# 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 JEMEZ MOUNTAIN ELECTRIC COOPERATIVE, INC. TO CONSTRUCT, OPERATE AND MAINTAIN ELECTRICAL DISTRIBUTION LINE BETONNIE TSOSIE 14.4 KV SINGLE PHASE POWERLINE PROJECT LOCATED ON NAVAJO NATION TRUST LANDS IN NAGEEZI CHAPTER (SAN JUAN COUNTY, NEW MEXICO)

#### BE IT ENACTED:

#### SECTION ONE. AUTHORITY

A. Pursuant to 2 N.N.C. Section 502(B)(2), the Resources and Development Committee of the Navajo Nation Council has authority to give final approval of all land withdrawal, non-mineral leases, permits, licenses, rights-of way, surface easements and bonding requirements on Navajo Nation land and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfers, renewals, and termination.

#### SECTION TWO. FINDINGS

- A. The Jemez Mountain Electric Cooperative, Inc., P.O. Box 128, Espanola, New Mexico 87532, has submitted a Right-of-Way application to construct, operate and maintain the Betonnie Tsosie 14.4 kV electric powerline on, over and across Navajo Nation Trust Lands in Nageezi Chapter (San Juan County, New Mexico) attached hereto and incorporated herein as Exhibit "A"; and
- B. The proposed right-of-way is described on Exhibit "B", attached hereto and incorporated herein; and

- C. The General Leasing Development Department with the Navajo Division of Natural Resources has determined that the Navajo Nation is the only affected land user and has provided the necessary consent from the District 19 Land Board member, as noted in Exhibit "C"; and
- D. The environmental and archaeological studies have been completed and are approved hereto and incorporated herein by this reference.

#### SECTION THREE. APPROVAL

- A. The Resources and Development Committee of the Navajo Nation Council hereby approves the Grant of Right-of-Way to Jemez Mountain Electric Cooperative, Inc. to construct, operate and maintain the Betonnie Tsosie 14.4 kV electric powerline in Nageezi Chapter (San Juan County, New Mexico). The location is more particularly described on the survey map attached hereto as Exhibit "B."
- B. The Resources and Development Committee of the Navajo Nation Council hereby approves the right-of-way subject to, but not limited to, the following terms and conditions attached hereto and incorporated herein as Exhibit "D."
- C. The Resources and Development Committee of the Navajo Nation Council hereby waives the consideration because the project will benefit the Navajo Nation residents.
- D. The Resources and Development Committee of the Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to affect the intent and purpose of this resolution.

#### CERTIFICATION

I, hereby certify that the following resolution was duly considered by the Resources and Development Committee of the  $23^{\rm rd}$  Navajo Nation Council at a duly called meeting at Twin Arrows Navajo Casino Resort, Twin Arrows (Navajo Nation) Arizona, at which a quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, 1 abstained on this  $23^{\rm rd}$  day of May, 2017.

Alton Joe Shepherd, Chairperson Resources and Development Committee of the  $23^{\rm rd}$  Navajo Nation Council

Motion: Davis Filfred Second: Benjamin Bennett

Document No	007062	Date Issued:	11/21/2	016
	EXECUTIVE OFFICE	AL REVIEW		
Title of Document:	JMEC ROW for Betonnie Tsosie Powerline	Contact Name: BIA, k	(AYLA L.	
Program/Division:	DIVISION OF NATURAL RESOURCES	P. P. S.		
Email:	klbia@frontier.com	Phone Number:	928/871-6	6447
Business Sit	e Lease		Sufficient	Insufficien
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NAVAJO NATION DEPARTMENT OF STICE

**DOCUMENT REVIEW** REQUEST **FORM** 



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	CLIENT TO	COMPLETE	
DATE OF REQUEST:	2/15/2017	DIVISION:	NATURAL RESOURCES
CONTACT NAME:	Michelle Hoskie or Stevie Hudson	DEPARTMENT:	GENERAL LAND DEVELOPMENT DEPT.
PHONE NUMBER:	x 6447	E-MAIL:	michellehoskie@frontier.com
TITLE OF DOCUMENT	T: JMEC ROW FOR BETONNIE TSO	OSIE POWERLINE	
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COMPLETED



# NAVAJO NATION DEPAREMENT OF JUSTICE

DOCUMENT
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DOJ
02-07-17 9489.
DATE / TIME  ☐ 7 Day Deadline
DOC#:007062

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

	CLIENT TO COMPLETE
DATE OF REQUEST: Feb 7, 2, 2 CONTACT NAME: MICHELLE PHONE NUMBER: X 6447	HOSKIC DEPARTMENT: GLOD  E-MAIL: Michellehoskie@frontier.com
TITLE OF DOCUMENT: JMEC	C ROW for Betonnie Tsosie Powerline
	DOJ SECRETARY TO COMPLETE
DATE/TIME IN UNIT: 2/7/17	REVIEWING ATTORNEY/ADVOCATE: Irvin Chee
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used should be dated 7-21-15, Rtd. doc. to DOJ Do A can complete my review. Nousjo land Title Data Syptem Doc/Sheet is also not attached, Please attach it.

#### Navajo Land Title Data System (NLTDS) Navajo Land Title, Navajo Land Title Data System - Windowrock AZ: **Document Information**

Document Information 003\_N002\_00007062.zip Document Name: Revision:

Version:

**Document Desc:** 

**Document Author:** Kayla Bia NLD (Navajo Land Title Data System - Windowrock AZ) **Document Status:** Sufficient

DocumentType: 164 Review Process Effective Date: Upon Approval Expires: Never

Uploaded from:

Navajo Land Title Data System (NLTDS) Phase 1: Plan for Quality Management System

Step 937: 003\_N002\_00007062

Task 1: Upload and Manage Documents

Size: Date Uploaded: Maintained by: 1124 KB 22-Nov-2016

Project Management Team

#### No Document Distribution Locations

		Tier 1 Document Voting Results			STATE OF THE PARTY	West of the last
User Name (Facility)	Job Title	Department	<b>Vote Cast</b>	Comments	Replies	Vote Date
Eugenia Quintana EPA (Navajo Land Title Data System - Windowrock AZ)	Air and Toxics - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. No comments.	1.	28-Nov-2016
Lee Anna Martinez EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Reviwer	Navajo Nation Environmental Protection Agency	Approved	no comments	No Reply	24-Jan-2017
Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. BRCF attached	1.	28-Nov-2016
Robert Allan DNR (Navajo Land Title Data System - Windowrock AZ)	Deputy Director DNR	DNR Administration	Approved	no comments	No Reply	16-Dec-2016
Steven Prince MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	This vote contingent on inclusion of the uploaded terms and conditions document. slp	1.	29-Nov-2016
Tamara Billie HPD (Navajo Land Title Data System - Windowrock AZ)	HPD Reviewer	Historic Preservation Department	Approved	1. CRCF HPD-14-101	1.	24-Jan-2017

THE RESERVE OF THE PARTY OF THE		Tier 2 Document Voting Results				
User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date
Bidtah N. Becker (FBFA)	FBFA Users	FBFA Action Team	Approved	no comments	No Reply	01-Feb-2017
Ronnie Ben EPA (Navajo Land Title Data	Underground Injection Control - Reviewer	Navajo Nation Environmental Protection	Approved	no comments	No Reply	30-Jan-2017
System - Windowrock AZ)		Agency		<ol><li>any surface disturbance one acre or more requires a SWPPP.</li></ol>	2.	
Rowena Cheromiah MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	no comments	No Reply	27-Jan-2017
Sam Diswood (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	no comments	No Reply	24-Jan-2017
Tamara Billie HPD (Navajo Land Title Data System - Windowrock AZ)	HPD Reviewer	Historic Preservation Department	Approved	no comments	No Reply	24-Jan-2017
W. Mike Halona (Navajo Land Title Data System - Windowrock AZ)	Manager III Navajo Land Department	NLD Administration	Approved	no comments	No Reply	25-Jan-2017



# UNITED STATES DEPARTMENT OF THE INTERIOR

#### **BUREAU OF INDIAN AFFAIRS**

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

- 1. Applicant Name and Address: <u>Jemez Mountains Electric Cooperative</u>, PO Box 128, Espanola, NM, 87532
- 2. Tract(s) or parcel(s) affected by the right-of-way: Tribal Trust
- 3. General location (easement description):

NW/4 Section 6, T. 22 N., R. 8 W., San Juan County, NM

Said right-of-way across Tribal Trust Lands to be <u>331.74 feet</u> in length, <u>20 feet</u> in width, and <u>.150</u> acres in size, as shown on attached map and plats of definite location, attached hereto, and made a part hereof.

- 4. Purpose: Construction, operation and maintenance of an 14.4 KV electrical distribution line, Betonnie Tsosie, Project #412143.
- 5. Term (Renewal, if applicable): 20 Years
- 6. Identify ownership of permanent improvements associated with the right-of-way and the responsibility for constructing, operating, maintaining, and managing; or removal of permanent improvements under §169.105:

#### 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; (25 CFR 169.102((b)(2); survey plat signed by professional surveyor or engineer 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 of notice that the right-of-way was provided to all Indian landowners;
- 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 the 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.
- 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 STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

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

Applicant Point of Contact Information:

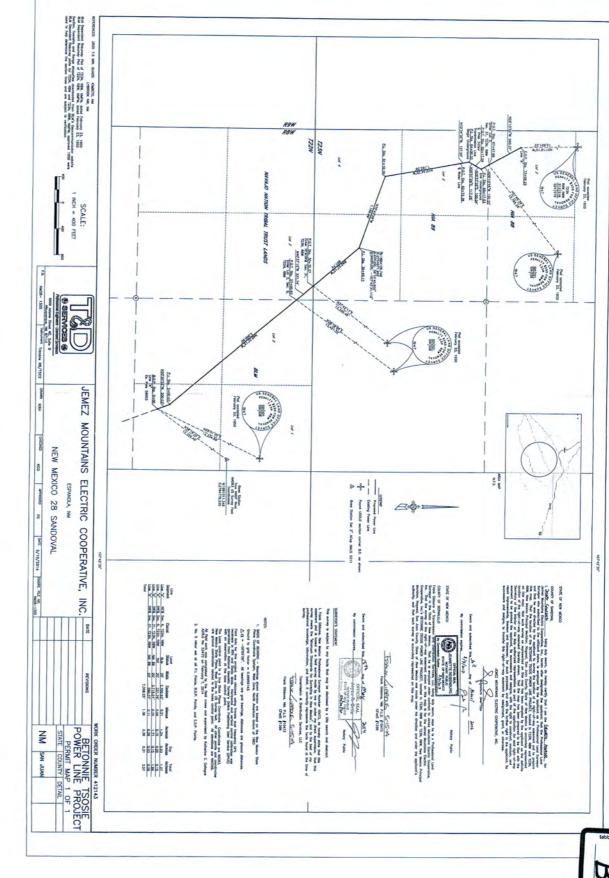
Name: Jemez Mountains Electric Cooperative Address: PO Box 128, Espanola, NM, 87532

