77°14'36"W a distance of 300.02 feet to P.I. Station 3+39.21,

Thence S85°42'04"W a distance of 700.00 feet to P.I. Station 10+39.21,

Thence N88°56'12"W a distance of 960.01 feet to P.I. Station 19+99.22,

Thence S84°09'31"W a distance of 643.18 feet to P.O.T. Station 26+42.40, at which point the centerline of the easement enters the S½ section 11, T13N, R19W, NMPM, said parcel being Tribal Trust Land, from which point the found BLM brass cap for the southeast corner of section 11, T13N, R19W, NMPM, bears S05°49'43"W a distance of 1,134.15 feet,

Thence continuing S84°09'31"W a distance of 16.85 feet to P.I. Station 26+59.25,

Thence N58°19'17"W a distance of 400.02 feet to P.I. Station 30+59.27,

Thence N10°18'54"W a distance of 660.01 feet to P.I. Station 37+19.28,

Thence N17°49'28"W a distance of 701.78 feet to P.O.T. Station 44+21.06, at which point the centerline of the easement enters the NE¼ section 11, T13N, R19W, NMPM, said parcel being Tribal Trust Land, from which point the found BLM brass cap for the northeast corner of section 11, T13N, R19W, NMPM, bears N22°56'16"E a distance of 2,860.61 feet,

Thence continuing N17°49'28"W a distance of 228.23 feet to P.I. Station 46+49.29,

Thence N39°34'12"W a distance of 1,300.01 feet to P.I. Station 59+49.30,

Thence N50°46'45"W a distance of 923.57 feet to P.O.T. Station 68+72.87, at which point the centerline of the easement crosses a fence and enters the NW¼ section 11, T13N, R19W, NMPM, said parcel being Tribal Trust Land, from which point the found BLM brass cap for the northeast corner of section 11, T13N, R19W, NMPM, bears N73°03'34"E a distance of 2,852.14 feet,

Thence N50°46'45"W a distance of 356.44 feet to P.I. Station 72+29.31,

Thence N72°00'14"W a distance of 350.02 feet to P.I. Station 75+79.33,

Thence S89°12'38"W a distance of 310.00 feet to P.O.T. Station 78+89.33,

Thence continuing S89°12'38"W a distance of 192.38 feet to P.O.T. Station 80+81.71, at which point the centerline of the easement crosses a water line,

Thence continuing S89°12'38"W a distance of 582.93 feet to P.O.T. Station 86+64.64, at which point the centerline of the easement crosses a fence line,

Thence continuing S89°12'38"W a distance of 464.70 feet to P.I. Station 91+29.34,

Thence S55°54'16"W a distance of 544.73 feet to P.O.T. Station 96+74.07, at which point the centerline of the easement enters the NE¼ section 10, T13N, R19W, NMPM, said parcel being Indian Allotment 222655, from which point the found BLM brass cap for the northwest corner of section 11, T13N, R19W, NMPM, bears N05°51'07"E a distance of 869.79 feet,

Thence continuing S55°54'16"W a distance of 85.03 feet to P.O.T. Station 97+59.10, at which point the centerline of the easement crosses a fence line,

Thence continuing S55°54'16"W a distance of 270.24 feet to P.I. Station 100+29.34,

Thence S72°58'36"W a distance of 370.01 feet to P.I. Station 103+99.35,

Thence N84°27'21"W a distance of 930.01 feet to P.I. Station 113+29.36,

Thence S80°48'04"W a distance of 600.02 feet to P.I. Station 119+29.38,

Thence S65°58'41"W a distance of 560.29 feet to P.O.T. Station 124+89.67, at which point the centerline of the easement enters the NW¼ section 10, T13N, R19W, NMPM, said parcel being Indian Allotment 222656, from which point the found BLM brass cap for the quarter corner common to sections 10 and 3, T13N, R19W, NMPM, bears N05°48'21"E a distance of 1,370.07 feet,

Thence continuing S65°58'41"W a distance of 679.73 feet to P.I. Station 131+69.40,

Thence S89°08'52"W a distance of 285.18 feet to P.O.T. Station 134+54.58, at which point the centerline of the easement crosses a water line,

Thence continuing S89°08'52"W a distance of 698.95 feet to P.O.T. Station 141+53.53, at which point the centerline of the easement crosses a water line,

Thence continuing S89°08'52"W a distance of 155.85 feet to P.O.T. Station 143+09.38,

Thence continuing S89°08'52"W a distance of 380.03 feet to P.I. Station 146+89.41,

