

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
of the 24th NAVAJO NATION COUNCIL -- Fourth Year, 2022

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING A MISSION SITE PERMIT FOR 1.5 ACRE, MORE OR LESS, FOR THE CONGREGATIONAL METHODIST NAVAJO MISSION, IN THE VICINITY OF NEWCOMB CHAPTER, NAVAJO NATION

SECTION ONE. AUTHORITY

- A. Pursuant to 16 N.N.C. Section 1151 (C), the Resources Development Committee of the Navajo Nation Council has the authority to give approval for permits for mission sites on behalf of the Navajo Nation.
- B. Pursuant to 2 N.N.C. Section 501 (B)(2), the Resources Development Committee of the Navajo Nation Council has the authority to give 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 Congregational Methodist Navajo Mission has applied for a mission site within the Newcomb Chapter.
- B. The Terms and Conditions for the Mission Site Permit is attached as **Exhibit A**.
- C. The proposed mission site is located on 1.5 acres, more or less, within the vicinity of Newcomb Chapter, Navajo Nation (New Mexico). The survey of the Congregational Methodist Navajo Mission Missionary Site is attached as **Exhibit B**.
- D. The Field Clearance Checklist signed by Grazing Official/Farm/Land Board dated July 11, 2014 and Consent to Use Navajo Tribal Lands for Mission signed by Permit Holder on July 9, 2014 are attached as **Exhibit C**.

- E. The Newcomb Chapter Resolution NWCB-02815-024 dated February 8, 2015 is attached as **Exhibit D**. Newcomb Chapter Resolution NWCB-02815-024 "supports Mr. Wilford Yazzie in Re-Establishing a Mission Site Lease named, Congregational Methodist Navajo Mission, located two (2) miles West of the Newcomb Chapter House."
- F. A list of twenty names of individuals signed a document stating "I support having a Congregational Methodist Church in Newcomb, NM" is attached as **Exhibit E**. The signatures on the document are dated 10-30-2022 and 11-02-2020.
- G. The Biological Resources Compliance Form 14CMNM-01A is attached as **Exhibit F**; the Historic Preservation Department Cultural Resources Compliance Form No. HPD-14-690 is attached as **Exhibit G**. The Congregational Methodist Navajo Mission Lease Application Environmental Assessment, Newcomb, New Mexico, prepared by Denali Environmental Services is attached as **Exhibit H**.
- H. The Application, the Navajo Nation Corporation Act Certificate of Authority dated August 26, 2014, the State of New Mexico Certificate of Good Standing dated January 5, 2021 are attached as **Exhibit I**.
- I. The Executive Official Review Document Number 016766 with reviews by the Department of Justice, Fish and Wildlife, Department of Water Resources, Minerals Department, Heritage and Historic Preservation Department, Division of Natural Resources Administration and the Navajo Land Department; and, review by the Navajo Nation Environmental Protection Agency by memorandum dated September 14, 2021 indicating "approved" or "sufficient" are attached as **Exhibit J**.

SECTION THREE. APPROVAL

- A. The Resources and Development Committee of the Navajo Nation Council hereby approves the Mission Site Permit for the Congregational Methodist Navajo Mission, subject to but not limited to the attached Terms and Conditions contained herein as **Exhibit A** which is attached hereto and incorporated herein by this reference.
- B. The Resources and Development Committee of the Navajo Nation Council hereby authorizes President of the Navajo Nation to execute all documents to affect the intent and purpose of this resolution.

CERTIFICATION

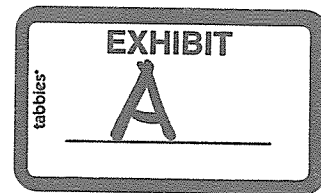
I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 24th Navajo Nation Council at a duly called meeting at Leupp, (Navajo Nation) Arizona, at which quorum was present and that same was passed by a vote of 5 in favor, 0 opposed, on this 30th day of November 2022.

A handwritten signature in black ink, reading "Wilson C. Stewart, Jr." with a stylized flourish at the end.

Wilson C. Stewart, Jr., Pro Tem Chairperson
Resources and Development Committee
Of the 24th Navajo Nation Council

Motion: Honorable Kee Allen Begay, Jr.

Second: Honorable Herman M. Daniels, Jr.



FORM Mission Site
10/01/2014
Amended 05/15/19

TERMS AND CONDITIONS FOR MISSION SITE PERMIT
CONGREGATIONAL METHODIST NAVAJO MISSION (PERMITTEE)

1. This Mission Site Permit is issued to the CONGREGATIONAL METHODIST NAVAJO MISSION to use and occupy Navajo Nation Trust Lands for religious purposes, and shall be subject to the terms and conditions set forth herein. The term of the Mission Site Permit is effective beginning on the date the permit is approved by the Resources & Development Committee of the Navajo Nation Council or authorized representative. The Permit is authorized by Resources and Development Committee No. _____.
2. This permit is revocable at the discretion of the Resources and Development Committee of the Navajo Nation Council. The permit shall immediately be revoked for the failure to use the land herein described for religious purposes. It is understood and agreed that this instrument is 'NOT A LEASE' and is not to be taken or construed as granting any leasehold interest or right in or to the land herein described, but is merely a temporary permit, terminable and revocable.
3. The Permittee shall be given at least thirty (30) days written notice before this Mission Site Permit is terminated and revoked. Upon termination of the Mission Site Permit, the Permittee shall have ninety (90) days in which to remove from the site to dispose of any and all buildings, structures, materials and equipment and other personal property owned by the religious organization. After the expiration of the ninety (90) days, the Permittee shall peacefully and without legal process deliver the possession of the premises to the Navajo Nation. All improvements not removed after ninety (90) days will become the property of the Navajo Nation, unless the Navajo Nation demands in writing that the improvements be removed.
4. This Permit is not transferable, except with the consent of the Resources and Development Committee of the Navajo Nation Council.
5. This Permit shall be reviewed every five (5) years to reevaluate the rent and compliance with the terms and conditions.
6. The legal land description of the premises is described as follows:

TRACT DESCRIPTION

A tract of land in the southeast Quarter (SE1/4) of Section 35 of Township 24 North, Range 18 West, N.M.P.M., San Juan County, New Mexico situate in the Newcomb area and being more particularly described as follows: Commencing AT THE Most northerly corner of said Parcel a point which bears South 03°02'01" East, a distance of 3,380.18 feet from the North Quarter (1/4) Corner of Section 35, Township 24 North, Range 18 West, N.M.P.M..

**thence South 63°15'13" East, a distance of 194.19 feet;
thence South 02°57'13" West, a distance of 218.70 feet;
thence North 89°54'40" West, a distance of 233.71 feet;
thence North 09°57'48" West, a distance of 165.73 feet;
thence North 35°10'44" East a distance of 173.99 feet to the Point of Beginning .**

granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation. The Permittee may not develop, use or occupy the area under the permit for any unlawful purpose.

8. In all activities conducted by the Permittee within the Navajo Nation, the Permittee 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 162;
 - 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 Law, 5 N.N.C. §§ 201 et seq.; and
 - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq. Permittee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
9. The Permittee 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 permit.
10. The Permittee shall clear and keep clear the lands within the permit area to the extent compatible with the purpose of the permit, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during any surface disturbance activities.
11. The Permittee shall at all times during the term of the permit and at the Permittee's sole cost and expense, maintain the land subject to the permit and all improvements located thereon and make all necessary and reasonable repairs.
12. The Permittee shall indemnify and hold harmless the Navajo Nation and their respective authorized agents, employees, land users and occupants, against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of the permit area by the Permittee.
13. The Permittee shall not assign, convey or transfer, in any manner whatsoever, the permit or any interest therein, or in or to any of the improvements on the land subject to the permit, without the prior written consent of the Navajo Nation. Any such attempted assignment, conveyance or transfer of the permit without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon condition or withheld in the sole discretion of the Navajo Nation.
14. The Navajo Nation may terminate the permit for violation of any of the terms and conditions stated herein. In addition, the permit shall be terminable in whole or part by the Navajo Nation or authorized representative for any of the following causes:

- a. Failure to comply with any terms and conditions of the permit or of applicable laws or regulations;
 - b. Non-use of the permit; and
 - c. The use of the land subject to the permit for any purpose inconsistent with the purpose for which the permit is granted.
- 15. At the termination of the permit, the Permittee 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 Permittee shall provide the Navajo Nation, at the Permittee's sole cost and expense, with an environmental audit assessment of the premises at least sixty (60) days prior to delivery of said premises.
 - 16. The Permittee shall give written notice to the Navajo Nation Land Department regarding any change to the Permittee's contact information, address, leadership, organizational name, or any other substantial change to the organization. The notice shall be given within thirty (30) days and delivered to the Navajo Land Department at Post Office Box 2249, Window Rock, Arizona 86515.
 - 17. Holding over by the Permittee after the termination of the permit shall not constitute a renewal or extension thereof or give the Permittee any rights hereunder or in or to the land subject to the permit or to any improvements located thereon.
 - 18. The Navajo Nation shall have the right, at any reasonable time during the term of the permit, to enter upon the premises, or any part thereof, to inspect the same and any improvements located thereon.
 - 19. By acceptance of the grant of permit, the Permittee 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 judgements for compensatory and punitive damages and injunctive relief, in connection with all activities conducted by the Permittee within the Navajo Nation or which have a proximate (legal) effect on persons or property within the Navajo Nation.
 - 20. By acceptance of the grant of the permit, the Permittee 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 permit or to the Navajo Nation.
 - 21. Any action or proceeding brought by the Permittee against the Navajo Nation in connection with or arising out of the terms and conditions of the permit shall be resolved administratively under the laws of the Navajo Nation and no action or proceeding shall be brought by the Permittee against the Navajo Nation, in any court of any state.
 - 22. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

23. 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.
24. 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 Permittee, and the term "Permittee," whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.
25. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the area under the permit and all lands burdened by the permit, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the area under the permit; and the area under the permit and all lands burdened by the permit shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.