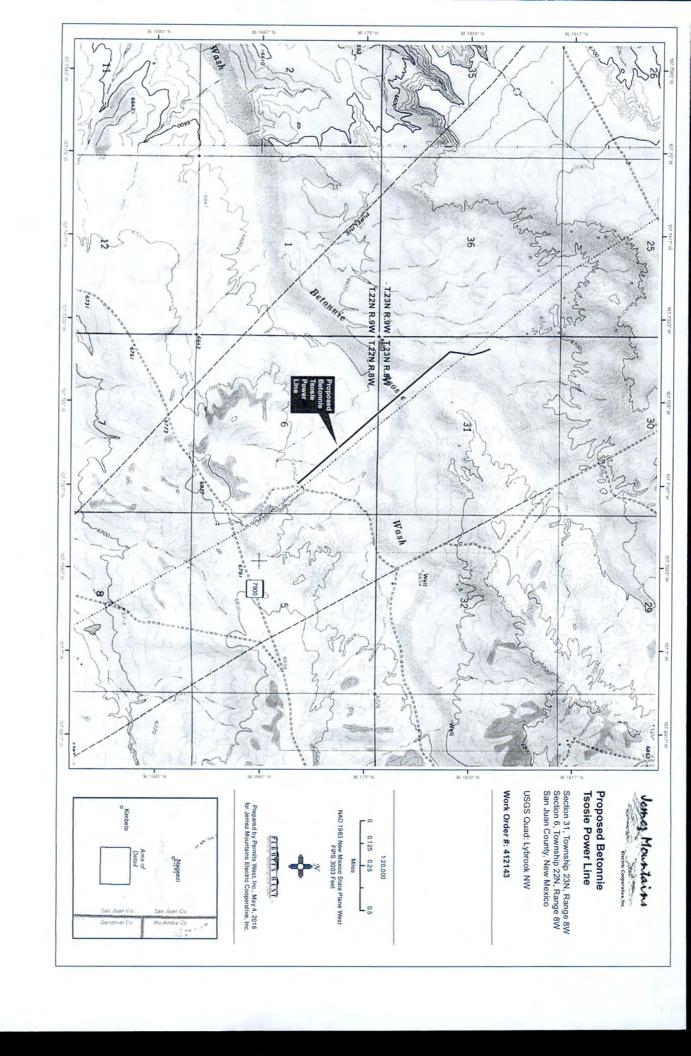
Phone: 505-753-2105 ext 1151 Fax: Click here to enter text. Email: jsanchez@jmezcoop,org

- 2/2.1.

Applicant Signature:

Applicant (Print Name): Joseph Sanchez, General Manager







# THE NAVAJO NATION

# RUSSELL BEGAYE PRESIDENT JONATHAN NEZ VICE PRESIDENT



#### MEMORANDUM

TO

Elerina Yazzie, Program Manager

General Leasing Development Department, DNR

FROM

Esther Kee, R/W Agent

General Leasing Development Department, DNR

DATE

December 02, 1016

SUBJECT:

JMEC Betonnie Tsosie Power Line Extension Project

Jemez Mountain Electric Cooperative, Inc., of Post Office Box 128, Espanola, New Mexico 87532, submitted an application for right of way to construct, operate and maintain a single phase distribution line to serve Navajo families on Navajo Trust lands near the vicinity of Nageezi Chapter.

The proposed right of way will be 331.74 feet in length, 20 feet in width, .150 acres, located in the NW/4 of Section 6, Township 22 North, Range 8 West, NMPM, San Juan County, NM.

The Navajo Nation is the only affected land user and provided the necessary consent from the District 19 Land Board member, Carlos Arviso.

Field clearance completed, land user consent and supporting documents are all attached for your information and reference.

cc:

Project file



#### NAGEEZH CHAPTER EASTERN NAVAJO AGENCY **DISTRICT 19**

Russell Begaye, Navajo Nation President

Jonathan Nez, Navajo Nation Vice-President

December 1, 2016

Ester Kee, ROW Agent Navajo Nation Land Department Window Rock, AZ 86515

Land Use Consent for Jemez Mountain Electric Cooperative, Inc ("JMEC") on Navajo Trust Land (NW1/4 Section 6, T22N, R8W, San Juan County, NM)

Dear Miss Kee:

After researching if Navajo Trust Land located at NW1/4, Section 06, T22N, R8W, San Juan County, NM, this Navajo Trust Land is not permitted for grazing. Since this Navajo Trust Land is not permitted for grazing, no land user(s) will be affected by the proposed right-of-way for construction of an Overheard Single Phase Power Line by JMEC. This proposed Overhead Single Phase Power Line Extension is referred as Betonnie Tsosie Power Line Project.

If you have any questions, please contact me at 505-960-7200.

Thank You.

Carlos Arviso, Land Board Member

Nageezi Chapter

Navajo Eastern Agency

# EXHIBIT D

#### EXHIBIT "D"

# NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS JEMEZ MOUNTAINS ELECTRICAL COOPERATIVE, INC. (GRANTEE) (BETONNIE TSOSIE 14.4 kV SINGLE PHASE POWERLINE)

- 1. The term of the right-of-way shall be for <u>twenty (20)</u> years, beginning on the date the right-of-way is granted by the Secretary of the Interior.
- 2. Consideration for the right-of-way is assessed at \$\\_2,193.32\\_\ and shall be paid in full to the Controller of the Navajo Nation, in lawful money of the United States, and a copy of the receipt for such payment provided to the Navajo Nation Minerals Department, or its successor, within \_ten (10) days of approval of and consent to the grant of the right-of-way by the Navajo Nation.

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

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

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

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

# ENVIRONMENTAL ASSESSMENT FOR



JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC. P.O. BOX 128 ESPAÑOLA, NM 87532 (505) 753-2105

## BETONNIE TSOSIE POWER LINE PROJECT

ON NAVAJO ALLOTMENTS 000088 & 000089 IN SECTION 31, T.23N R.8W AND TRIBAL TRUST LANDS IN SECTION 6, T.22N R.8W SAN JUAN COUNTY, NM

May 4, 2016, 2015

PREPARED BY:

PERMITS WEST, INC.

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Appendix 5: Cultural Resources Compliance Form	
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The Navajo Nation Department of Fish & Wildlife (NNDFW) Natural Heritage Program has been consulted with respect to species of concern that are known to occur, or that have the potential to occur, within the area of the Proposed Action (Appendix 2). Species of concern listed by the NNDFW will be evaluated in Section 3 of this document and in the Wildlife and Plant Survey Reports attached as Appendices 3 and 4, respectively.

Complete Archeological Service Associates performed a Class III Cultural Resources Inventory of the Proposed Action area. A determination was made that no historic properties will be affected by the project. A request for archeological clearance was also submitted to the Navajo Nation Historic Preservation Department (NNHPD). The Cultural Resources Compliance Form is attached as Appendix 5.

Additionally, JMEC is required to:

- · Comply with all applicable federal, state, and local laws and regulations.
- Obtain the necessary permits for construction of the power line.

## 2. Alternatives Including the Proposed Action

#### 2.1 Alternative A - No Action

The BLM NEPA Handbook (H-1790-1) states that in EAs for externally initiated proposed actions, the No Action Alternative generally means that the proposed activity will not take place (USDI BLM 2008). This alternative would deny approval to construct the power line and the current land and resource uses would continue to occur in the proposed project area. No mitigation measures would be required.

The No Action Alternative is presented for baseline analysis of resource impacts.

## 2.2 Alternative B - Proposed Action

JMEC proposes to construct a single-phase, overhead, raptor-safe power line on Navajo Allotted lands and Navajo Tribal Trust Lands in San Juan County from an existing power line to a small cluster of homes located in the W/2 of Section 31, T. 23 N., R. 8 W.

The Proposed Action begins on BLM lands in Section 6, T. 22N., R. 8W and crosses Navajo Allotments 88 and 89 and Navajo Tribal Trust Lands, as indicated on the topographic map shown in Appendix 1 and described below in Table 2.1. The power line route begins at an existing JMEC pole and extends northwestward from an existing power line, across Betonnie Tsosie Wash, into allotment 89, then turns northward to end in allotment 88 at a group of existing home sites. The Beginning of Line (BOL) will be located at latitude

#### 2.3 Reclamation

Disturbed areas will be restored as closely as possible to their original condition upon completion of construction. Reclamation measures will include ripping compacted and disturbed areas at least 12 inches deep with the contour, harrowing, applying a native seed mix as prescribed by the BIA or Navajo Nation, and mulching. Noxious weeds will be controlled in accordance with Navajo Nation Environmental Protection Agency (EPA) requirements.

## 2.4 Alternatives Considered But Not Analyzed In Detail

One alternative that was considered is the use of an alternative energy source. The use of on-site diesel or gas engines to provide power to the current private residences is an alternative to providing electricity via a power line. However, electricity is quieter, less expensive, and requires less maintenance. In addition, any on-site engines would require regular re-fueling, which would increase operating expenses due to fuel costs and man hours for fueling and maintaining the engines.

Photovoltaic (PV) cells are costly and inconvenient for intensive or widespread use. PV cell electricity typically costs 800% more than that from a power line. A typical battery can store a maximum of 72 hours of electricity, and many would be needed to power the electrical needs of these homes. The need for multiple batteries would be costly and potentially unreliable during long stretches of inclement weather.

Wind generators are also expensive and can be impractical due to the necessity to place the windmills on high points in the direct stream of wind. This project area may not have a suitable location to support wind-generated energy.

These alternative energy sources are impractical for powering these private residences and the proposed power line best meets the energy needs required at this time.

Another alternative considered was to bury the entire length of the line rather than use an overhead span from the existing power pole to the residences. Burying the entire length by trenching would disturb far more land and increase the amount of erosion and subsequent possibility of noxious weeds becoming established than digging the footings for power poles to support an overhead line.

No other significant issues were identified for the present location of the Proposed Action during the following activities:

on-site inspections;

regulated by the USEPA. However, climate is important to consider because it has the potential to influence renewable and non-renewable resource management.

#### Air Quality

The primary sources of air pollution are dust from blowing wind on disturbed or exposed soil and exhaust emissions from motorized equipment.

Air quality in the area near the proposed project is generally good and is not located in an area designated by the USEPA as a "non-attainment area" for any listed pollutants regulated under the Clean Air Act (USEPA July 2013).

The USEPA's Inventory of US Greenhouse Gas Emissions and Sinks found that total U.S. GHG emissions were over 6.7 billion metric tons and that total U.S. GHG emissions have increased by 8.4% from 1990 to 2011. Emissions decreased from 2010 to 2011 by 1.6% (108.0 million metric tons CO<sub>2</sub> Eq.). The decrease was due to a decrease in carbon intensity of fuels consumed to generate electricity (due to a substitution of natural gas for coal and an increase in hydropower use), and relatively mild winter conditions (USEPA Apr. 2013).