Thence S70°47'57"W a distance of 556.43 feet to P.O.T. Station 152+45.84, at which point the centerline of the easement enters the E½E½ section 9, T13N, R19W, NMPM, said parcel being Indian Allotment 222654, from which point the found BLM brass cap for the quarter corner common to sections 10 and 9, T13N, R19W, NMPM, bears S05°36'40"W a distance of 891.35 feet,

Thence continuing S70°47'57"W a distance of 463.58 feet to P.O.T. Station 157+09.42,

Thence continuing S70°47'57"W a distance of 683.78 feet to P.O.T. Station 163+93.20,

Thence continuing S70°47'57"W a distance of 108.57 feet to P.O.T. Station 165+01.77, at which point the centerline of the easement crosses a water line,

Thence continuing S70°47'57"W a distance of 170.27 feet to P.O.T. Station 166+72.04, at which point the centerline of the easement enters the W½E½ section 9, T13N, R19W, NMPM, said parcel being Tribal Trust Land, from which point the found BLM brass cap for the section corner for the east center sixteenth corner of section 9, T13N, R19W, NMPM, bears S05°17'12"W a distance of 392.65 feet,

Thence continuing S70°47'57"W a distance of 47.40 feet to E.O.P. Station 167+19.44, the terminus for the above described centerline for Line A, and from which point the found BLM brass cap for the east center sixteenth corner of section 9, T13N, R19W, NMPM, bears S01°18'35"E a distance of 375.49 feet,

The above described right-of-way easement contains 7.68 acres, more or less, in area. The right-of-way easement is 3.166 miles in length.

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE I POWER LINE PROJECT
TAP "A-1"
MCKINLEY COUNTY, NEW MEXICO
WORK ORDER NUMBER 85482**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Rock Point Phase I Power Line Project, Tap "A-1" located within the NW¼ section 11, and the SW¼ section 2, Township 13 North, Range 19 West, New Mexico Principal Meridian, Tribal Trust Land, Red Rock, McKinley County, State of New Mexico, and being more particularly described as follows:

A strip of land, twenty (20) feet wide, being ten (10) feet on each side of the following described centerline:

BEGINNING at P.O.T. Station 78+89.33 of Line "A", said point being B.O.P. Station 0+00 for Tap "A-1", located in the NW¼ section 11, T13N, R19W, NMPM, said parcel being Tribal Trust Land,

Thence N04°27'28"E a distance of 531.75 feet to P.O.T. Station 5+31.75, at which point the centerline of the easement enters the SW¼ section 2, T13N, R19W, NMPM, said parcel being Tribal Trust Land, from which point the found BLM brass cap for the northwest corner of section 11, T13N, R19W, NMPM, bears N89°33'30"W a distance of 1,643.68 feet,

Thence continuing N04°27'28"E a distance of 331.40 feet to P.O.T. Station 8+63.15, at which point the centerline of the easement crosses a water line,

Thence continuing N04°27'28"E a distance of 183.63 feet to P.O.T. Station 10+46.78, at which point the centerline of the easement crosses a water line,

Thence continuing N04°27'28"E a distance of 127.50 feet to P.O.T. Station 11+74.28, at which point the centerline of the easement crosses a water line,

Thence continuing N04°27'28"E a distance of 25.70 feet to E.O.P. Station 11+99.98, the terminus for the above described centerline for Tap "A-1", from which point the found BLM brass cap for the northeast corner of section 11, T13N, R19W, NMPM, bears S78°56'33"E a distance of 3,621.35 feet,

The above described right-of-way easement contains 0.55 acres, more or less, in area. The right-of-way easement is 0.227 miles in length.

Notice: This is a single page of a multi-page document. No individual page can be interpreted alone and must be considered in the context of the entire document, including but not limited to descriptions, surveyor statements, and plat

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE I POWER LINE PROJECT
TAP "A-2"
MCKINLEY COUNTY, NEW MEXICO
WORK ORDER NUMBER 85482**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Rock Point Phase I Power Line Project, Tap "A-2" located within the NW¼ section 10, Township 13 North, Range 19 West, New Mexico Principal Meridian, Allotted Land, Red Rock, McKinley County, State of New Mexico, and being more particularly described as follows:

A strip of land, twenty (20) feet wide, being ten (10) feet on each side of the following described centerline:

BEGINNING at P.O.T. Station 143+09.38 of Line "A", said point being B.O.P. Station 0+00 for Tap "A-2", located in the NW¼ section 10, T13N, R19W, NMPM, said parcel being Indian Allotment 222656,

Thence N21°06'42"E a distance of 280.00 feet to E.O.P. Station 2+80.00, the terminus for the above described centerline for Tap "A-2",

The above described right-of-way easement contains 0.13 acres, more or less, in area. The right-of-way easement is 0.053 miles in length.