Date: June 25, 2021

Date: _____

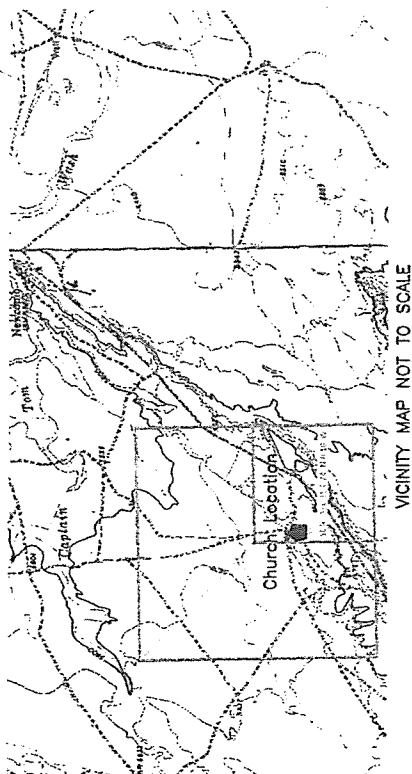
By:

By:

Sylvia A. Vermillion
(Permittee)

for
Congregational Methodist
Navajo mission

Jonathan Nez, President
The Navajo Nation



**A Record of Survey for the
CONGREGATIONAL METHODIST CHURCH
Missionary Site**
located in Southeast Quarter of Section 35,
Township 24 North, Range 18 West, N.M.P.M.,
Newcomb, San Juan County, New Mexico

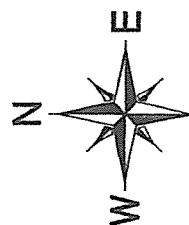
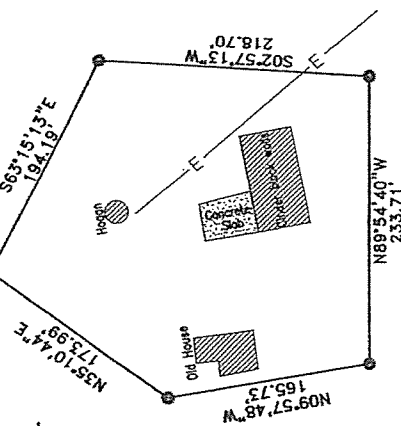
Sec. 26
Sec. 35

1/4 Corner
Found BLM B.C.
Lat: 36°16'41.7" N
Long: 108°43'43.8" W
WGS 84

S6°02'01"E
3,380.18'

P.O.B.
36°16'08.2" North
108°43'41.8" West

**CONGREGATIONAL METHODIST
CHURCH
MISSIONARY SITE SURVEY
1.5± Ac.
Disturbed**



1" = 100'

- Basis of Bearing: Solar Observation 08-22-14 P.M.
- Denotes set 1/2" x 18" Rebar with plastic Cap: NMPLS #12163
AZPLS #29694
- Lease Area is Disturbed
Utilities not located

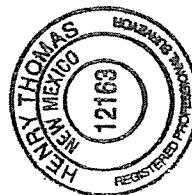
A tract of land located in the Southeast Quarter (SE1/4) of Section 35 of Township 24 North, Range 18 West, N.M.P.M., San Juan County, New Mexico situate in the Newcomb area and being more particularly described as follows:

Commencing at the Most northerly corner of said Parcel a point which bears South 03°02'01" East, a distance of 3,380.18 feet from the North Quarter (1/4) Corner of Section 35, Township 24 North, Range 18 West, N.M.P.M.,

thence South 63°15'13" East, a distance of 194.19 feet;
thence South 02°57'13" West, a distance of 218.70 feet;
thence North 89°54'40" West, a distance of 233.71 feet;
thence North 09°57'48" West, a distance of 165.73 feet;

thence North 35°10'44" East, a distance of 173.99 feet to the Point of Beginning
Said Parcel containing 1.5± Acres more or less in area and being subject to any restrictions, easements and reservations of record.

This is to certify that this plat was prepared from field notes of actual surveys made under my supervision. This survey complies with the minimum standards of property surveys in New Mexico and is accurately represented on the plat



Henry Thomas
Henry Thomas
Registered NMPLS #12163

Unm. Br.	RED VALLEY SURVEY
Approved	P.O. Box #2827, Shiprock NM 87420
HT	PH # (505) 320-0479
DATE	CONGREGATIONAL METHODIST
SCALE	CHURCH MISSIONARY SITE SURVEY
1.5± Ac.	
Shiprock Agency, Navajo Indian Reservation	
SE 1/4, Sec. 35, T24N, R18W, NMPH	
Newcomb, San Juan County, New Mexico	
RVS#14-153	

A SURVEY OF RECORD for an EASEMENT SURVEY of a WATERLINE

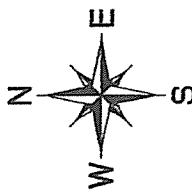
THRU NAVAJO TRIBE IN TRUST LAND
in the South One-half (S1/2) of SECTION 35,
TOWNSHIP 24 NORTH, RANGE 18 WEST N.M.P.M.
SAN JUAN COUNTY, NEW MEXICO

1/4 Corner
Found BLM B.C.
Lat: 36°16'15.6" N
Long: 108°44'16.2" W
WGS 84

Sec. 35

S45°27'16"E
(He) 993.99

Existing Water line
Sta: 0+00



1" = 200'

Footage & Acre Breakdown

Footage	Acres
Section 35 - 2538.34'	0.5834 Ac.
TOTAL 2538.34'	0.5834 Ac.

Basis of Bearing: Solar Observation 08-22-14 P.M.
Denotes set 1/2 x 18" Rebar with plastic Cap: NPLS #12163
AZPLS #29894
Utilities not located

N80°32'51"E
94.01'
Sta: 7+37.13
N64°19'13"E
88.68'
Sta: 8+48.45
S55°04'26"E
242.77'
Sta: 10+28.40
S72°51'10"E 197.26'
Sta: 8+31.14

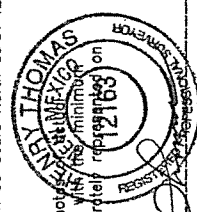
S89°10'46"E
1116.67'

Legal Description
A strip of land Ten (10) feet wide being five (5) feet on each side of the following described centerline located in the South One-half of Section 35 of Township 24 North, Range 18 West N.M.P.M., San Juan County, New Mexico situated in the Newcomb area and being more particularly described as follows.

Commencing at Survey Station 0+00 a point which bears South 45°27'16" East a distance of 993.99 feet from the West Quarter (1/4) Corner of said Section 35;

thence North 46°48'16" East, a distance of 848.45 feet to Survey Station 8+48.45; thence North 64°19'13" East, a distance of 88.68 feet to Survey Station 7+37.13; thence North 80°32'51" East, a distance of 94.01 feet to Survey Station 8+31.14; thence South 72°51'10" East, a distance of 197.26 feet to Survey Station 10+28.40; thence South 55°04'26" East, a distance of 242.77 feet to Survey Station 12+71.17; thence South 89°10'46" East, a distance of 1116.67 feet to Survey Station 23+87.84; thence South 40°50'37" East, a distance of 150.50 feet to Survey Station 25+38.34 a from which the North Quarter (1/4) of said Section 35 bears North 03°51'42" West, a distance of 3,550.12 feet.