Since 1990, U.S. emissions have increased at an average annual rate of 0.4 percent (USEPA Apr. 2013). It is likely, then, that levels of these GHGs will continue to increase. But, it is hoped that the rate of increase will continue to slow as greater awareness of the potential environmental and economic costs associated with increased levels of GHGs result in behavioral and industrial adaptations.

Other factors that currently affect air quality in the area include wind-borne dust and dust from vehicular traffic on disturbed or unpaved surfaces.

#### Climate

The average global temperature has risen about 1.4°F (0.8°C) from 1880 to 2012. The continued increase in GHG levels in Earth's atmosphere assures a long-term rise in global temperatures. On the current course of GHG increases, scientists expect each successive decade to be warmer than the previous one. (Hansen 2013)

In 2007, the Intergovernmental Panel on Climate Change (IPCC) predicted a warming of about 0.2°C per decade for the next two decades, and then a further warming of about 0.1°C per decade (IPCC 2007). The National Academy of Sciences (NAS) believes that the need for urgent action to address climate change is now indisputable and it has called upon the G8+5 nations to seize all opportunities to coordinate their simultaneous work on the climate and economic agendas (NAS 2009).

A report on climate change by the U.S. Government Accountability Office (USGAO) found that, "federal land and water resources are vulnerable to a wide range of effects from climate change, some of which are already occurring. These effects include, among others: 1)

#### 3.2 Cultural Resources

Complete Archeological Services Associates performed a Class III archaeological survey in the project area. A determination of "no historic properties affected" was made. The Cultural Resources Compliance Form is attached as Appendix 5.

#### 3.2.1 No Action Alternative

#### 3.2.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to cultural resources would occur.

#### 3.2.2 Proposed Action

#### 3.2.2.1 Direct and Indirect Effects

The potential exists to impact undiscovered or improperly inventoried cultural resources that may be discovered during construction of the Proposed Action.

#### 3.2.2.2 Mitigation

Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered during the Proposed Action by JMEC, or any person working on their behalf, will be immediately reported to the NNHPD at (928) 871-7148, and to any other necessary agencies. JMEC will suspend all operations in the immediate area of such discovery until approval to proceed is issued by the NNHPD. An evaluation of the discovery will be made by the NNHPD archaeologist to determine appropriate action to prevent the loss of significant cultural or scientific values.

#### 3.3 Environmental Justice

Executive Order 12898 requires federal agencies to assess projects to ensure there are no disproportionately high or adverse environmental, health, or safety effects on minority and low-income populations (1994). Minorities comprise a high percentage of the population residing in San Juan County (USDI BLM 2003).

#### 3.3.1 No Action Alternative

#### 3.4.2 Proposed Action

#### 3.4.2.1 Direct and Indirect Effects

The Proposed Action is not located in the 100-year floodplain. Therefore, no impacts to floodplains are anticipated.

## 3.5 General Topography/Surface Geology

The Proposed Action area is located approximately 5.75 miles southeast of the town of Nageezi NM. Topography in the project area consists of gently sloped and undulating hills ranging in elevation from 6807 to 6855 feet. The proposed power line alignment and the existing roads used to access the construction area cross Betonnie Tsosie Wash.

The project area soils consist of slope alluvium derived from sandstone and shale, residuum weathered from shale, and aeolian deposits over mixed alluvium. The soil textures range from sandy loam and fine sandy loam to clay loam and loamy fine sand (NRCS, 2014). There are no significant outcroppings, sheer cliff faces, or geologic formations in the area.

#### 3.5.1 No Action Alternative

#### 3.5.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to general topography and surface geology would occur.

#### 3.5.2 Proposed Action

#### 3.5.2.1 Direct and Indirect Effects

1. A direct effect to the natural topography will result from accessing and installing new power line poles and guy anchors.

2. The indirect effect of disturbance and loss to soil and seed banks will result from installing the power line poles.

#### 3.5.2.2 Mitigation

1. Surface disturbance and vehicular traffic will be limited to approved locations to reduce the area of disturbance.

2. Disturbed areas will be reclaimed pursuant to Section 2.3. Reseeding will help prevent soil loss and seed bank disturbance/loss. Successful reclamation will take two to three years.

#### 3.7.2 Proposed Action

#### 3.7.2.1 Direct and Indirect Effects

- The Proposed Action will affect 2.30 acres of Navajo Allotted and Tribal Trust Lands.
- 2. Short-term impacts will come from minimal land clearing for power line pole, wire, and guy placement.

#### 3.7.2.2 Mitigation

- Reclamation of the Proposed Action as stated in Section 2.3 will replace, and may even enhance, vegetative cover along the overhead span right-ofway. Successful reclamation is expected to take two to three years.
- 2. If grazing permits are identified in the project area, the permittees will be contacted to gain written permission for JMEC's proposed use of the land as part of this project.

#### 3.8 Noise

Noise is not currently regulated or managed by the Navajo Nation. The Proposed Action is in a rural location and is not in any BLM-designated Noise Sensitive Area. Aside from the residences gaining power as part of this project, the next nearest residence is approximately 0.82 of a mile east of the proposed power line. Low-level noises are emitted from traffic on roadways. The most likely receptors of noise generated from the Proposed Action will be those traveling to the area for work activities.

#### 3.8.1 No Action Alternative

#### 3.8.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect noise impacts would occur.

#### 3.8.2 Proposed Action

#### 3.8.2.1 Direct and Indirect Effects

- 1. Noise will be generated as part of construction activities associated with the Proposed Action.
- 2. Occasional maintenance and/or monitoring vehicles will travel to and within the project area during normal operations.

3. BMPs and appropriate Occupational Safety and Health Administration standards and guidelines will be implemented to minimize negative effects to public health and safety.

#### 3.10 Soils

The Proposed Action crosses the Fruitland-Persayo-Sheppard complex, hilly soil unit. The soils in this unit consist of slope alluvium derived from sandstone and shale, residuum weathered from shale, and aeolian deposits over mixed alluvium. The soil textures range from sandy to deep sand to shale hills (SoilWeb Earth 2014). The underlying bedrock is in the Nacimiento Formation (NMBGMR 2003).

#### 3.10.1 No Action Alternative

#### 3.10.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to soils would occur.

#### 3.10.2 Proposed Action

#### 3.10.2.1 Direct and Indirect Effects

- 1. Soils will be structurally reduced and mixed, exposed to the elements of wind and water erosion, and compacted.
- 2. Due to wind and water, the soils will be subject to an undetermined amount of erosion until vegetation is established.

#### 3.10.2.2 Mitigation

- 1. Successful reclamation of the Proposed Action outlined in Section 2.3 will reduce long-term negative impacts to soils. Re-seeding will reduce sediment loading by stabilizing the soil. Successful reclamation is expected to take two to three years.
- 2. Use of BMPs as outlined in Section 2.2 will reduce impacts to soils.

## 3.11 Threatened, Endangered, and Special Status Species

A wildlife biologist conducted a pedestrian wildlife survey of the project area to inspect for the potential presence of threatened, endangered, or special status species on November 11, 2013.

or alteration, as long as there is not a direct taking of birds, nests, eggs, or parts thereof. Nesting migratory birds could be adversely impacted by a potential take.

4. Overhead power lines have a direct effect on raptors. Raptors and other birds are killed every year by electrocution from perching or nesting on power lines.

#### 3.11.2.2 Mitigation

1. Construction should not take place during migratory bird nesting season, which is March 15-August 15. If construction activities must occur during this period, surveys for nests must be conducted beforehand. This will protect nesting migratory birds from a potential take.

 Power line construction will be raptor-safe and will follow the Navajo Nation's Raptor Electrocution Prevention Regulations (NNDFW NNHP 2008).

3. To protect against kit fox den destruction, pole installers should avoid drilling into, or right next to, obvious ground burrows.

### 3.12 Vegetation, Forestry

The San Juan/Chaco Tablelands and Mesas ecoregion of plateaus, valleys, and canyons contains a mix of desert scrub, semi-desert shrub-steppe, and semi-desert grasslands (Omernik 2009). Vegetation throughout the project area is dominated by a rolling sagebrush plain containing big sage (Artemisia tridentata), blue grama (Bouteloua gracilis), and Greene's rabbitbrush (Chrysothamnus greenei). There are no forestry resources in the project area. A complete inventory of plant species can be found in Appendix 4.

#### 3.12.1 No Action Alternative

#### 3.12.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to vegetation or forestry would occur.

#### 3.12.2 Proposed Action

#### 3.12.2.1 Direct and Indirect Effects

The Proposed Action will affect 2.30 acres of Navajo Allotted and Tribal Trust Lands.

#### 3.14 Wastes, Hazardous and Solid

As a result of the construction of the Proposed Action, solid waste materials will be generated. These materials may include typical field waste such as charts and plats, excess conductor wire, bent anchors, anchor line spools, broken insulators, damaged bolts and fittings, broken poles and cross arms, scrap lumber, laths, stakes, flagging, nylon rope, lunch trash, and cardboard. Generation of hazardous waste is not expected. If hazardous waste were inadvertently generated, the proper authorities would be consulted regarding the disposal of such waste.

#### 3.14.1 No Action Alternative

#### 3.14.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts from wastes, hazardous or solid, would occur.

#### 3.14.2 Proposed Action

#### 3.14.2.1 Direct and Indirect Effects

Trash and unwanted materials will be generated by construction.

#### 3.14.2.2 Mitigation

All trash will be placed in a portable trash cage and hauled to an approved landfill. There will be no burial or burning of trash. Human waste will be disposed of in chemical toilets and hauled to an approved dump station off of the reservation.

#### 3.15 Water Resources

The project is located in a depression known as the San Juan Basin. The San Juan Basin recharges near the Zuni Uplift in the Chuska Mountains and flows toward the Chaco and San Juan Rivers to discharge (Robson 1995). The project area receives approximately 10.83 inches of annual precipitation (WRCC 2011).

The hydrologic setting of the immediate project area is mostly characterized by ephemeral drainages filled with alluvium, which is the principle source of ground water recharge. Surface flows are associated with small ephemeral drainages and occur from snow melt and

#### 3.15.2.2 Mitigation

1. The BMPs described in Section 2.2 will be implemented to prevent erosion and off-site migration of soils and other materials, and to reduce impacts to watershed and hydrology.

 Any spilled contaminants will be cleaned up as soon as possible to prevent run-off of contaminants into surface hydrology or infiltration into

groundwater.

The Proposed Action will be reclaimed as outlined in Section 2.3. Reseeding will reduce sediment loading by stabilizing the soil. Successful reclamation is expected to take two to three years.

#### 3.16 Wildlife

Wildlife occurring in the area is typical of scattered juniper grasslands and desert scrub communities. Common species include: coyote (Canis latrans); desert cottontail (Sylvilagus spp.); jackrabbits (Lepus spp.); kangaroo rats (Dipodomys spp.); western scrub jay (Aphelocoma californica); common raven (Corvus corax); juniper titmouse (Baeolophus ridgwayi); spiny lizards (Sceloporus spp.); and whiptail lizards (Cnemidophorus spp.).

A complete inventory of wildlife species observed in the project area is included in Appendix 3.