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE I POWER LINE PROJECT
TAP "A-3"
MCKINLEY COUNTY, NEW MEXICO
WORK ORDER NUMBER 85482**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Rock Point Phase I Power Line Project, Tap "A-3" located within the NW¼ section 10, Township 13 North, Range 19 West, New Mexico Principal Meridian, Allotted Land, Red Rock, McKinley County, State of New Mexico, and being more particularly described as follows:

A strip of land, twenty (20) feet wide, being ten (10) feet on each side of the following described centerline:

BEGINNING at P.O.T. Station 143+09.38 of Line "A", said point being B.O.P. Station 0+00 for Tap "A-3", located in the NW¼ section 10, T13N, R19W, NMPM, said parcel being Indian Allotment 222656,

Thence S21°06'42"W a distance of 64.33 feet to P.O.T. Station 0+64.33, at which point the centerline of the easement crosses County Road 34,

Thence continuing S21°06'42"W a distance of 91.24 feet to P.O.T. Station 1+55.57, at which point the centerline of the easement crosses a water line,

Thence continuing S21°06'42"W a distance of 94.46 feet to E.O.P. Station 2+50.03, the terminus for the above described centerline for Tap "A-3",

The above described right-of-way easement contains 0.11 acres, more or less, in area.
The right-of- way easement is 0.047 miles in length

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE I POWER LINE PROJECT
TAP "A-4"
MCKINLEY COUNTY, NEW MEXICO
WORK ORDER NUMBER 85482**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Rock Point Phase I Power Line Project, Tap "A-4" located within the E $\frac{1}{2}$ E $\frac{1}{2}$ section 9, Township 13 North, Range 19 West, New Mexico Principal Meridian, Allotted Land, Red Rock, McKinley County, State of New Mexico, and being more particularly described as follows:

A strip of land, twenty (20) feet wide, being ten (10) feet on each side of the following described centerline:

BEGINNING at P.O.T. Station 157+09.42 of Line "A", said point being B.O.P. Station 0+00 for Tap "A-4", located in the E $\frac{1}{2}$ E $\frac{1}{2}$ section 9, T13N, R19W, NMPM, said parcel being Indian Allotment 222654,

Thence S09°25'37"E a distance of 79.40 feet to P.O.T. Station 0+79.40, at which point the centerline of the easement crosses County Road 34,

Thence continuing S09°25'37"E a distance of 380.62 feet to E.O.P. Station 4+60.02, the terminus for the above described centerline for Tap "A-4",

The above described right-of-way easement contains 0.21 acres, more or less, in area.
The right-of- way easement is 0.087 miles in length

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE I POWER LINE PROJECT
TAP "A-5"
MCKINLEY COUNTY, NEW MEXICO
WORK ORDER NUMBER 85482**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Rock Point Phase I Power Line Project, Tap "A-5" located within the E $\frac{1}{2}$ E $\frac{1}{2}$ section 9, Township 13 North, Range 19 West, New Mexico Principal Meridian, Allotted Land, Red Rock, McKinley County, State of New Mexico, and being more particularly described as follows:

A strip of land, twenty (20) feet wide, being ten (10) feet on each side of the following described centerline:

BEGINNING at P.O.T. Station 163+93.20 of Line "A", said point being B.O.P. Station 0+00 for Tap "A-5", located in the E $\frac{1}{2}$ E $\frac{1}{2}$ section 9, T13N, R19W, NMPM, said parcel being Indian Allotment 222654,

Thence N06°34'25"W a distance of 245.92 feet to E.O.P. Station 2+45.92, the terminus for the above described centerline for Tap "A-5",

The above described right-of-way easement contains 0.11 acres, more or less, in area.
The right-of- way easement is 0.047 miles in length

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE I POWER LINE PROJECT
TAP "A-6"
MCKINLEY COUNTY, NEW MEXICO
WORK ORDER NUMBER 85482**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Rock Point Phase I Power Line Project, Tap "A-6" located within the E½E½ section 9, Township 13 North, Range 19 West, New Mexico Principal Meridian, Allotted Land, Red Rock, McKinley County, State of New Mexico, and being more particularly described as follows:

A strip of land, twenty (20) feet wide, being ten (10) feet on each side of the following described centerline:

BEGINNING at P.O.T. Station 163+93.20 of Line "A", said point being B.O.P. Station 0+00 for Tap "A-6", located in the E½E½ section 9, T13N, R19W, NMPM, said parcel being Indian Allotment 222654,