This is to certify that this plat was prepared from field notes and that the same complies with the minimum standards of property surveys in New Mexico and is accordingly represented on the plat



Henry Thomas
Registered Professional Surveyor
NPLS#12163

RVS#14-210

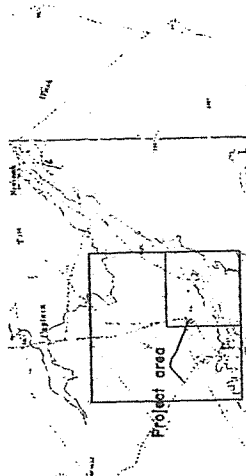
RED VALLEY SURVEY P.O. Box #2987 Albuquerque, NM 87120 Ph: (505) 320-0479	
Drawn By: H.T.	Approved By: H.T.
EASEMENT SURVEY for a WATERLINE for CONGREGATIONAL METHODIST CHURCH thru Navajo Tribe in Trust Lands located in the South One-half (S1/2) of Section 35 TOWNSHIP 24 North, Range 18 West, N.M.P.M. Newcomb, San Juan County, New Mexico	
DATE 11-20-14	SCALE 1"=200'

CONGREGATIONAL METHODIST
CHURCH
MISSIONARY SITE SURVEY
1.56 Ac.
Disturbed

Sta: 23+87.84
S40°50'37"E
150.50'
Sta: 25+38.34

N03°51'42"W
(He) 3,550.12'

VICINITY MAP NOT TO SCALE



Sec. 26

Sec. 35

1/4 Corner
Found BLM B.C.
Lat: 36°16'41.7" N
Long: 108°43'43.8" W
WGS 84

THE NAVAJO NATION

EXHIBIT

C

tabbles



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.

Project Applicant:

Congregational Methodist Navajo Mission

Project Name/Type:

Church, Educational, Relief

Project Description:

Sunday services, prayer, distribution of food, clothes, etc., youth activities

Location: Newcomb

Amount of land affected: 1 1/2 acres

Land Status: Trust ☒ Fee ☐ Other ☐

List only valid Grazing Permittees (tally counts) whose grazing rights will be affected by project:

	Names	Permit Number	Type of Land Use Right
1	<u>...</u>	<u>...</u>	<u>Grazing not valid GP</u>
2			
3			
4			
5			

ACKNOWLEDGEMENT

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

No Valid Grazing Permittee within the affected area.

6/24/2001
Date

[Signature]
Grazing Official or Land Board Member

#12
District No.

**CONSENT TO USE NAVAJO TRIBAL LANDS
FOR MISSION SITE**

TO WHOM IT MAY CONCERN:

I, Thomas Gould, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs to permit Congregational Methodist Church (Church) located approximately 1.5 miles from Newcomb Chapter to use approximately 1 1/2 acres of my assigned grazing land for church purposes.

Furthermore, I hereby waive any rights I may have to compensation for the taking of my land use and the diminishment of my land value as a result of the above request. Should the church liquidate or if the land taken for religious use is no longer needed, then I shall have the right to reclaim the land. The subject land will be re-incorporated back into my grazing allotment.

REMARKS: _____

Thomas Gould
Signature of Permit Holder

Census No.

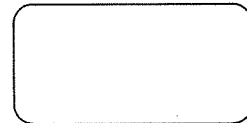
12-3138
Permit No.

07.09.2014
Date

WITNESSES:

Betty J. Ross (sister)
Dr. Rena M. Yazzie

Right Thumbprint



Lawrence Gould
(Print Name) Grazing Official/Farm/Land Board

Lawrence Gould
(Signature) Grazing Official/Farm/Land Board

Newcomb
Chapter

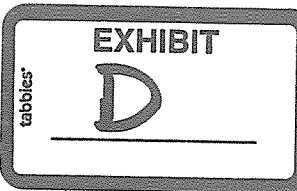
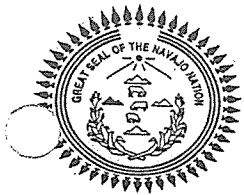
12
District No.

July 11, 2014
Date

Acknowledge 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 ☐

Signature of Land Department Field Agent Date



NEWCOMB CHAPTER – NAVAJO NATION

P.O. Box # 7946, Newcomb, New Mexico 87455; Phone: 505.686-3300 Fax: 505.696.5475

FY'2015
NWCB-020815-024

Resolution of the Newcomb Chapter

**SUPPORTING MR. WILFORD YAZZIE IN RE-ESTABLISHING A MISSION SITE LEASE
NAMED, CONGREGATIONAL METHODIST NAVAJO MISSION, LOCATED TWO (2) MILES
WEST OF THE NEWCOMB CHAPTER HOUSE**

WHEREAS:

1. The Newcomb Chapter is a duly certified Chapter governmental of the Navajo Nation with delegated authority to adopt ordinances and to adopt plans on matters of local concerns in the best interest of its local community membership; and
2. Pursuant to 26 N.N.C Section 1 (B) Newcomb Chapter is vested with the authority to review all matters affecting the community and make appropriate correction when necessary and make recommendations to the Navajo Nation and other local agencies for appropriate actions; and
3. The Newcomb Chapter community member Mr. Wilford Yazzie is establishing a Mission Site Lease named, Congregational Methodist Navajo Mission, located two (2) miles west of the Newcomb Chapter House and complete construction of a building; and
4. The location was previously established for a Mission Site by the Late Kee Joe Yazzie in which an unfinished building still stands; and
5. The current permittee is in support of the establishment and has consent 1.5 acres of land withdrawal; and
6. The Newcomb Chapter membership fully supports Mr. Will Yazzie effort of completing the required process for a Mission Site Lease.

NOW THEREFORE BE IT RESOLVED THAT:

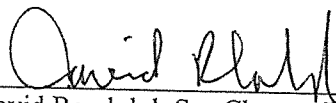
The Newcomb Chapter Membership hereby supports Mr. Wilford Yazzie in Re-Establishing a Mission Site Lease named, Congregational Methodist Navajo Mission, located two (2) miles West of the Newcomb Chapter House.

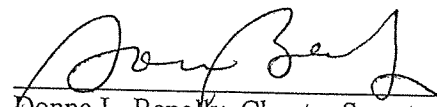
CERTIFICATION

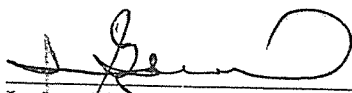
We, hereby certify that the foregoing Chapter Resolution was considered by the Newcomb Chapter membership at a duly called Chapter meeting at Newcomb, Navajo Nation (New Mexico) at which a quorum was present and hat same was passed by a vote of 17 in favor, 00 opposed, 01 abstained this 8th day of February, 2015.

Motioned: Edward Evans

Seconded: Harry Chee

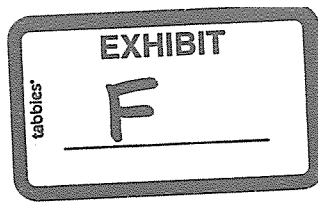

David Randolph Sr., Chapter President


Donna L. Benally, Chapter Secretary/Treasurer


Irving Gleason, Chapter Vice President

I support having a Congregational
Methodist Church in Newcomb, NM.

Betty L. Wilson	10-30-2020
Lillian Woodell	10-30-2020
Jennie Bagay	10-30-2020
Clara Jumbo	10-30-2020
Mary Jumbo	10-30-2020
Carliss J. M.	11-02-2020
Jennara A. M.	11-02-2020
Harrison R.	11-02-2020
Titus J.	11-02-2020
Faye J.	11-02-2020
Tyrone M.	11-02-2020
Jefferson Nez	11-02-2020
Maria Bagay	11-02-20-20
Anita M. Lee	11-02-2020
Sylvia J.	11-05-2020
K. V. Yazzie	11-05-2020
Roselyn Yazzie	11-05-2020
Bobbie B.	11-05-2020
Kyra Yazzie	11-05-2020
Sam Charles	11-05-2020



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.: Congregation of Methodist Navajo Mission

DESCRIPTION: The Congregation of Methodist Church Navajo Mission proposes to reconstruct a new church on an existing ± 1.50 -acre mission site. The proposed project includes the construction of a 2,500-ft. water pipeline, septic tank, leach field, and access road.

LOCATION: 36°16'06.0"N 108°43'41.0"W NAD83, Newcomb Chapter, San Juan County, New Mexico

REPRESENTATIVE: Leonard Robbins, Denali Environmental Services for the Congregation of Methodist Navajo Mission

ACTION AGENCY: Bureau of Indian Affairs & Navajo Nation

B.R. REPORT TITLE / DATE / PREPARER: Request for review & concurrence based on DR/01 OCT 2014/Denali

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3. The proposed 2,500-ft. water pipeline alignment and septic system location are unknown. The project description submitted with the Data Request did not include the proposed 2,500-ft. pipeline & septic system; therefore, were not evaluated.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: NA

CONDITIONS OF COMPLIANCE*: [1] The field survey for the proposed water pipeline and septic system was not conducted during the appropriate field season for the Mesa Verde Cactus (*Sclerocactus mesae-verdae*). A re-survey for the Mesa Verde Cactus must be conducted during the appropriate field season. The surveyor must consult with the NNHP botanist on the recommended survey buffer from the edge of disturbance. A survey report must be submitted to the NNHP for review and compliance.