#### 3.16.1 No Action Alternative

#### 3.16.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to wildlife would occur.

#### 3.16.2 Proposed Action

#### 3.16.2.1 Direct and Indirect Effects

1. The wildlife that uses the site may die or be displaced during construction. Removal of or damage to vegetation during construction of the Proposed Action may reduce wildlife forage and cover in the area.

2. The new power line and associated structures may be attractive as a perch

sites for some avian species.

#### 3.16.2.2 Mitigation

1. Reclamation of the Proposed Action, as outlined in Section 2.3, will reduce the long-term impacts to wildlife that use the area. Reseeding

# 4. Consultation/Coordination

This section identifies the interdisciplinary team that participated in the development of this document.

Table 4.1: Interdisciplinary Project Team

Member	Title	Organization	Onsite Inspection	Date of Inspection
Liz Berdugo	Author	Permits West, Inc.	no	n/a
Robyn Tierney	Botanist/Co-Author	Permits West, Inc.	no	n/a
Celia Cook	Wildlife Biologist	Permits West, Inc.	yes	11/11/13
Marian J. Rohman	Botanist	Permits West, Inc.	yes	11/11/13
Laurens C. Hammack	Archaeologist	Complete Archeological Services Associates, Inc.	yes	11/13/13
Mike Deutsch	Project Coordinator/Editor	Permits West, Inc.	yes	4/16/16

## 5. Contact Information

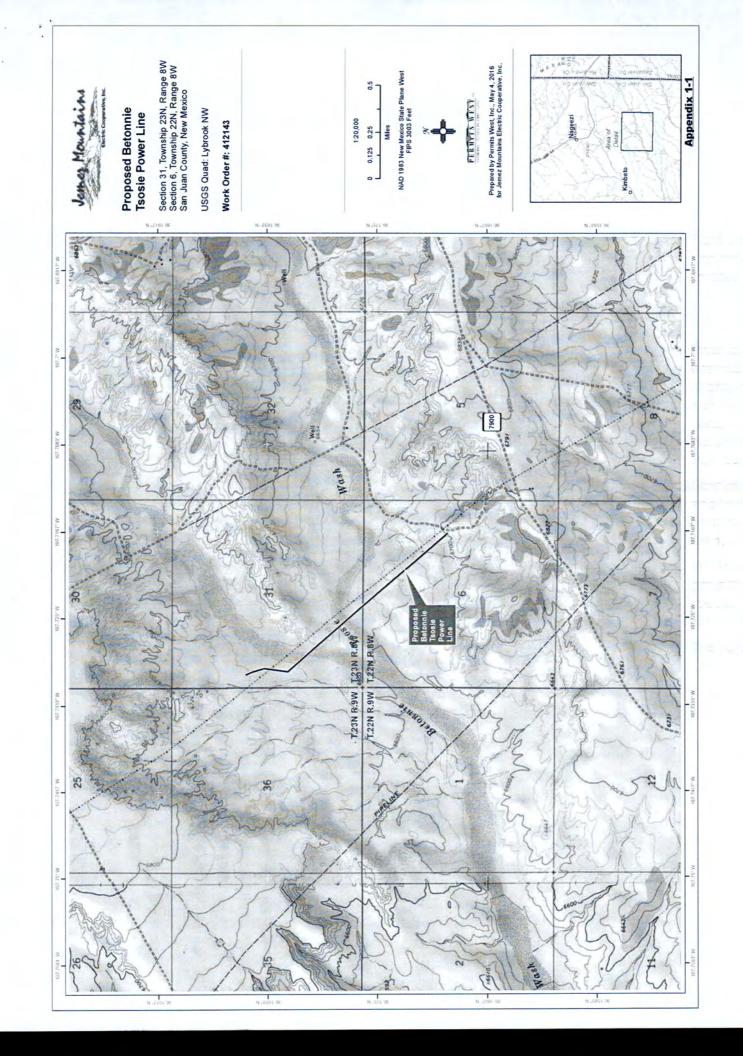
Permits West, Inc. 37 Verano Loop Santa Fe, NM 87508 505-466-8120

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Fax: 575-289-0103

- Navajo Nation Department of Fish and Wildlife. Navajo Natural Heritage Program (NNHP). The Navajo Nation: Raptor Electrocution Prevention Regulations. Window Rock, AZ, Sep. 2008.
- New Mexico Bureau of Geology and Mineral Resources (NMBGMR). Geologic Map of New Mexico. 1:500,000. 2003.
- Omernik, J., & Griffith, G. "Ecoregions of New Mexico (EPA)". 2009. Web. Nov. 2013.
- Robson, S.G., and E. R. Banta. Watershed Condition Assessment for the Jicarilla Ranger District, Carson National Forest. 1995.
- SoilWeb Earth. California Soil Resource Lab. 2013. Web. Sep. 2013.
- U.S. Environmental Protection Agency. Currently Designated Nonattainment Areas for All Criteria Pollutants. Web. 31 Jul. 2013.
- U.S. Environmental Protection Agency. *Inventory of U.S. Greenhouse Gas Emissions and Sinks* 1990-2011. Washington, D.C., Apr. 2013.
- U.S. Environmental Protection Agency. *EPA Designates Four Corners Interstate Air Quality Region Boundaries*. EPA press release: 9 Feb. 1971. Web. 16 Jan. 2013.
- U.S. Environmental Protection Agency. "Causes of Climate Change." 9 Sep. 2013. Web. Nov. 2013
- U.S. Department of Homeland Security. Federal Emergency Management Agency, Map Service Center. Map Service Center Flood Maps. 2010. FEMA Flood Map 35045C2425F, San Juan County. Accessed at: http://fema.maps.arcgis.com/home/webmap/viewer.html?webmap=cbe088e7c8704464aa0fc3 4eb99e7f30&extent=-107.75365285706505,36.24057514881428,-107.73871831726976,36.24922792523984
- U.S. Department of the Interior. Bureau of Land Management, Farmington Field Office. Farmington Proposed Resource Management Plan and Final Environmental Impact Statement. Farmington, NM, Mar. 2003.
- U.S. Department of the Interior. Bureau of Land Management. NEPA Handbook (H-1790-1). Jan. 2008.
- U.S. Department of the Interior. Office of Surface Mining (OSM). A Guide to Noxious Weeds of the Navajo Reservation. U.S. Department of the Interior, 1999.



	SCIENTIFIC NAME	COMMON NAME	NESL STATUS	FED, STATUS and/or MBTA*
l.	Antilocapra americana	Pronghorn	G3	
2.	Aquila chrysaetos	Golden Eagle	G3	MBTA
3.	Buteo regalis	Ferruginous Hawk	G3	MBTA
4.	Asclepias sanjuansensis	San Juan Milkweed	G4	
5.	Charadrius montanus	Mountain Plover	G4	ESA Proposed Threatened; MBTA.
6.	Empidonax traillii extimus	Southwestern Willow Flycatcher	G2	ESA Endangered; MBTA.
7.	Mustela nigripes	Black-footed Ferret	G2	ESA Endangered
8.	Vulpes macrotis	Kit Fox	G4	

<sup>\*</sup>MBTA-Migratory Bird Treaty Act

#### AREA 3: LOW SENSITIVITY WILDLIFE RESOURCES

Potential for the black-footed ferret should be evaluated if prairie-dog towns of sufficient size (per NFWD guidelines) occur in the project area.

Potential for <u>Puccinellia parishii</u> should be evaluated if wetland conditions exists that contain white alkaline crusts.

Biological surveys need to be conducted during the appropriate season to ensure they are complete and accurate please refer to NN Species Accounts. Further questions pertaining to surveys should be referred to Species Account. Surveyors on the Navajo Nation must be permitted by the Director, NFWD. Contact Jeff Cole at (928) 871-7068 for permitting procedures. Questions pertaining to surveys should be directed to the NFWD Zoologist (Chad Smith) for animals at 871-7070 and Botanist (Andrea Hazelton) for plants at (928)523-3221. Questions regarding biological evaluations should be directed to Pamela Kyselka (Acting Environmental Reviewer) at 871-7065.

The powerline(s) should be designed according to the Avian Power Line Interaction Committee's "Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006" (Edison Electric Institute, APLIC, and the California Energy Commission. Washington, D.C. and Sacramento, CA).

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

<sup>&</sup>lt;sup>4</sup>Available free of charge on our website at http://nnhp.navajofishandwildlife.org/

# WILDLIFE SURVEY REPORT

**FOR** 

JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.

PROPOSED BETONNIE TSOSIE 14.4 KV POWER LINE

Township 25 North, Range 8 West, Sections 17 and 20 San Juan County, New Mexico



**N**OVEMBER **26**, **2013** 

PREPARED BY:

CELIA COOK

OF

PERMITS WEST, INC.

PERMITS WEST, INC. 37 VERANO LOOP SANTA FE, NM 87508



way to desert grassland/shrubland and eventually scattered pinyon and juniper as elevation increases from the valley bottom. Elevation ranges from 6630 to 6720 feet.

Vegetation throughout the project area is represented primarily by plants indicative of desert scrub and desert grassland such as sagebrush (Artemisia spp.), snakeweed (Gutierrezia sarothrae), grama grass (Bouteloua spp.), rabbit brush (Chrysothamnus spp.) and shadscale (Atriplex confertifoli). Slopes on the southeast end of the project area support scattered pinyon pine (Pinus edulis) and one-seed juniper (Juniperus monosperma).

The project area appears to be grazed by free roaming livestock. Disturbed areas support Russian thistle (Salsola spp.), Kochia sp., and cheatgrass (Bromus tectorum). Areas of barren soils are are abundant. There are no perennial streams or wetlands in the project area. Other than Betonnie Tsosie Wash, which offers ephemeral pools of water for wildlife as well as a travel corridor, there are no unique habitat elements in the immediate vicinity of this project area. Hoodoos within 1.0 mile of the project area provide nesting habitat for ferruginous hawks; however no evidence of recent nests were observed on these structures during the November 11, 2013 survey and no raptors were observed.

According the BLM raptor PLS CAD overlay (Kendall, 2013); the closest known raptor nest is approximately 12 miles west of the project area.

The surrounding area is generally developed with oil and gas facilities, power lines, dirt roads, occupied Navajo homes, and grazing livestock.

#### 4.0 GENERAL WILDLIFE

Wildlife living at the project site is typical of Great Basin grassland/badland landscape. Representative avian species include common raven (Corvus corax) western bluebird (Sialias mexicana), Say's phoebe (Sayornis saya), sage sparrow (Artemisiospiza belli), and horned lark (Eremophila alpestris). Reptilian species include plateau lizards (Sceloporus spp.) and whiptails (Aspidoscelis spp.). Mammal species include desert cotton-tail (Sylvilagus audubonii), ground squirrels (Spermophilus spp.), and coyote (Canis latrans). Lists of species observed during the wildlife survey of the project area are presented in Section 8.