Thence S06°34'25"E a distance of 67.90 feet to P.O.T. Station 0+67.90, at which point the centerline of the easement crosses County Road 34,

Thence continuing S06°34'25"E a distance of 162.12 feet to E.O.P. Station 2+30.02, the terminus for the above described centerline for Tap "A-6",

The above described right-of-way easement contains 0.11 acres, more or less, in area.
The right-of-way easement is 0.043 miles in length

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE I POWER LINE PROJECT
MCKINLEY COUNTY, NEW MEXICO
CDEC WORK ORDER NUMBER 85482**

GUY EASEMENT DESCRIPTION

<u>GUY NO.</u>	<u>STATION</u>	<u>BEARING</u>	<u>LENGTH</u>	<u>WIDTH</u>	<u>ACREAGE</u>
LINE A					
1	0+39.19	S77°14'36"E	50'	20'	0.02
2	3+39.21	N04°13'44"E	50'	20'	0.02
3	10+39.21	S01°37'04"E	50'	20'	0.02
4	19+99.22	N02°23'20"W	50'	20'	0.02
5	26+59.25	S12°55'07"W	50'	20'	0.02
6	30+59.27	S55°40'54"W	50'	20'	0.02
7	37+19.28	N75°55'49"E	50'	20'	0.02
8	46+49.29	N61°18'10"E	50'	20'	0.02
9	59+49.30	N44°49'31"E	50'	20'	0.02
10	72+29.31	N28°36'30"E	50'	20'	0.02
11	75+79.33	N08°36'12"E	50'	20'	0.02
12	91+29.34	N17°26'33"W	50'	20'	0.02
13	100+29.34	S25°33'34"E	50'	20'	0.02
14	103+99.35	S05°44'23"E	50'	20'	0.02
15	113+29.36	N01°49'39"W	50'	20'	0.02
16	119+29.38	N16°36'38"W	50'	20'	0.02
17	131+69.40	S12°26'13"E	50'	20'	0.02
18	146+89.41	N10°01'36"W	50'	20'	0.02
19	167+19.44	S70°47'57"W	50'	20'	0.02
TAP A-1					
20	0+00	S04°27'28"W	50'	20'	0.02
21	11+99.98	N04°27'28"E	50'	20'	0.02
TAP A-2					
22	2+80.00	N21°06'42"E	50'	20'	0.02
TAP A-3					
23	2+50.03	S21°06'42"W	50'	20'	0.02
TAP A-4					
24	0+00.00	N09°25'37"W	50'	20'	0.02
25	4+60.02	S09°25'37"E	50'	20'	0.02
TAP A-5					
26	2+45.92	N06°34'25"W	50'	20'	0.02
TAP A-6					
27	2+30.02	S06°34'25"E	<u>50'</u>	<u>20'</u>	<u>0.02</u>
TOTAL			1,350'		0.54

TOTAL 27 GUYS

27 Guys X 0.02 acres = 0.54 ACRES

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE I POWER LINE PROJECT
MCKINLEY COUNTY, NEW MEXICO
CDEC WORK ORDER NUMBER 85482**

SUMMARY DESCRIPTION

<u>SEGMENT</u>	<u>LENGTH</u>	<u>MILES</u>	<u>WIDTH</u>	<u>ACREAGE</u>
LINE "A"	16,719.44'	3.166	20'	7.68
TAP "A-1"	1,199.98'	0.227	20'	0.55
TAP "A-2"	280.00'	0.053	20'	0.13
TAP "A-3"	250.03'	0.047	20'	0.11
TAP "A-4"	460.02'	0.087	20'	0.21
TAP "A-5"	245.92'	0.047	20'	0.11
TAP "A-6"	230.02'	0.043	20'	0.11
SUBTOTAL	19,385.41'	3.670		8.90
GUY EASEMENTS	1,350.00'			0.54
TOTAL	20,735.41'			9.44