FORM PREPARED BY / DATE: Pamela A. Kyselka/09 OCT 2014; amended on 31 MAR 2015

COPIES TO: (add categories as necessary)

☒ BIA ☐ _____

2 NTC § 164 Recommendation:

Signature

Date

☐ Approval

☒ Conditional Approval (with memo)

☐ Disapproval (with memo)

☐ Categorical Exclusion (with request letter)

☐ None (with memo)

Gloria M. Pom
Gloria M. Pom, Director, Navajo Nation Department of Fish and Wildlife

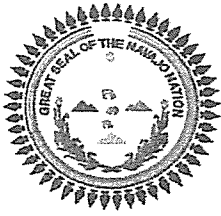
3/31/15

*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

Lydia A. Vermillion

Date *06-25-2021*



**PRESIDENT
BEN SHELL
VICE PRESIDENT
REX LEE JI**

NAVAJO FISH AND WILDLIFE

P.O. BOX 1480

WINDOW ROCK, AZ 86501

31 March 2015

14CMNM

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

Dear Mr. Robbins,

The Navajo Nation Department of Fish and Wildlife (NNDFW) reviewed your request for a Biological Resource Compliance Form (BRCF) for the **Congregation of Methodist Navajo Mission**. The project description submitted with the Data Request did not include the proposed water pipeline and septic system; therefore, the pipeline and septic system were not evaluated and included in the Response to Mr. Yazzie. In addition, the map submitted with your request for biological clearance did not illustrate the proposed 2,500-ft. water pipeline alignment and septic system location. The project was granted a Conditional Approval. The proposed project is approved with the following condition:

[1] The field survey for the proposed water pipeline and septic system was not conducted during the appropriate field season for the Mesa Verde Cactus (*Sclerocactus mesae-verdae*). A re-survey of the Mesa Verde Cactus must be conducted during the appropriate field season. The surveyor must consult with the NNHP botanist on the recommended survey buffer from the edge of disturbance. A survey report must be submitted to the NNHP for review and compliance.

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

Sincerely,

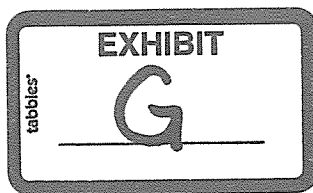
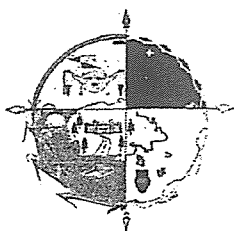
Pamela A. Kyselka, Wildlife Biologist
Navajo Natural Heritage Program
Department of Fish and Wildlife

CONCURRENCE

Gloria Tom, Director
Department of Fish and Wildlife

3/31/15

Date



THE NAVAJO NATION
HISTORIC PRESERVATION DEPARTMENT
PO Box 4950, Window Rock, Arizona 86515
TEL: (928) 871-7198 / 7134 FAX: (928) 871-7886

CULTURAL RESOURCE COMPLIANCE FORM

ROUTE COPIES TO:	NNHPD NO.: HPD-14-690
<input checked="" type="checkbox"/> NNAD	OTHER PROJECT NO.: NNAD 14-097

PROJECT TITLE: A Cultural Resources Inventory of Re-establishing a Proposed 1.5 acre Congregational Methodist Church Mission Site near Newcomb, San Juan County, New Mexico

LEAD AGENCY: BIA/NR

SPONSOR: Wilford & Linda Yazzie, PO Box 7465, Newcomb, New Mexico 87420

PROJECT DESCRIPTION: The proposed undertaking will involve the mission site lease approval and/or construction of a mission along with the installation of associated facilities/utilities within the 1.5-acre lease area. In addition, a 565-ft by 30-ft wide waterline was inventoried to serve the mission. The area of effect is therefore, 1.89-acres. Ground disturbance will be intensive and extensive with the use of heavy equipment.

LAND STATUS:	Navajo Tribal Trust
CHAPTER:	Newcomb
LOCATIONS:	T. 24 N, R. 18 W – Sec. 35; Newcomb Quadrangle San Juan County, New Mexico NMPM

PROJECT ARCHAEOLOGIST:	Lindsey L. Benally
NAVAJO ANTIQUITIES PERMIT NO.:	NTC
DATE INSPECTED:	09/02/14
DATE OF REPORT:	10/17/14
TOTAL ACREAGE INSPECTED:	3.82 – ac

METHOD OF INVESTIGATION: Class III pedestrian inventory with transects spaced 15 m apart.

LIST OF CULTURAL RESOURCES FOUND:	(1) In-Use Area (IUA)
LIST OF ELIGIBLE PROPERTIES:	None
LIST OF NON-ELIGIBLE PROPERTIES:	(1) IUA
LIST OF ARCHAEOLOGICAL RESOURCES:	None

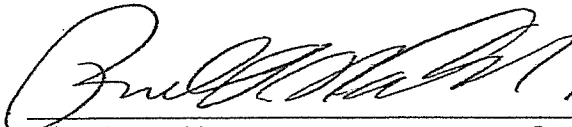
EFFECT/CONDITIONS OF COMPLIANCE: No Historic Properties affected.

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 17, 2014

Notification to Proceed
Recommended
Conditions:

☒ Yes ☐ No
☐ Yes ☒ No


The Navajo Nation
Historic Preservation Office
Date: 11-24-14

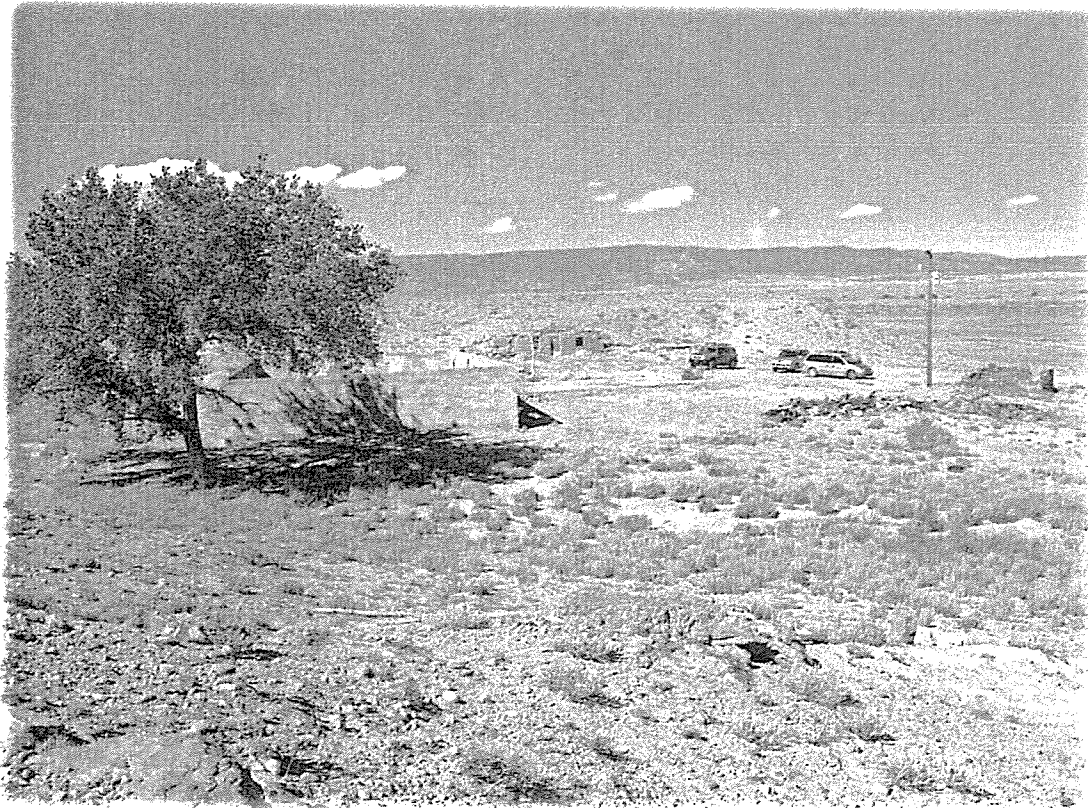
Navajo Region Approval

☒ Yes ☐ No


BIA – Navajo Regional Office
Date: 12/19/14

TLM 12.12.14

CONGREGATIONAL METHODIST NAVAJO MISSION
LEASE APPLICATION ENVIRONMENTAL ASSESSMENT
NEWCOMB, NEW MEXICO



PLS: SE/4 S35 T24N R18W, L&L: 36° 16' 6.8" N 108° 43' 42.1" W, UTM: 704,128 m E 4,015,930 m N

An Application for a Mission Lease in Indian Country

Navajo Regional Director Approval In Compliance With The
National Environmental Policy Act of 1969, National Historic Preservation Act of 1966
and Endangered Species Act of 1973

Prepared by:

Congregational Methodist Navajo Mission
Post Office Box 7465
Newcomb, New Mexico 87455

September 17, 2014

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

Denali Environmental Services

Page 1 of 2

P. O. Box 1127
Fort Defiance, Arizona 86504

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

Ltr Transmittal:

Date: 01-15-2015

Reverend Wilford Yazzie
c/o Congregational Methodist Navajo Mission
P.O. Box 7465
Newcomb, New Mexico 87455

WE ARE SENDING YOU

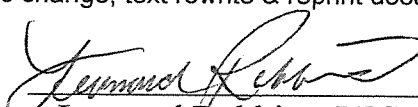
X	NEPA Environmental Assessment	NHPA Cult Res Field Survey Rprt	ESA Bio Resources Data Request Letter		CERCLA ESA Document
	NEPA Environmental Assessment FONSI	NHPA Cultural Res Compliance Form	ESA Bio Resources Evaluation / Assmnt		CERCLA ESA Request for Proposal
	NEPA Categorical Exclusion	HUD Statutory 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	X	Project Change Order
	NEPA EA Scope of Work	HUD SWS Scope of Work	ESA Bio Resources Scope of Work	X	Project Invoice
	NEPA EA Other	NHPA/HUD Other	ESA Other		Other

Copies	Date	Project No.	Description
1 ea.	01-15-2015		Congregational Methodist Navajo Mission
			01-15-15 Telecom change order: EA project title change, text rewrite & reprint document

THESE ARE TRANSMITTED AS CHECKED BELOW:

	For your coordination	See me		Prepare a response
	Circulate among staff	For your approval	X	For your use
X	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: Attached invoice for change order: EA project title change, text rewrite & reprint document.