#### 5.0 THREATENED, ENDANGERED AND OTHER SPECIAL STATUS SPECIES

Under Section 7 of the Endangered Species Act of 1973 (as amended), the BLM is required to consult with the U.S. Fish and Wildlife Service (USFWS) on any proposed action which may affect federally-listed T&E species or species proposed for listing. BLM Sensitive species are recognized as part of an overall agency effort to provide multi-strategy conservation initiatives as a result of cumulative impacts to populations and/or habitats, or other factors resulting in declining populations. Furthermore, in accordance with BLM Manual 6840, the FFO has generated an additional list of special status species to focus management efforts toward maintaining habitats under a multiple use mandate. These species are categorized as FFO Special Management Species (SMS). The BLM manages Special Management Species proactively in order to prevent or reduce the need for listing under the USFWS Endangered Species Act (ESA).



SPECIES	STATUS*	HABITAT ASSOCIATIONS	POTENTIAL TO OCCUR**
(Ammodramus bairdii)	SC	Mexico they have been found in a variety of habitats, ranging from desert grasslands in the south to prairies in the northeast and mountain meadows in the San Juan and Sangre de Cristo mountains	
Golden Eagle (Aquila chrysaetos)	BLM SMS NESL Group 3	In the west, mostly open habitats in mountainous, canyon terrain. Nests primarily on cliffs and trees.	NP. No suitable nesting habitat within 1 mile. May occur as transient depending on available prey base.
Burrowing owl (Athene cunicularia)	BLM SMS NESL Group 4	Associated with prairie dog towns. In dry, open, sometimes disturbed grasslands.	NP. No suitable habitat. Old prairie dog holes are not suitable due to proximity of homes and lack of cover.
Ferruginous hawk (Buteo regalis)	BLM SMS NESL Group 3	Open, arid country or grasslands. Nests on buttes and outcroppings, sometimes trees or power line poles in open country, may use the ground.	S. Provided there is a sufficient prey base, suitable habitat is available for nesting (hoodoos and spires).
Chestnut-collared longspur (Calcarius ornatus)	BLM S	Winters in grasslands, deserts & plateaus dominated by low grasses and forbs, where most vegetation is <1.5 feet high. Dominant plants include grama grasses, dropseed, bluestems & needlegrass.	NP. No suitable habitat.
Mountain plover (Charadrius montanus)	BLM SMS NESL Group 4	Requires semi desert, disturbed grasslands, open arid areas, bare fields.	NS. Unlikely to occur due to marginal habitat.
Yellow-billed cuckoo (Coccyzus americanus)	BLM SMS	Low to mid-elevation riparian woodlands, deciduous woodlands, and abandoned farms and orchards.	NP. No suitable habitat.
Prairie falcon (Falco mexicanus)	BLM SMS	Arid, open country, grasslands or desert scrub, rangeland; nests on cliff ledges, trees, power poles.	S. Provided there is a sufficient prey base, suitable habitat is available for nesting on cliffs, spires, and hoodoos nearby.
American peregrine falcon (Falco peregrinus anatum)	BLM SMS	Open country near lakes or rivers with rocky cliffs and canyons.	<b>NS</b> . Suitable nesting on cliffs approx. 15 miles northeast.
Pinyon jay (Gymnorhinus cyanocephalus)	BLM S	Primarily associated with pinyon-juniper habitat.	NS. No enough suitable habitat
Bald eagle (Haliaeetus leucocephalus)	BLM SMS	Usually in mature conifers or cottonwoods and snags near lakes and rivers. May forage terrestrially in winter.	<b>NS.</b> Unlikely to occur. No suitable habitat.
Southwestern Willow Flycatcher (Empidonax traillii extimus)	E NESL Group 2	Dense multistory riparian vegetation along rivers, streams, or wetlands.	NS. Unlikely to occur. No suitable habitat.

\*Federal Status

E - Endangered

T - Threatened

C - Candidate

SC - Species of Concern

Agency Status

**BLM Farmington Field Office** 

S – Sensitive SMS –

SMS – Special Management Species

Navajo Endangered Species List (NESL)

Group 1 – no longer occur on Navajo land;

Group 2 – A species or subspecies whose prospects of survival or recruitment are in jeopardy;

Group 3 -A species or subspecies whose prospects of survival or recruitment are likely to be in jeopardy in the foreseeable future;

Group 4- Any species or subspecies for which the NNDFW does not currently have sufficient information to support higher listing, but has reason to consider them as potentially declining.

#### \*\*Presence

- K Known, documented observation within project area.
- S Habitat suitable and species may 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 as breeder but may occur as transient or migrant



their habitats are discussed in Table 2. Bird species that would normally be included in this table but have been addressed in previous sections have been omitted.

Table 2. Migratory Birds with Potential to Occur in the Project Area

Species Name	Habitat Associations	Potential to Occur in Project Area*  S. may occur due to substantial sagebrush/shrub habitat along wash.	
Bendire's thrasher (Toxostoma bendirei)	On the Colorado Plateau, inhabits open sagebrush with scattered junipers; sparse or degraded understory, lower elevations. Avoids riparian areas and arroyos with dense shrub cover		
Black-throated sparrow (Amphispiza bilineata)	parrow Amphispiza  Xeric habitats dominated by open shrubs with areas of bare ground.		
Brewer's sparrow (Spizella breweri)	Closely associated with sagebrush, preferring dense stands broken up with grassy areas.	S. Probable summer resident and breeding species.	
In northern NM, stands of piñon pine and Utah juniper 5800 - 7200 ft, open with a shrub component and mostly bare ground; antelope bitterbrush, mountain mahogany, Utah serviceberry and big sagebrush often present. Broad, flat or gently sloped canyons, in areas with rock outcroppings, or near ridge-tops.		NP. No suitable habitat.	
Loggerhead shrike (Lanius Iudovicianus)	ggerhead shrike  Open country interspersed with improved pastures, grasslands, and hayfields. Nests in sagebrush areas desert strub, and woodland		
Mountain bluebird (Sialia currucoides)	Open piñon-juniper woodlands, mountain meadows, and sagebrush shrublands; requires larger trees and snags for cavity nesting.	K. Observed during 11/11/13 survey.	
Mourning dove (Zenaida macroura)	Open country, scattered trees, and woodland edges. Feeds on		
Sage sparrow (Artemesiospiza belli)	sparrow Large and contiguous areas of tall and dense sagebrush. Negatively		
Sage thrasher (Oreoscoptes montanus)	Shrub-steppe dominated by big sagebrush.	NS. Unlikely to occur- limited sagebrush	
Scaled quail (Callipepla squamata)	Brushy arroyos, cactus flats, sagebrush or mesquite plains, desert grasslands, Plains grasslands, and agricultural areas. Good breeding		
Swainson's hawk (Buteo swainsoni)	Lutility noise and in isolated trees in rangeland. Nest densities higher		
Vesper sparrow (Pooecetes gramineus)  Dry montane meadows, grasslands, prairie, and sagebrush steppe with grass component; nests on ground at base of grass clumps.		NS. Unlikely to occur-limited grassland and prairie.	

\*Presence

# 7.0 SURVEY RESULTS AND DISCUSSION

No federally-listed wildlife species or their required habitats were observed during the November 11, 2013 wildlife survey. Suitable habitat for two BLM sensitive (S) species is present within 1 mile of the project area: spotted bat and Townsend's pale big-eared bat. Suitable

K - Known, documented observation within project area.

S - Habitat suitable and species may 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 as breeder but may occur as transient or migrant.



# 7.3 PRAIRIE FALCON AND FERRUGINOUS HAWK

Prairie falcons and ferruginous hawks are federally protected under the Migratory Bird Treaty Act of 1918. No evidence of these raptors was observed in the project area during the November 11, 2013 survey, but there are suitable nest structures within 1 mile of the project area. There are known ferruginous hawk nests within 13 miles of the project area (Kendall, 2013). While prairie falcons are less frequent in San Juan County, they favor habitats similar to the ferruginous hawk. Both of these raptors are at risk from habitat loss, fragmentation and/or environmental pollutants, as well as other factors, including electrocution. It is important due to the vicinity of known raptor nests and the relative lack of vertical perches in the area, that the power line be built raptor safe according to the standards put forth in "Suggested Practices for Avian Protection on Power Lines: State of the Art in 2006".

## 7.4 KIT FOX

Kit foxes have potential to occur on all desert type landscapes on the Navajo Nation though their distribution is not well known (Mikesic, 2008). It is unlikely that the power line would impact these small-bodied wild canines once it is installed; however installation and construction could disturb kit foxes that den in or frequent the area. No obvious dens or evidence of kit foxes were observed during the November 11, 2013 survey.

#### 7.5 MIGRATORY BIRDS

Migratory birds are federally protected under the Migratory Bird Treaty Act of 1918. Three migratory birds are known from the project area as a result of the November 11, 2013 survey. These birds are the mountain chickadee, mountain bluebird, and common raven. It is likely that many more species would be observed during the breeding months. Birds breeding or foraging in the project area within the typical migratory bird nesting season (May 15 to July 31) have the potential to be disturbed if construction activities occurred during the same time. It is recommended that JMEC time their construction and power line installation outside the primary migratory bird nesting season; or perform presence/absence surveys and reporting in accordance with the FFO migratory bird policy as outlined in Section 6.0.

# 8.0 SPECIES OBSERVED DURING THE SURVEY

While the field visit focused on T&E and special status species, observations of non-listed species were also noted. The following lists include all wildlife species observed:

#### 8.1 AVIAN SPECIES OBSERVED

Common raven (Corvus corax)

Mountain chickadee (Poecile gambeli)

Mountain bluebird (Sialia curricoides)

# 8.2 MAMMALIAN SPECIES OBSERVED

Coyote (Canis latrans)

# JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC. PROPOSED BETONNIE TSOSIE POWER LINE PROJECT

N/2 Section 6, T. 22 N., R. 8 W. and W/2 Section 31, T. 23 N., R. 8 W San Juan County, New Mexico

# PLANT SURVEY REPORT

Prepared for Permits West, Inc., Santa Fe, New Mexico By Marian J. Rohman June 20, 2014

This report discusses the potential for disturbance to the plant species of concern identified by the Navajo Natural Heritage Program (NNHP) that have the potential to occur on the Lybrook NW, NM, 7.5-minute quadrangle, which contains the boundaries of the north half of the project area. San Juan milkweed (*Asclepias sanjuanensis*) is the only plant species listed for this area by the NNHP (Detsoi, 2012). Wetland conditions also need to be evaluated for the potential for Parish's alkali grass (*Puccinellia parishii*) (Detsoi, 2012). Both San Juan milkweed and Parish's alkali grass are in NESL Group 4, indicating that the NNHP does not currently have sufficient information to support the species being listed as endangered, but has reason to consider them (NNHP, 2008). In addition, the potential for disturbance to species listed by the Bureau of Land Management (BLM), Farmington Field Office and the U.S. Fish and Wildlife Service (USFWS) for the project area will be discussed (IPaC, 2014). The south half of the project is on BLM-administered lands.