CDEC'S RED ROCK PHASE I
POWER LINE PROJECT
MCKINLEY COUNTY, NEW MEXICO
CDEC WORK ORDER NUMBER 85482

SECTION SUMMARY

	LAND STATUS	POWER LINE		POWER LINE POWER LINE		GUY		GUY		TOTAL	
		LENGTH	MILES	ACREAGE	FOOTAGE	ACREAGE	FOOTAGE	ACREAGE	FOOTAGE	ACREAGE	FOOTAGE
T13N R19W											
SW1/4 Section 2	TNT	668.23'	0.127	0.31	50.00'	0.02	718.23'	0.33	718.23'	0.33	718.23'
W1/2E1/2 Section 9	TNT	47.40'	0.009	0.02	50.00'	0.02	97.40'	0.04	97.40'	0.04	97.40'
NE1/4 Section 11	TNT	2,451.81'	0.464	1.13	100.00'	0.04	2,551.81'	1.17	2,551.81'	1.17	2,551.81'
NW1/4 Section 11	TNT	3,332.95'	0.631	1.53	200.00'	0.08	3,532.95'	1.61	3,532.95'	1.61	3,532.95'
S1/2 Section 11	TNT	1,778.66'	0.337	0.82	150.00'	0.06	1,928.66'	0.88	1,928.66'	0.88	1,928.66'
Section 12	TNT	2,642.40'	0.500	1.21	200.00'	0.08	2,842.40'	1.29	2,842.40'	1.29	2,842.40'
TRIBAL TRUST LAND TOTAL		10,921.45'	2.068	5.02	750.00'	0.30	11,671.45'	5.32	11,671.45'	5.32	11,671.45'
T13N R19W											
E1/2E1/2 Section 9	IA 222654	2,362.16'	0.447	1.08	200.00'	0.08	2,562.16'	1.16	2,562.16'	1.16	2,562.16'
NE1/4 Section 10	IA 222655	2,815.60'	0.533	1.29	200.00'	0.08	3,015.60'	1.37	3,015.60'	1.37	3,015.60'
NW1/4 Section 10	IA 222656	3,286.20'	0.622	1.51	200.00'	0.08	3,486.20'	1.59	3,486.20'	1.59	3,486.20'
ALLOTTED LAND TOTAL		8,463.96'	1.602	3.88	600.00'	0.24	9,063.96'	4.12	9,063.96'	4.12	9,063.96'



NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS

Continental Divide Electric Cooperative, Inc. (GRANTEE)

(Red Rock Chapter Electrical Power Project Phase I, WO #85482, McKinley Co., NM)

1. The term of the right-of-way (ROW) shall be for fifty (50) years, beginning on the date the ROW is granted by the Secretary of the Interior.
2. Consideration for the ROW is assessed at \$192,916.53, which may be considered the Navajo Nation's (Nation) contribution to the project, since the entire project will serve the Navajo residents.

If the Resources and Development Committee (RDC) of the Navajo Nation Council waives the ROW consideration, and in the future the ROW is used for commercial operation(s), the Nation's consideration shall be assessed and paid by the Grantee for that portion of the ROW which is used for commercial operation(s).

3. The Grantee may develop, use and occupy the ROW for the purpose(s) of constructing and maintaining [Overhead and Underground Electric, Water, Sewer, Natural Gas Distribution Lines, Service Taps, Transmission Lines, Substation Tracts, Office Tracts, Well/Storage Tanks/Watering Point Tracts, Communication Tracts, and Fiber Optic Cable]. 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.

If the ROW is for a power line, then the maximum capacity of the power line shall be 14.4 kilovolts (kV). Once constructed, the capacity of the power line, whether expressed in terms of watts, volts, amperes, and ohms or otherwise, shall not be increased without the prior written consent of the Navajo Nation. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation.

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 operation 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 Law, 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 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 disturbed related to the ROW, as outlined in a restoration and revegetation plan, which shall be approved by 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 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 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, land users and occupants, against any liability for loss of life, personal injury and property damage arising from the development, use or occupancy or use of the ROW by the Grantee.
 - 12. The Grantee shall not sublet, assign, convey or transfer, in any manner whatsoever, the ROW or any interest therein, or in or to any of the improvements on the land subject to the ROW, 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 ROW for violation of any of the terms and conditions stated herein. In addition, the ROW shall be terminable in whole or in part by the Navajo Nation for any of the following causes:
 - a. Failure to comply with any terms or 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;
 - c. An abandonment of the ROW;
 - d. The use of 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 the said premises.
 15. Holding over by the Grantee after the termination of the ROW shall not constitute a renewal or extension thereof or give the Grantee any rights hereunder or in or to the land subject to the ROW or to any improvements located hereon.
 16. The Navajo Nation and the Secretary 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 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 of the Navajo people) 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 claim brought against the Navajo Nation arising out of injury to person or property (tort) shall only be heard in the Courts of the Navajo Nation and not in any state court.
 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 limitation 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 remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.
24. The Grantee shall construct the power line in accordance with "Suggested Practices for Raptor Protection on Power Lines: State of the Art in 2006".