Leonard Robbins, PES

**Figure 1. Congregational Methodist Navajo Mission
Newcomb, New Mexico**

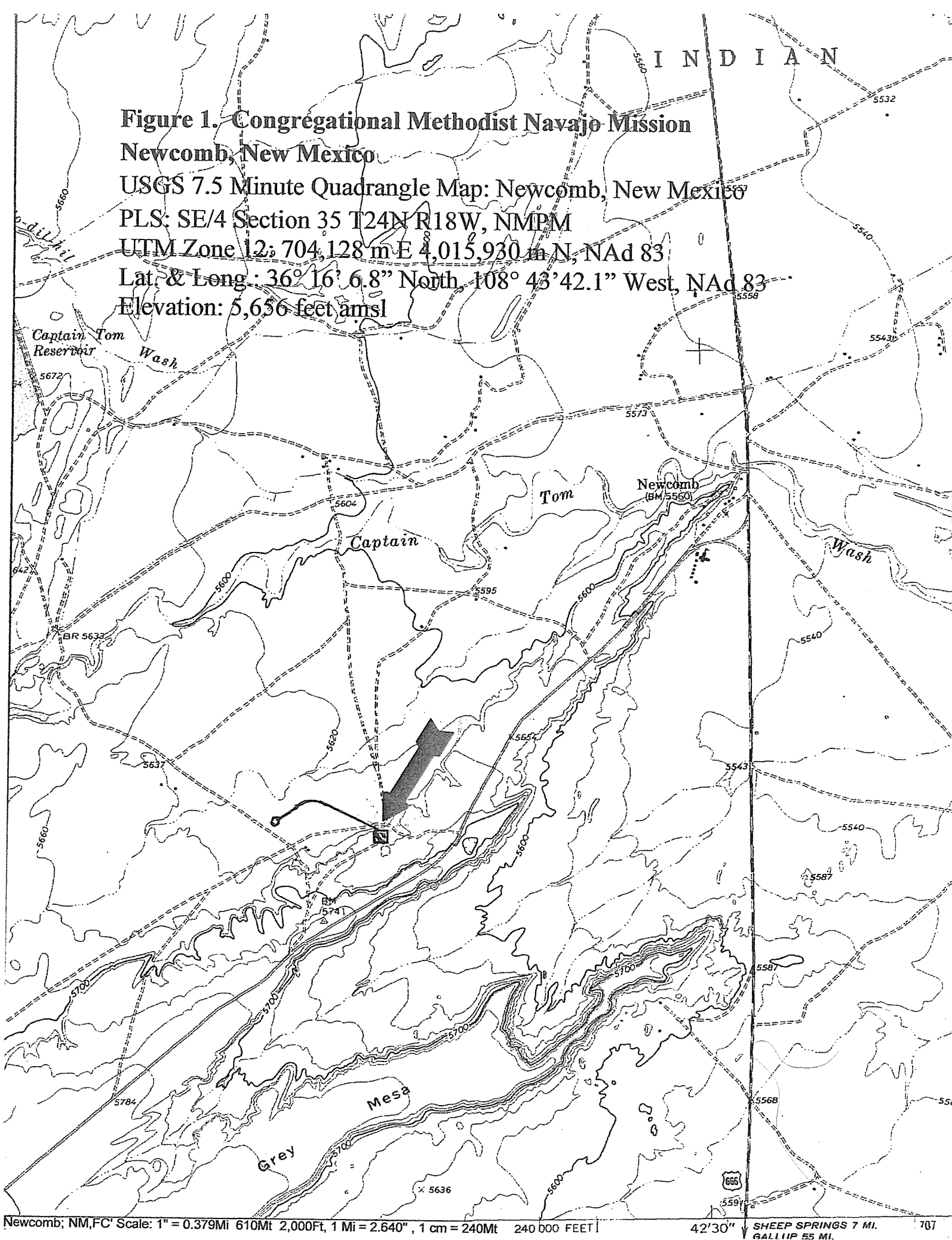
USGS 7.5 Minute Quadrangle Map: Newcomb, New Mexico

PLS: SE/4 Section 35 T24N R18W, NMPM

UTM Zone 12; 704,128 m E 4,015,930 m N, NAD 83

Lat. & Long.: 36° 16' 6.8" North, 108° 43' 42.1" West, NAD 83

Elevation: 5,656 feet amsl



CONGREGATIONAL METHODIST NAVAJO MISSION ENVIRONMENTAL ASSESSMENT

1.0 THE PROPOSED PROJECT

The Congregational Methodist Navajo Mission of Newcomb, New Mexico is preparing an application for a church lease. The proposed tract would be used to construct a new church sanctuary, fellowship hall and water pipeline. Reverend Wilford Yazzie intends to make application with the Navajo Land Department in Shiprock, New Mexico, and the Navajo Regional Office, Bureau of Indian Affairs, Gallup, New Mexico. Appendix A depicts the proposed church lease boundary and water pipeline land survey. The application and approval action will present a long-termed lease for the mission site.

Located approximately 1.5 miles southwest of Newcomb Chapter, the proposed mission project area and pipeline are shown at Figure 1. The Newcomb Chapter has passed a resolution approving the church proposed action, as shown at Appendix B. In the future, the Resource and Development Committee of the Navajo Nation Council would address a committee resolution for the proposed project. Final approval would be implemented by the Navajo Regional Office, Bureau of Indian Affairs.

1.1 Description of the Proposed Action.

Onsite, the proposed project area acreage at 1.5 acres would be totally developed. The proposed project site has an "as built" church building, previously constructed and operated by the applicant's family. The proposed lease tract would include a new church building and front porch (partially built), vehicle parking, and infrastructure. The new church building would encompass approximately 60'X60' (3600 square feet). The proposed building would include a sanctuary, fellowship hall, classrooms, kitchen, dining area and office. Restrooms would be located in the lobby area.

Open areas, adjacent to the buildings, would be used for ramada canopy meetings, wedding receptions, picnics, and athletic activities. Playground equipment would be temporary installed for the ministry children. A septic tank and leach field would be constructed on the northeast corner of the tract.

Infrastructure would include a proposed water pipeline, electrical power (as built), waste water septic tank and leach field. Utilities in the Newcomb Chapter area are provided by the Navajo Tribal Utility Authority. NTUA would provide electrical power and a water source. A 2,538 feet water line, encompassing 0.583± acre, would be constructed on the northwest side to service the church. The water line would tap into the existing community water system. An existing single phase 14.4 kv service line serves the church tract onsite. Propane gas is planned for heating and cooking.

A vehicle parking area would be included in the lease area. Construction of a new access road to the proposed parcel will not be required, as the church site is located adjacent to the existing main road. A turnout off the main road will provide access to the church site.

1.2 Purpose and Need

The purpose of the land use permit application is to organize and all-lawful religious business

for the Congregational Methodist Navajo Mission, a nonprofit corporation. Operations of the church would include Sunday religious services and Christian educational instruction for the community congregation. In the future, various incremental improvements would be constructed on the buildings and property. The proposed long-term church lease would support the operations and maintenance of the church. The need of the ministry is to provide teaching and spreading of the Gospel of the Lord Jesus Christ in accordance with the doctrines and teachings of the New Testament, and for religious educational, benevolent and charitable purposes, and public worship. The church would provide families religious services on Sunday and Christian educational instruction. The church would provide hope and faith to the congregation and a better quality of life.

1.3 Location

The land boundary survey of the proposed project tract, at 1.5 acres, is shown in Appendix A. Figure 1 depicts the tract location on the USGS 7.5 Minute Quadrangle Map entitled *Newcomb, New Mexico*. Table 1 below describes the location coordinates for the proposed project.

Table 1. United States Geological Survey 7.5 Minute Quadrangle Map *Newcomb, New Mexico* Waypoint Coordinate Descriptions of the Proposed Congregational Methodist Navajo Mission.