# PROJECT DESCRIPTION

The proposed project consists of the construction of a power line measuring 7308.25 feet within a 30-foot-wide corridor on BLM lands and a 20-foot-wide corridor on Navajo lands. The total land use for the proposed project, including guy acreage, is 4.19 acres. The proposed power line is located on BLM-administered land, Navajo Nation Tribal Trust Lands, and Navajo Allotments 89 and 88. It is in the N/2 of Section 6 in T. 22 N., R. 8 W. and the W/2 of Section 31 in T. 23 N., R. 8 W., 5.7 to 6.9 miles south of the town of Nageezi, San Juan County, New Mexico.

The proposed power line begins at an existing power line in the NE/4 of Section 6, T. 22 N., R. 8. W. It heads northwest across Betonnie Tsosie Wash, then turns west-northwest and north to end in an area of homes in the NW/4 of Section 31, T. 23 N., R. 8 W.

The landscape is a rolling sagebrush plain dominated by big sage (Artemisia tridentata), blue grama (Bouteloua gracilis), and galleta (Pleuraphis jamesii) with areas of Russian-thistle (Salsola tragus). The project area is crossed by Betonnie Tsosie Wash, a broad shallow wash. The slopes on either side of the wash are dominated by greasewood (Sarcobatus vermiculatus) with sandhill muhly (Muhlenbergia pungens) dominant along the south side of the wash itself. The north end of the line is highly disturbed and is dominated by halogeton (Halogeton

SPECIES	HABITAT	POTENTIAL TO OCCUR	
STATUS		IN THE PROJECT AREA*	
Aliciella formosa Aztec gilia BLM Sensitive	Salt desert scrub communities in soils of the Nacimiento Formation. Elev. 5000-6400 ft. Blooms April and May (Heil and Herring, 1999a; Roth, 2008).	No appropriate habitat: there are no salt desert scrub communities in the project area. The project area is well above the known range for the species. It is suspected that this species may occur at higher elevations than previously listed (Kendall, 2013). (NP – see note below)	
Asclepias sanjuanensis San Juan milkweed  BLM Sensitive NESL Group 4	Sandy loam soils in open piñon-juniper woodlands and Great Basin grassland communities. Usually found in very open vegetation on sand dunes, often in association with sandhill muhly and sand wild-buckwheat. Elev. 5000-6420 ft. Flowers late April thru early May (Heil and Herring, 1999b; Roth, 2001a; personal observation).	No appropriate habitat: there are sand dunes in the project area along the tops of the slopes along Betonnie Tsosie Wash; however, the project area is above the known elevation range of the species. The area was surveyed during the flowering and fruiting period for the species and no plants were seen. (NP)	
Astragalus humillimus Mancos milkvetch USFWS Endangered NESL Group 2	Cracks or eroded depressions on or near sandstone rimrock ledges and mesa tops in Point Lookout and Cliffhouse Sandstone. Elev. 5000-6000 ft. Blooms late April to early May (McDonald, 1999a; Roth, 2001b).	No appropriate habitat: there is no Point Lookout or Cliffhouse Sandstone in the project area. The project area is well above the known elevation range of the species. (NP)	
Pediocactus knowltonii Knowlton cactus USFWS Endangered	On rolling, gravelly hills in a piñon-juniper-sagebrush community at about 6,200-6,300 ft. This species is known only from the type locality very near the NM/CO border. Flowers April and May. This species is not known on FFO lands (McDonald and Ferguson, 1999).	No appropriate habitat: there are no rolling gravelly hills in the project area. The project area is well above the known elevation range of the species. (NP)	
Proatriplex pleiantha Mancos saltbush BLM Sensitive	In desert badlands on saline clay soils of the Mancos and Fruitland Shale Formations. Elev. 5000-5500 ft. Blooms mid-May to mid-June (Roth, 1999).	No appropriate habitat: there is no Mancos or Fruitland Shale Formation in the project area. The project area is well above the known elevation range of the species. (NP)	

by the BLM-FFO (Torres, 2014). The proposed project area is within the boundaries of the mapped potential Nacimiento formation area. The Brack's Cactus Interim Guidance developed by the BLM-FFO has several examples of possible steps to minimize impacts to Brack's cactus and habitat (Torres, 2014). Although the project area is within the mapped area, the specific route of the pipeline does not cross suitable potential habitat for Brack's cactus. North of Angel Peak in the pre-2012 BLM-FFO management area, Aztec gilia frequently occurs with Brack's cactus, therefore, the post-2012 mapped area is also determined to be suitable potential habitat for Aztec gilia (Torres, 2014).

**Noxious weeds:** The Bureau of Indian Affairs lists three species of noxious weeds as potential invaders and fourteen species as new invaders on the Navajo Reservation (OSM, 1999). One listed species, halogeton, is present in the project area on tribal land. Halogeton occurs as a dominant plant in the area of the houses at the north end of the proposed power line on tribal land.

## DISCUSSION

No plant species of concern to the Navajo Natural Heritage Program, Bureau of Land Management Farmington Field Office, or the U.S. Fish and Wildlife Service will be impacted by the proposed project.

Signature of Author:

Marian J. Rohman

June 20, 2014

#### REFERENCES

Detsoi, Sonja. 2012. Navajo Endangered Species List (NESL) Information for: Project: Jemez Mountains Electric Cooperative Betonnie Tsosie Power Line. Located in Legal Description T22N, R8W, Sec. 6 & T23N, R8W, Sec. 31. UTM Coordinates (NAD 27, Zone 13S) Start: 255637E, 4006191N, Home: 254458E, 4007720N, San Juan County, NM. Wildlife Technician, Navajo Natural Heritage Program, Department of Fish and Wildlife. Letter of 27 September to Brian Wood, Permits West, Inc., Santa Fe, NM.

Environmental Conservation Online Service, U.S. Fish and Wildlife Service (ECOS). 2014. Endangered Species Glossary. Accessed June 20, 2014.

Ferguson, David J. 1998, last updated 2006. Taxon report for *Sclerocactus cloverae* var. *brackii* (Brack hardwall cactus). in New Mexico Rare Plant Technical Council. 1999. New Mexico Rare Plants. Albuquerque, NM: New Mexico Rare Plants Home Page. http://nmrareplants.unm.edu

Natural Resources Conservation Services, U.S. Department of Agriculture (NRCS). 2014. Web Soil Survey. http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx. Accessed June 20.

Navajo Natural Heritage Program, Navajo Nation Department of Fish and Wildlife (NNHP). 2008. *Navajo Endangered Species List*. Resources Committee Resolution No. RCS-41-08. http://nnhp.nndfw.org/nnhp\_nesl.pdf

New Mexico Bureau of Geology and Mineral Resources (NMBGMR). 2003. *Geologic Map of New Mexico*. 1:500,000. New Mexico Bureau of Geology and Mineral Resources.

Office of Surface Mining, U.S. Department of the Interior (OSM). 1999. A Guide to Noxious Weeds of the Navajo Reservation. U.S. Department of the Interior.

Roth, Daniela. 1999, last updated 2011. Taxon report for *Proatriplex pleiantha* (Mancos saltbush). in New Mexico Rare Plant Technical Council. 1999. New Mexico Rare Plants. Albuquerque, NM: New Mexico Rare Plants Home Page. http://nmrareplants.unm.edu (Latest update: 16 January 2014).

Roth, Daniela. 2001a. Species account for *Asclepias sanjuanensis*. Navajo Natural Heritage Program. http://nnhp.nndfw.org/Plants/assa.pdf. (revised 15 May 2008)

Roth, Daniela. 2001b. Species account for *Astragalus humillimus*. Navajo Natural Heritage Program. http://nnhp.nndfw.org/Plants/ashu.pdf. (revised 15 May 2008)

Roth, Daniela. 2001c. Species account for *Puccinellia parishii*. Navajo Natural Heritage Program. http://nnhp.nndfw.org/Plants/pupa.pdf. (revised 15 May 2008)

Roth, Daniela. 2005. Species account for *Sclerocactus cloveriae* ssp. *brackii*. Navajo Natural Heritage Program. http://nnhp.nndfw.org/Plants/scclbr.pdf (revised 15 May 2008)

Roth, Daniela. 2008. Species account for *Aliciella formosa*. Navajo Natural Heritage Program. http://nnhp.nndfw.org/Plants/alfo.pdf.

Torres, Gary. 2014. *Brack's Cactus Interim Guidance*. EMS Transmission 2/24/14. Instruction Memorandum No. NMF000-2014-010. Field Office Manager of the Bureau of Land Management Farmington District Office, Farmington, New Mexico. Letter of February 24. Expires 9/30/2015.

Weber, W. A. and Ronald C. Wittman. 2012. *Colorado Flora: Western Slope, fourth edition*. University Press of Colorado. Boulder, Colorado.

## Forbs

Ambrosia acanthicarpa

Artemisia campestris var. pacifica

Astragalus ceramicus

Astragalus praelongus

Atriplex sp.

Bassia scoparia

Chaetopappa ericoides

Chamaesaracha coronopus

Corispermum americanum

Cryptantha sp.

Cryptantha crassisepala var. elachantha

Descurainia sophia

Dicoria canescens ssp. brandegeei

Dieteria canescens

Dimorphocarpa wislizeni

Erigeron sp.

Eriogonum cernuum

Erodium cicutarium

Heterotheca villosa

Isocoma azteca

Lappula occidentalis

Linanthus pungens

Mentzelia multiflora

Monolepis nuttalliana

Oenothera albicaulis

Orobanche uniflora

Packera multilobata

Penstemon angustifolius

Plantago patagonica

Psoralidium lanceolatum

Salsola tragus

Sisymbrium altissimum

Solidago sp.

Streptanthella longirostris

Thelesperma megapotamicum

Townsendia annua

Xanthium strumarium

Bur ragweed

Sand wormwood

Painted milkvetch

Stinking milkvetch

Orach

Summer cypress

Sand aster

Green-leaf five-eyes

American bugseed

Perennial cat's-eye

Thick-sepal cat's-eye

Northern tansymustard

Desert twinbugs

Tansyaster

Spectacle-pod

Daisy fleabane

Nodding wild buckwheat

Filaree

Hairy goldenaster

Apache jimmyweed

Spiny sheepbur

Prickly-phlox

Desert blazingstar

Poverty-weed

Whitestem evening primrose

Naked broomrape

Lobeleaf groundsel

Narrowleaf beardtongue

Wooly plantain

Dune scurfpea

Russian-thistle

Tall tumblemustard

Goldenrod

Longbeak fiddle-mustard

Greenthread

Annual Townsend-daisy

Common cocklebur

# 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.: Betonnie Tsosie Power Line

DESCRIPTION: JMEC proposes to construct, operate, and maintain a single-phase overhead distribution power line to serve the Betonnie Tsosie residence. The power line would be a total of 4,857.62 ft. in length with a 20-ft. wide corridor (including guys and anchors), consisting of 2.30± acre.