Description	Legal Description	Latitude and Longitude NAd 83	UTM Zone 12
Methodist Church	SE/4 S35 T24N R18W	36° 16' 6.8" N 108° 43' 42.1" W	704,128 E 4,015,930 N

The propose project area, located on Navajo Tribal trust lands, is 1.5 miles southwest of Newcomb Chapter, Shiprock Agency, San Juan County, New Mexico. The proposed project is at an elevation of 5,656 ± feet amsl.

1.4 Project Authorization

The purposed mission site is authorized by the Navajo Nation Trust Land Leasing Act of 2000, Public Law 106-568 and 25 USC Code § 415(e). Navajo Nation Code at Title 16 Land, Chapter 11 § 1101, Land for Public, Charitable and Religious Purposes, authorizes the Navajo Land Department to participate and manage land use leases on the Navajo Indian Reservation projects in rural Utah, Arizona, and New Mexico.

The Bureau of Indian Affairs is the lead Federal agency, as authorized by the Synder Act of November 20, 1921, 25 USC Chapter 1 § 13, which establishes appropriation for BIA leasing activity.

1.5 Purpose of Environmental Assessment

The environmental assessment is an instrument required by federal law and regulations to determine if potential impacts of a federal action are of such significant as to require the preparation of an environmental impact statement. The proposed federal action is approval of a land lease permit. The approval of the mission lease will allow the operator to withdraw a tract of land, on which to further construct, operate and maintain a church facility. This document

addresses potential impacts and mitigation for the approval of the permit. The approval of the proposed land use is a trust responsibility of the Bureau of Indian Affairs, which has jurisdiction over trust resources of the Diné People, and as managed by the Navajo Nation.

2.0 ALTERNATIVES

2.1 Alternate Site Locations

An alternate site, of sufficient size and at a location as convenient as the proposed location, is not available. Grazing permit holders generally try to retain their grazing permitted areas intact, and not to become fragmented. As permitted, holistic grazing areas are needed to sustain livestock herds. Other land use permits, i.e. church site of adequate size, become impossible to acquire. Open areas in the vicinity are used for family residents, livestock grazing and small dry farming.

Alternate locations were reviewed. Alternate site locations would be subject to the same assessments, approvals and clearance process as the preferred alternative. An alternative site would require a restart of approvals, starting with the grazing permit holder on trust lands, archaeology clearance, and biological resource assessment. When approved, existing grazing permit holders may reverse their decisions and reject the alternate location. The approved chapter and proposed Resource and Development Committee resolutions would become mute.

2.2 No Action Alternative

If the no action is taken, the proposed long-term church lease would not be approved. The existing church site would be without a church lease. Improvements to the church may not be constructed. Religious services and benefits to the local people would be curtailed and not be normally provided. Addition church construction would not go as planned. The existing tract would not be used, and would not be elevated to a higher productive state. The project would not be in compliance with the National Environmental Policy Act, and would continue to be noncompliant to Navajo Nation Environmental Codes. There would be no environmental assessment document, nor associated cultural and biological resource studies.

2.3 Approval of the Preferred Alternative

The preferred alternative involves approval of a Federal permit or lease which would allow for the construction, operation and maintenance of a church site for the people of Newcomb Chapter. Details of the preferred alternative and scope are described in Section 1.0, Description of the Proposed Action. The proposed land use permit would be approved by resolution of the Resources and Development Committee of the Navajo Nation Council. The BIA would provide final approval. The Newcomb Chapter support resolution is attached as Appendix B.

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

Located in San Juan County, New Mexico, Newcomb Chapter has a semi-arid climate, at an elevation of 5,656 feet above mean sea level. The chapter experiences four distinct climatic seasons and has an annual average maximum temperature of 69.2°F and average minimum temperature of 14.0°F. Summer highs reach the mid 90's with lows in the upper 50's to lower 60's. Winter highs in January are at 42.6's with average lows at 14.0. Average annual precipitation is 6.0 inches and average annual snowfall is 0.5 inches with an average snow depth of less than one inch (WRCC 2014). Due to the size and nature of the work, 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 mission site is located on the west flank of the San Juan Basin Syncline. The regional geologic structure is stable. Eroded surface sandstone soils are of the Upper Cretaceous Member of the Menefee Formation. Surface soils are alternating beds of tan and brown sandstone and gray and brown claystone and siltstone. There are no regional faults or fissures in the area. The geologic formation dips gently approximately three degrees to the east (Cooley, M.E, J.W. Harshbarger, J.P. Akers, and W.F. Hardt, 1969). Based on the history of the area, geology will not be a factor in this development. There are no surface mineral resources located on the proposed tract. No mitigation is required for any geologic adversity.

3.1.3 Fisheries

There are no fisheries or fishery habitat occurrences in the Newcomb Chapter. Chapter residents would have to travel west to the Chuska Mountains for an afternoon of picnicking and fishing at Berland Lake or Whiskey Lake. Morgan Lake southeast of Shiprock offers a warm water fishery.

3.1.4 Socioeconomics and Environmental Justice

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

Newcomb Chapter is a sparsely populated rural chapter. There are currently 324 homes in the Newcomb community. According to the 2004 census, approximately 738 people reside in the Chapter, which would indicate a population density of 8.3 persons per square mile. Native Americans make up 94.8% of the population (NN DED/LSRI, 2004).

Newcomb Chapter's economy is primarily based on employment with the Navajo Nation (educational, health, social services and public administration). Currently most residents in the Chapter area are wage earners, working a various government and commercial jobs in nearby towns and cities. Major employers in the area vicinity include the BIA Toadlena Boarding School, Newcomb School District, Newcomb Chapter and the Mustang Store.

Federal, state and tribal government services, law and order, schools and major retail outlets are available at Shiprock and Gallup, New Mexico. An Indian Health Service Hospital is located in Shiprock, New Mexico. San Juan Regional Hospital is located in Farmington, New Mexico.

In the past, the economy was primarily based on livestock production, but this is no longer the predominate source of income, and now livestock production makes up a small percentage of the Chapter's economy. While unemployment is high throughout the project area, raising livestock has been a sustainable economy in the past. The retired elderly in the area still carry on the

livestock rising life style. Traditional rug weaving provides some families with a source of income. Land use areas are relatively small and not large enough to sustain a viable operating ranch for the entire family. However, the younger family members wish to be with their elders and have moved back into the old homesteads; build their new houses on the ranch land. The area provides a better quality of life, in contrast to apartment living in nearby towns.

Environmental Justice

In accordance with the Environmental Justice, the project would have no disproportionate effects on minorities or low-income populations. Consistent with the project purpose, the project would benefit the community by providing religious services and education. Executive Order 12898, Environmental Justice, 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. The church will be for the beneficial use of the Navajo Indian People and residents of the community. The local chapter has approved a supporting resolution, see 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 also approve the project.

The project would allow religious services and education to the people, lead better lives in the community, and would further provide a better quality of life for the congregation and community. Environmental Justice-the proposed action will benefit all sectors of society.

3.1.5 Land Use and Zoning

The existing and proposed property would be located on Indian trust land in Newcomb Chapter, Shiprock Agency. The surrounding land use is set aside for livestock rangeland use. The site is currently grazed year-around by domestic livestock, as marginal vegetation exist onsite. A dam and livestock watering hole is located behind the church, on the south side. The livestock watering point is currently dry. For many years the project site was used by the grazing permit holder. Soils in the immediate vicinity of the proposed tract are totally disturbed and nearly devoid of any natural vegetation from existing land uses. Ruins of a stone house and rock hogan remain onsite.

According to the Navajo Fish and Wildlife Department, the proposed church site would be located in an Area 3 Low Sensitive Wildlife Resource area, due to habitat requirements wildlife species are not present. The proposed site is located in a Desert Grassland Ecosystem. Vegetation cover is marginal. Site vicinity soils are largely atypical, previously disturbed.

Vicinity properties in all directions contain the following: on the south side, adjacent to the proposed project site, is a dam for livestock watering. The east side is an undisturbed rocky mesa out slope as part of the surrounding mesa. An existing single phase electrical line with transformer is located on the NE side. The hogan ruin and major access road is located on the north side of the proposed lease. The former rock house abuts the mesa out slope on the west site. Atypical disturbed areas adjacent to the proposed church site have been used for various purposes in the past.

A cluster of houses, livestock corrals and vehicles are located ½ mile to the west of the church site. An old community landfill is located approximately 3/8 mile northeast of the proposed church

site. The landfill is buried and no longer in use. Navajo Route N5001 is located one-mile south on the mesa. The ephemeral Captain Tom Wash is located to the north.

Navajo Route N5001, a major dirt road, would provide access from Newcomb to U.S. 491 highway. A dirt spur road off of N5001 provides access to the proposed church lease and residents west of the church site. A short access road off of the spur road would provide access to the church site.

Indian Trust Resources

The mission site would occupy a 1.5 acre parcel and the pipeline right of way at 0.583 acre, 2.083 total acres. This acreage would be withdrawn for the church site use and the pipeline right of way. There are no other bankable assets, such as timber, fossil fuels, fossils, or valuable minerals on the tract, surface or subsurface. Other than surface use, the proposed church lease will not impact any other Indian trust assets of the Diné People.

3.1.6 Prime Farmland

There are no Prime Farmland occurrences in the proposed project area. Due to the arid climate, dry farm land is very limited in the Newcomb area. Individual irrigated fields are located along Captain Tom Wash, however not in the vicinity of the proposed mission.

3.1.7 Recreation

Bowl Canyon Assayi Lake, Wheatfields Lake and Berland Lake in Chuska Mountains would be the nearest fishing lakes from Newcomb. The lakes would offer a cold-water fishery such as rainbow and cutthroat trout. Other outdoor recreation sports such as hiking, picnicking, camping, small and big game hunting is available.

Located northeast of Newcomb, Navajo Lake State Park and Cutter Dam would be a favorite fishing lake for cold water fish. The lakes offers picnicking, hiking and fishing.

Aztec Ruins National Monument, northeast of Farmington, offers well preserved ruins date back to about 1100 AD. Chaco Culture National Historical, 45 miles east of the project area, offers extensive ruins dating from about 1,000 years ago are related to other Anasazi cultures of other well-known sites in the Four Corners region, such as Mesa Verde. The National Park Service administers the two parks. Bisti & De-Na-Zin Wilderness located east of the project area is characterized by colorful land forms and unique geological features; fossils and petrified logs. Both wilderness areas are administered by BLM.

Gathering - approximately every three to five years, vicinity pinon trees in the project area will yield a bumper crop of pinon nuts. Native people would gather this crop for individual consumption. The pinon nuts would also be sold to local traders for cash.

Locally, horseback riding is another source of outdoor recreation, as horses and horse stables were observed. "Chicken Pulls" or rodeos are also a traditional sport and form of outdoor recreation in the region. In addition to the hunting, fishing, and gathering as described above, it is evident that ATV is another source of recreation. ATV vehicles were observed during site reconnaissance.

3.1.8 Traffic

The existing church is located in a rural setting along an unnumbered family access road. The family access road serves a family homes and a small ranch to the west of the proposed lease. The existing church and proposed lease area will not impacted the existing transportation use network; any activity and new construction at the proposed lease area would not be impact the use of any local routes.

3.1.9 Noise

The project area is located in a rural environment, which family homes and small ranches are located. No published noise ordinance for construction activities exists in the Navajo Indian Reservation, including the proposed lease area. Ambient noise would be increased by engine noise created by the motors of cars and pickup trucks for a very short duration. Due to the remoteness of the project area, and low volume of traffic on the route, noise would not have an effect on the proposed action. A backhoe tractor may be used during the day light hours. Noise would not be a factor in the proposed action.

3.1.10 Floodplain

The tract is not located on a floodplain; nor located in a flood prone area. Captain Tom Wash, a broad drainage basin, generally flows east at a moderate slope, which is ample drainage. Floodplain maps were reviewed. The project area is excluded from any floodplain designation by the floodplain study (Morrison Maierle Inc., 1977).

3.1.11 Wetlands and Riparian Habitat

The Toadlena National Wetlands Inventory Map (USF&WS, 1984) indicates structures north of the proposed project area along Captain Tom Wash. The wash is ephemeral; water regime is dry, non-tidal and may be temporary flooded during the monsoon season. A livestock impoundment is located just south of the proposed church site. The purported wetland site (impoundment) do not exhibit hydric soils, nor hydrophilic vegetation, nor does it support a wetland hydrology (U.S. ACOE,1987). There are no wetland or riparian habitat occurrences.

3.1.12 Hazardous, Toxic, and Radiological Waste

Other than surrounding scattered housing, and 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 church site. 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 church site. Hence, there will be no residual hazardous effects on the proposed church lease.

CRITICAL ELEMENTS

3.2 Topography and Soils

3.2.1 Existing Conditions

The Persayo-Rockland soil association occurs on gently sloping to undulating and rolling hills, tilted ridges and ledges, with sandstone and interbedded shale outcrops and cobble stone (NMSU-AES, 1973). The proposed site is located in a Desert Grassland Ecosystem. Undisturbed mesa out-slope top soils are covered with cobble stone 1" to 8" in diameter. Soils under the cobble stone are clay-shales and fine sandstone. Due to overgrazing and livestock trampling, natural vegetation cover is marginal. Site vicinity soils are largely atypical, previously disturbed. The tract drains north to the Captain Tom Wash. Onsite topography, eroded mesa tops dip approximately three percent toward the east, that allow for ample drainage to the Chaco River. The Chaco River drains north, eventually into the San Juan River, approximately 45 miles north. Project elevation is 5,656 ± feet amsl.

3.2.2 Effects

The topography and soils, as they exists now, will not impact the proposed undertaking.

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 drains north and into the Captain Tom Wash, which flows east to the Chaco River and north to the San Juan River. The primary discharges of these drainages occur during the spring months, during the spring snow thaw and during occasional intense summer thunder showers in late summer. As a result, the stream flow is erratic and fluctuates widely both seasonally and annually. Torrential thunderstorms can produce flood-stage flows within minutes (Cooley, M. E., J. W. Harshbarger, J. P. Akers, & W. F. Hardt, 1969).

NTUA would provide Safe Drinking water to the church and from the Newcomb Community Water System. Newcomb Community wells are located in the upper Captain Tom Wash watershed.

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. The church site plans to construct a septic tank and leach field to collect its sewage. No impacts to the natural ground water in the church vicinity may be expected by the approval of the lease application. The church facility would become part of the Newcomb Community Water System.

3.3.3 Mitigation

The propose undertaking is a church lease application. The proposed project lease area and church is an "as built" facility. The old church has been destroyed and the proposed church has been partially constructed. Future church improvements would be constructed in an incremental manner, as church funds become available. Clean Water Act Section 402 (p) will not be applied for. Previous surface disturbance has stabilized.

3.4 Vegetation and Wildlife- Biotic Resources

3.4.1 Existing Conditions

The Newcomb church site and chapter are located in the Great Basin Grassland Ecosystem of northwest New Mexico. At an elevation of 5,656 amsl, the biome is a sagebrush-grassland

vegetation type, with intermittent juniper, yucca, and prickly pear occurring in the low areas and on the north slopes.

The Great Basin Grasslands 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 grassland areas also receive a larger percentage of their precipitation during the winter and spring months; May through August rainfall averages less than 127 mm (5 inches)”. At lower elevations the contact is most frequently with Great Basin desertscrub (Turner, R.M. & Brown, 1994).

Perennial grasses of this biome are represented by the following species: Ring muhly *Muhlenbergia torreyi*, Blue grama *Bouteloua gracilis*, Galleta *Hilaria jamesii*, Indian ricegrass *Oryzopsis hymenoides*, Bottlebrush squirrel tail *Sitanion hystrix*, Needle and thread *Stipa comata*, Red-three awn *Aristida longiseta*, and Sand dropseed *Sporobolus cryptandrus*. Alkali sacaton *Sporobolus airoides* can be found in the swales and in the low areas along arroyos and washes (Turner, R.M. & Brown, 1994).

Forbs, although widely scattered in this sagebrush grassland community, are represented as Aster *Aster*, Coneflower *Ratibida*, Indian paint brush *Castilleja applegatei*, Thistles *circuimmutus* and Groundsel *Senecio*. These forbs will present showy flowers during the wet season.

Shrubs such as Four-wing saltbush *Atriplex canescens*, Sagebrush *Artemisia*, winterfat *Ceratoides lanata*, Cholla *Opuntia*, Soapweed yucca *Yucca glauca*, rabbit brush *Chrysothamnus*, and Snake weed *Gutierrezia* would be scattered throughout the biome. Grazing and human activity may alter the distribution of snakeweed, rabbit brush, and sagebrush.

Annual plants (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 parcel (De Witt I., Robert, 2006).

Distinct fauna of the Great Basin Grassland include the whitetail prairie dog *Cynomys gunnisoni*, pocket mouse *Perognathus parvus*, Ord’s kangaroo rat *Dipodomys ordii*, and the montane vole *Microtus montanus*. Other mammals include the coyote *Canis latrans* and black-tailed jackrabbit *Lepus californicus*. Although rare in the Chapter, Pronghorn antelope are occasionally spotted on the grassland areas 50 miles to the southeast.

Birds, indigenous to the ecosystem, are the Mountain plover *Charadrius montanaca*, lark blunting *Calamospiza milanocorys*, sparrow *Ammodramus*, sage thrasher *Oreoscoptes montanus*, sage sparrow *Amphispiza belli*, and horned lark *Eremophila alpestris*. Other grassland bird species include the Western meadow lark *Sturnella neglecta*, Prairie falcon *Falco mexicanus*, and Burrowing owl *Athene cuicularia* (Turner, R.M. & Brown, 1994). Due to the abundance of forage (ground borrowing rodents), Golden eagles *Aquila chrysaetos*, Cooper’s hawk *Accipiter cooperii*, and Redtail hawks *Buteo jamaicensis* are occasionally sighted on the grasslands.