LOCATION: Sections 31, T23N, R08W (Navajo Indian Allotments #000088 & #000089) and Section 06, T22N, R08W (Tribal Trust Lands), San Juan County, New Mexico

REPRESENTATIVE: Permits West, Inc. for Jemez Mountains Electric Cooperative, Inc. (JMEC)

ACTION AGENCY: Bureau of Indian Affairs and Navajo Nation

B.R. REPORT TITLE / DATE / PREPARER: EA-Betonnie Tsosie Power Line, Appendices 3 & 4/04 MAY 2016/Permits West, Inc.

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3. Suitable nesting habitat is present for Migratory Birds not listed under the NESL or ESA. Migratory Birds and their habitats are protected under the Migratory Bird Treaty Act (16 USC §703-712).

#### POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: [1] Buteo regalis (Ferruginous Hawk) G3, MBTA. Suitable nesting habitat is present.

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: JMEC will implement mitigation measures to avoid impacts on species protected under the MBTA that could potentially nest within and adjacent to the proposed action area.

CONDITIONS OF COMPLIANCE\*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/31 MAY 2016; amended on 09 JUN 2016



# COMPLETE ARCHAEOLOGICAL SERVICE ASSOCIATES

P.O. Box 1777 • Cortez, Colorado 81321 • (970) 565-9229

Ron Maldonado Navajo Nation Historic Preservation P.O. Box 4950 Window Rock, Arizona 86515

March 7, 2014

RE: Permit No. B13791- Jemez Mountains Electric Cooperative Inc,s Betonnie Tsosie (Line "A") Power Line, San Juan County, New Mexico [CASA 13-70]

Dear Ron,

Enclosed are two copies of the inventory report on the above referenced power line on Navajo Tribal Trust Land in the Nageezi Chapter area. As indicated in the report, no cultural resources were located and a determination of "no historic properties affected" is recommended for the proposed power line at the location described in the report.

The Navajo Nation Historic Preservation Department permit fee of \$50 will be sent directly to the Tribal Accounting Office at the end of the month.

Please review and give me a call if you have any questions.

Sincerely,

Laurens C. Hammack

CASA

Enclosures: two co

two copies of report

cc:

Elmer Morales, JMEC, Inc. Mike Deutsch, Permits West ARCHAEOLOGICAL INVENTORY REPORT DOCUMENTATION PAGE (HPD JAN/91)

1.	HPD REPORT	NO. 2. (FO	OR HPD USE ONLY)	3. RECIPIENTS ACCESSION NO.		
4.	TITLE OF REPORT: Cultural Resource		5. FIELDWORK DATES			
	Inventory, Jemez Mountains Electric Cooperative Inc.s', Betonnie Tsosie (Line "A") Power Line Project, Navajo Nation Lands, San Juan County, New Mexico.					
				November 13-18, 2013		
				March 7, 2014		
7.	CONSULTANT NAME AND ADDRESS:					
	Gen'l Charge:			8. PERMIT NO.		
	Org. Name;	Complete Archaeological Service Associates		B13791		
	Org. Address	P.O. Box 1777, Cortez, Colorado 81321 (970) 565-9229				
	2.			9. CONSULTANT REPORT NO.		
	Phone:			CASA 13-70A		
10.	SPONSOR NAME AND ADDRESS:		11. SPONSOR PROJECT NO.			
	Ind. Responsible: Brian Wood, Permits West, agent for Jemez		Work Order No. 412143			
		Mountains Electric Cooperative, Inc.				
	Org. Address:	37 Verano Loop		12. AREA OF EFFECT: 2.30 ac		
		Santa Fe, New Mexic	o 87508	AREA SURVEYED: 10.60 ac		
	Phone:	(505) 466 8120				
13.	LOCATION (MAP ATTACHED):					
	a. Chapter:	Nageezi	e. Land Status: N	Navajo Allotments 88 and 89, Tribal Trust		
	<ul><li>b. Agency:</li></ul>	Eastern	f. UTM Center: Z	f. UTM Center: Zone 13 (see continuation sheet) g. Area: NE 1/4, NE 1/4, NW 1/4 of Section 6, T22N, R8W and portions of the SW 1/4 and NW 1/4 of Section 31,		
	c. County:	San Juan	g. Area: NE 1/4,			
	d. State:	New Mexico	and portions of			
			T 23N, R 8W,	T 23N, R 8W, NMPM h. 7.5' Map Name(s): Lybrook NW N. Mex. 1966		
			h. 7.5' Map Name			
		SUMMARY (REPORT A	1. Lead Agency:	BIA		

- 14. REPORT /X/ OR SUMMARY (REPORT ATTACHED) // OR PRELIMINARY REPORT //
  - a. Description of Undertaking: The project consists of a new residential power line extension to tie-in with an existing JMEC power line, approximately 6.2 miles south of Nageezi, New Mexico (Figures 1 and 2). A total of 4,607.62 feet of powerline will be constructed on Navajo Nation lands, including 331.74 feet on Tribal Trust and 4,275.88 feet on Allotted Lands. Total Area of Effect for the powerline and guy wire anchors is 2.30 acres. Expected ground disturbance will be intensive and extensive, including minimal surface blading, drilling at designated pole locations and anchors, and surface disturbance from rubber-tired vehicles used in stringing cables.
- b. Existing Data Review: NNHPD on 10/25/13 with no sites previously recorded within 500-ft of the survey parcel. TCP consultation was completed on 1/15/14 with no TCP's previously recorded within one mile of the survey parcel. Local resident Ida Baker knew of no TCP's or other areas of significance in the project area.
- c. Area Environmental & Cultural Setting: At elevations ranging between 6600-ft and 6640-ft, the alignment begins at the existing JMEC Pole # 59853 on federal (BLM) lands in the NE 1/4 Section 6, T22N, R8W and extends northwest paralleling an existing PNM Transmission Line entering Navajo Tribal Trust lands before crossing on to Navajo Allotments 88 and 89. The terrain is relatively level with sagebrush, prickly pear cactus, 4-wing saltbush and shadscale and rabbitbrush found along Betonnie Tsosie Wash. Alignment spans both channels of Betonnie Tsosie Wash. After crossing wash (PI #1) alignment extends to north passing through storage areas of wood pallets, juniper logs, and areas of recent trash, much of it burned, before entering small group of residences on north side of wash which have been previously inventoried on IHS Projects (Reed and Yazzie 1990; Yazzie and Vogler 2006). Alignment crosses under PNM Transmission Line (PI #2) before continuing north to EOL.

Cultural resources in the general area include undated lithic scatters and mid-20th century Navajo occupations. Background information on the prehistory of the area is presented Dulaney and Dosh (1981); Reed and Yazzie (1990); Wait and Nelson (1983; and Errickson (2013).

- d. Field Methods: A Class III inventory (Figures 2 and 3) was conducted by one person walking up one side of the staked alignment and returning the other covering a 15m/50-ft wide area on each pass. A 100-ft wide corridor (9.83 acres) was inventoried for a 20-ft wide right-of-way and required guy anchors (2.15 acres) for a distance of 4275.88 linear feet on Navajo Allotted lands and a 100-ft wide corridor (0.763 acres) was surveyed for a 20-ft right-of-way (0.15 acres) for a distance of 331.74 linear feet on Navajo Tribal Trust lands.
- 15. CULTURAL RESOURCE FINDINGS:
  - a. Location/Identification of Each Resource: none
  - Evaluation of Significance of Each Resource (above): n/a
- 16. MANAGEMENT SUMMARY (RECOMMENDATIONS): A determination of "no historic properties affected" is recommended for Jemez Mountains Electric Cooperative Inc.'s Betonnie Tsosie (Line "A") Power Line Project on Navajo Nation Lands at the location described in this report.

	on Navajo Nation La	ands at the location described in this report.	
17.	CERTIFICATION:	SIGNATURE funt Stup	DATE: 03/07/14
		General Charge Name: Laurens C. Hammack	
		CIONATURE THE CONTRACT	
		SIGNATURE/MM ( Sport	DATE:03/07/14
		Direct Charge Name: Laurens C. Hammack	

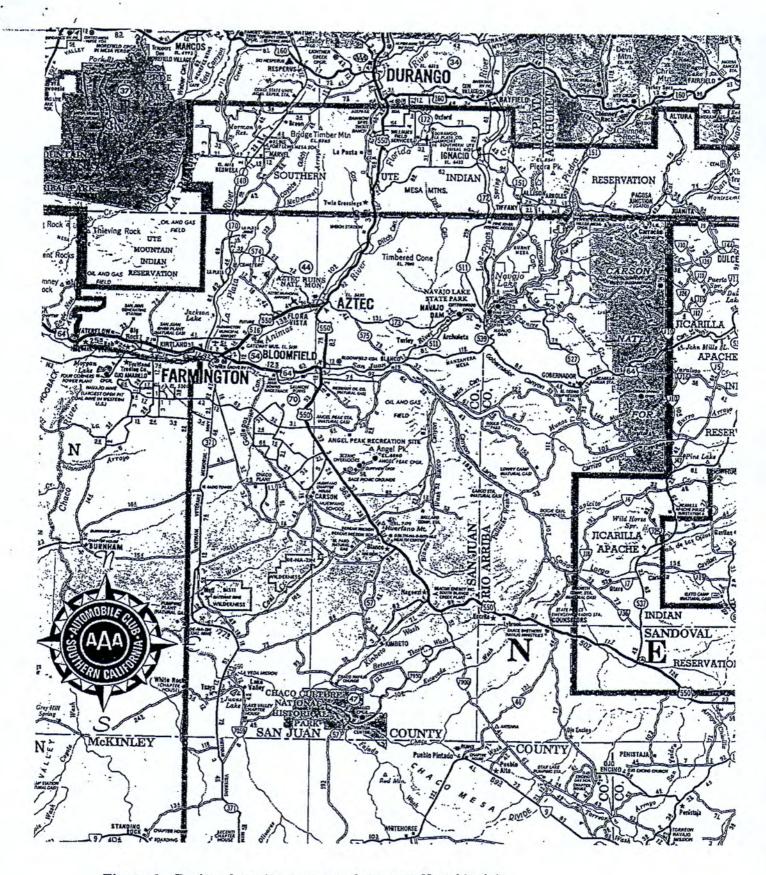


Figure 1. Project location map, northwestern New Mexico.

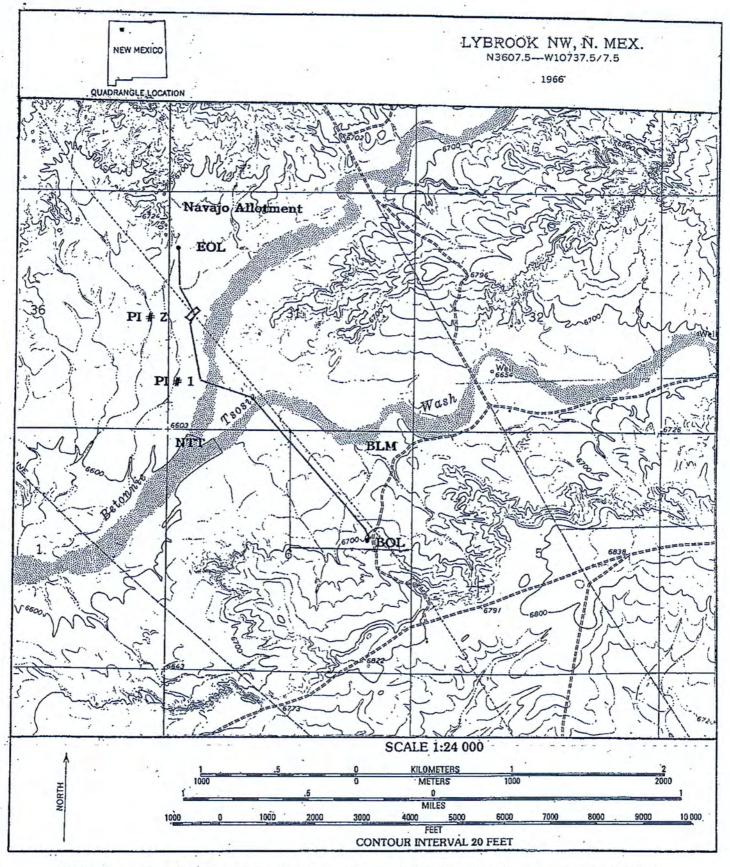


Figure 2. Survey location map. JMEC Inc. Betonnie Tsosie (Line "A") Power Line Project.

## Continuation Sheet

# 13f UTM Location (Zone 13)

BOP: E 255687/N 4005983 (NAD 27) at existing JMEC Pole # 59852

E 255636/N 4006192 (NAD 83)

PI #1 E 254619/N 4007058 (NAD 27) angle point to northeast after crossing Betonnie Tsosie Wash

E 254565/N 4007264 (NAD 83)

PI #2: E 254560/N 4007442 (NAD 27) at point line crosses under PNM Transmission Line

E 254505/N 4007649 (NAD 83)

EOP: E 254502/N 4007693 (NAD 27)

E 254444/N 4007896 (NAD 83)

#### References

# Dulaney Alan R., and Steven G Dosh

A Class II Cultural Resources Inventory of the Southern Portion of the Chaco Planning Unit, McKinley and Sandoval Counties, New Mexico. Bureau of Land Management, Albuquerque.

# Errickson, Mary

Cultural Resource Inventory, Jemez Mountain Electrical Cooperative Inc.'s Kimbeto Wash Powerline, Nageezi Chapter, San Juan County, New Mexico. Complete Archaeological Service Associates CASA 13-39, Cortez.

# Reed, Paul and Victoria J. Yazzie

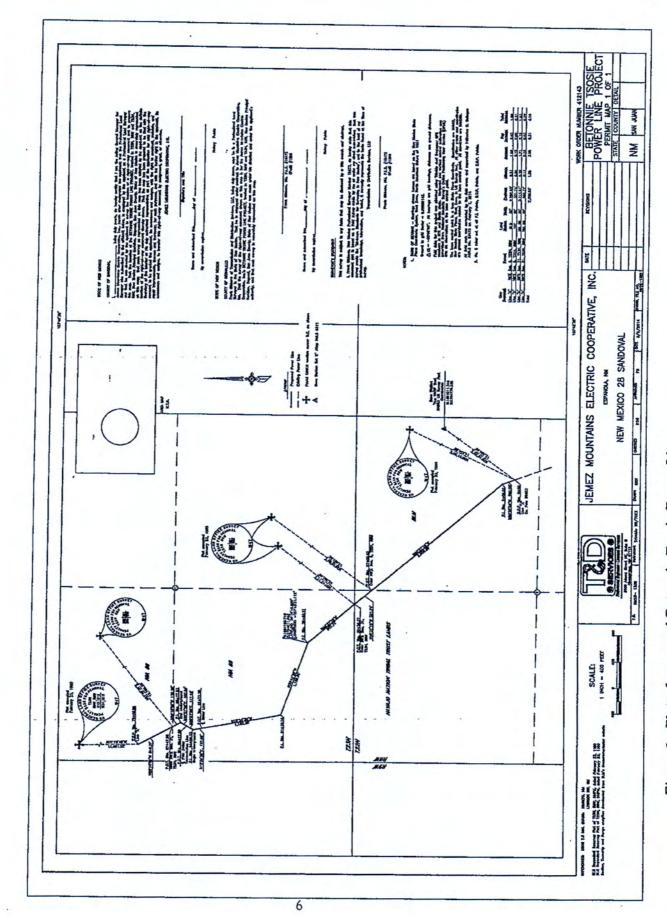
An Archaeological Survey of 18.75 Miles of Water Line and 62 Homesites for the Indian Health Service near Nageezi, San Juan County, New Mexico. Navajo Nation Archaeology Department, NNAD 90-300, Window Rock.

# Wait, Walter and Ben A. Nelson (Editors)

The Star Lake Archeological Project: Anthropology at the Headwaters Area of Chaco Wash, New Mexico. Southern Illinois University Press, Carbondale.

# Yazzie, Victoria J. And Lawrence E. Vogler

A Cultural Resource Inventory of the Lybrook/Escavada Wash Waterline Extension for the Indian Health Service Near Nageezi, San Juan and Sandoval Counties, New Mexico (NA-01-N65--Addendum 2-A Cultural Resource Inventory of Four Additional Homes and Four Additional Water Line Segments (NA-01-N65). Navajo Nation Archaeology Department NNAD 02-036--Addendum 2, Window Rock



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Figure 3. Plat of proposed Betonnie Tsosie Power Line.





August 29, 2016

Esther Kee Project Review Office P.O. Box 9000 Window Rock, AZ 86515

Dear Esther:

On behalf of Jemez Mountains Electric Cooperative, Inc., I am requesting a field clearance for the Betonnie Tsosie project in San Juan County, NM. The project is marked on the attached map. The legal description of the project is:

NW/4 Section 6, T. 22 N., R. 8 W., San Juan County, NM

The proposed right-of-way for the power line is 20 feet in width, 331.74 feet in length, and .15 acres in size.

Sincerely,

Jeanette Reisenburg

Agent

# **Project Fact Sheet**

Company:

Jemez Mountains Electric Cooperative, Inc.

P.O. Box 128

Espanola, NM 87532

Project:

Betonnie Tsosie 14.4 kV Single Phase Power Line

Purpose:

To serve Navajo families in the area

Surface:

Navajo Tribal Trust

Tribal Location:

NW/4 Section 6, T. 22 N., R. 8 W., San Juan County, NM

Line Length:

331.74 feet

Right-of-Way Width: 20 feet

Total acreage

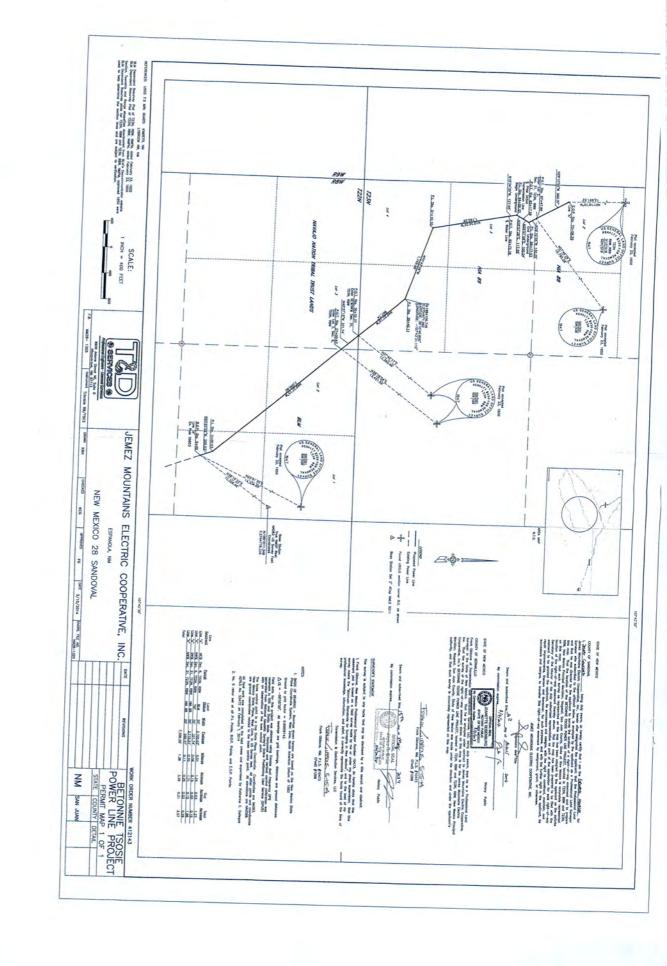
.150 acres

Contact:

Permits West, Inc. 37 Verano Loop

Santa Fe, NM 87508

505/466-8120 Fax: 505/466-9682





August 29, 2016

Howard Draper Project Review Office Navajo Nation P.O. Box 9000 Window Rock, AZ 86515

Dear Howard:

Enclosed is a Right of Way application for the Betonnie Tsosie 14.4 KV Single Phase power line for Jemez Mountains Electric Cooperative (JMEC) on Navajo Nation Tribal Trust land in the Nageezi Chapter area. The application packet includes:

Right of Way Application Project Description Project Map/Survey Field Clearance Request Environmental Assessment Archeological Report/Clearance Application Fee

Please let me know if you have any questions.

Sincerely,

Jeanette Reisenburg

Agent

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NICLOPROJECT
REVIEW SECTION



August 29, 2016

Esther Kee Project Review Office P.O. Box 9000 Window Rock, AZ 86515

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# UNITED STATES DEPARTMENT OF THE INTERIOR

## **BUREAU OF INDIAN AFFAIRS**

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

- 1. Applicant Name and Address: <u>Jemez Mountains Electric Cooperative</u>, <u>PO Box 128</u>, <u>Espanola</u>, NM, 87532
- 2. Tract(s) or parcel(s) affected by the right-of-way: Tribal Trust
- 3. General location (easement description):

NW/4 Section 6, T. 22 N., R. 8 W., San Juan County, NM

Said right-of-way across Tribal Trust Lands to be <u>331.74 feet</u> in length, <u>20 feet</u> in width, and <u>.150</u> acres in size, as shown on attached map and plats of definite location, attached hereto, and made a part hereof.

- 4. Purpose: Construction, operation and maintenance of an 14.4 KV electrical distribution line, Betonnie Tsosie, Project #412143.
- 5. Term (Renewal, if applicable): 20 Years
- 6. Identify ownership of permanent improvements associated with the right-of-way and the responsibility for constructing, operating, maintaining, and managing; or removal of permanent improvements under §169.105:

# 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; (25 CFR 169.102((b)(2); survey plat signed by professional surveyor or engineer 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 of notice that 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 the 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.
- 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 STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

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

Applicant Point of Contact Information:

Name: Jemez Mountains Electric Cooperative Address: PO Box 128, Espanola, NM, 87532

Phone: 505-753-2105 ext 1151 Fax: Click here to enter text. Email: jsanchez@jmezcoop,org

Date:

Applicant Signature:

Applicant (Print Name): Joseph Sanchez, General Manager