Due to its long cold winters in the Great Basin, reptiles are not well represented. Common species include the sagebrush lizard *Sceloporus graciosus*, and the Great Basin spadefoot toad *Scaphiopus intermontanus*, and collared lizard *Crotaphytus collais*. The Northern desert horned lizard *Phrynosoma platyrhinos*, Northern whiptails *Cnemidophorus tigris tigris*, Great Basin gopher snake *Pituophis melanoleucus deserticola* and Great Basin rattlesnake *Crotalus viridis* are a few of the other common reptile species (Turner, R.M. & Brown, 1994).

3.4.2 Effects

The area presently provides suitable foraging and nesting habitat for small mammals and birds. The proposed lease area will have no effect on the biota, as the species are not present. Initial field surveys indicate that species are not present on the proposed lease area, therefore the proposed project would not cause an incremental 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 Threatened and Endangered Species

3.5.1 Existing Conditions

Navajo Fish and Wildlife Department indicates the proposed church site would be located in an Area 3 location, an area of Low Sensitive Wildlife Resources, i.e., due to habitat requirements, wildlife species are not present. See the Navajo Nation ESA & NESL consultation at Appendix D. The proposed site is located in a Desert Grassland Ecosystem. Vegetation cover is marginal. Site vicinity soils are largely atypical previously disturbed.

However, reconstruction of the existing church includes the new construction of the proposed waterline. The NDF&W Biological Resources Compliance Form stipulates conditions of compliance requires a field survey for the proposed water line and septic system be conducted during the appropriate field season for the Mesa Verde cactus, which would be usually be conducted during the flowering season in April of the year. Field surveys were conducted in August and September of 2014. The MVC was not found along the pipeline or pipeline right of way during the time.

The NDF&W data request consultation letter was received by the ministry September 22, 2014. The biological land clearance procedure, as stated in the NHP letter, qualifies the church site as an Area 3, an area of Low Sensitivity. The NDF&W data request/response letter also states there is no Federal listed species, or NESL, in the church development tract, nor is there a designation of critical habitat in the region.

3.5.2 Effects

Impacts posed by the existing church and water line can be expected to be minimal. The existing church and proposed water 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 these species are generally not found on the project area. The Navajo Department of Fish and Wildlife concurs with the finding: no federal ESA or Navajo NESL species would be impacted. See Appendix D for the Biological Resource Compliance Form and biological resource consultations.

3.5.3 Mitigation

The NDF&W recommends prior to construction the proposed activity would require a preconstruction survey of potential Mesa Verde cactus along the waterline right of way and buffer zone during the flowering season. Any MVC plants found during the survey, within the proposed project area, will be reported to the NDF&W biologist for appropriate mitigation prior to construction activities.

3.6 Navajo Endangered Species List (NESL) Special Management Species

3.6.1 Existing Conditions

The Navajo Department of Fish and Wildlife's *Biological Resource Land Clearance Policy and Procedures* (BRLCP&P) was consulted. The land clearance procedure qualified the church tract and surrounding area as an Area 3, an area of low sensitivity.

3.6.2 Effects

The proposed lease area will have no effect on the NESL, as the species are not present. Initial field surveys indicate that species are not present on the proposed lease area, therefore the proposed project would not cause an incremental loss of potential nesting, cover and forage habitat of terrestrial flora and fauna species. The Navajo Department of Fish and Wildlife concurs with the finding. See Appendix D for the Biological Resource Compliance Form and biological resource consultations.

3.6.3 Mitigation

No mitigation would be required for the Navajo NESL species. See the Biological Resource Compliance Form at Appendix D and biological resource consultations.

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 4.

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, in which the Navajo Indian Reservation and the Shiprock Agency are located. Although migratory birds could potentially occur in the area, none were observed during the site visits.

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 migratory birds, in the project area. The grassland habitats and associated wildlife species would be expected to remain the same.

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 in the existing church areas. 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.

Table 2. 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. Specie not present.	Zero
American Bittern <i>Botaurus lentiginosus</i>	Wading bird inhabits wetlands, usually dense marsh reeds, rushes and shedges.	No suitable habitat present.	Zero
Bald Eagle <i>Haliaeetus leucocephalus</i>	Coast, rivers, large lakes; in migration, also mountains, open country.	No conflict anticipated	Zero
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	Zero
Golden Eagle <i>Aquila crysaetos</i>	Open grasslands or desert scrub, In mountainous canyon terrain. Nest on cliffs and trees.	No conflict anticipated	Zero
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.	Zero
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 not present.	Zero
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.	No suitable habitat.	Zero
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.	No suitable habitat. Little conflict anticipated.	Zero
Pinyon Jay <i>Gymnoprjornus cyanocephalus</i>	Juniper Savannah, 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 juniper-pinyon woodland.	No suitable habitat.	Zero
Veery <i>Catharus fuscescens</i>	Inhabits dense moist woodlands and streamside thickets. Casual in the Southwest.	No suitable habitat.	Zero
Bendire's Thrasher <i>Toxostoma bendirei</i>	Brushy desert shrub, especially areas of tall vegetation, cholla cactus, creosote bush and yucca.	No conflict anticipated	Zero

Grace's Warbler <i>Dendroica graciae</i>	Inhabits coniferous or mixed forests of southwest mountains, especially yellow pines. Usually forages high in the trees.	No suitable habitat present.	Zero
Brewer's Sparrow <i>Spizella breweri</i>	Inhabits mountain meadows and sagebrush flats.	No suitable habitat present.	Zero
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 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.	No suitable habitat in project area.	Zero

3.7.3 Mitigation

NN DF&W policy mandates that prior to construction the proposed activity would require a preconstruction survey of potential nesting birds on the tract, should large-scale construction occur during the breeding season. Any bird nests found during the survey, within the proposed project area, will be reported to the NN DF&W 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 – TPM (measured as PM₂) – has been replaced by the measure of finer particulate matter (PM₁₀) as the federal mandated 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 other construction equipment. However, these pollutants will not be generated in sufficient concentrations to produce measurable adverse effects to structural metals, paint and fabrics, or damage to vegetation. Construction activities, facilities, and infrastructure, will not have a significant long-term effect on the ambient air quality in the project area.

3.8.3 Mitigation

Disturbed soils during 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 to marginal, depending on the season.

3.9.2 Effects

Locally, the primary 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 site preparation would be dampened by watering for dust suppression and soil compaction.

3.10 Cultural Resources

3.10.1 Existing Conditions

Navajo Nation Archaeology Department of Shiprock, New Mexico conducted the archeological field survey of the proposed lease area. The archaeologist crafted a field report entitled: *A Cultural Resource Inventory of Re-establishing a Proposed 1.5 Acre Congregational Methodist Church Mission Site Near Newcomb, San Juan County, New Mexico*. The cultural resource field inventory report recommends "No historic properties affected". In addition, 2,538 feet long waterline rights of way (0.583 acre) was field inventoried to serve the mission. The total area of effect is therefore 2.083 acres total. Ground disturbance would be intensive and extensive with heavy equipment (NNAD, 2014).

3.10.2 Effects

Navajo Historic Preservation Department-Compliance Section has coordinated review of the cultural resource report with the Navajo Regional Office, Division of Environment, Cultural Resources and Safety Management, Bureau of Indian Affairs. A Cultural Resource Compliance Form HPD-14-690 has been created for this undertaking, as shown in Appendix C. A finding of "No Historic Properties Affected" to the cultural resources is determined for the proposed church lease (NNHPD, 2014).

3.10.3 Mitigation

The church management 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 will cease and the Navajo Nation Historic Preservation Department will be notified at (928) 871-7132.

3.11 Native American Religious Concerns

3.11.1 Existing Conditions

As part of the archeological inventory, interviews regarding traditional cultural properties (TCPs) were conducted. No sacred sites or traditional cultural resources were identified within the proposed site.

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 (TCPs) 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 of 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 church tract. Additionally, no TCP 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, home site owners, and local residents were conducted. Results of the interviews indicate there are no known TCPs 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 and affected during the cultural resource field survey.

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 past 1970s, the previous church building was built by the grazing permit holder, Mr. Thomas Joe Yazzie. The church operated for approximately 45 years, until recently, when the old structure was vandalized and burned down.

Currently, there are no other ongoing or reasonably foreseeable church projects in or near the project area. The proposed 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 2.083 acres of trust land to the development. It is the practice of the Navajo Nation to compensate the traditional land user for the grazing resource loss.

In the future, the Navajo Nation would continue to develop projects to provide religious services and education to the congregation. There are no other church construction plans in the proposed project area. As a result, when the effects of the proposed projects are considered with other past, present, and reasonably foreseeable projects in the area, no significant cumulative effects are anticipated at this time. Impacts to the socioeconomic will be positive, as a church facility of this nature is expected to improve the quality of life.

With respect to cumulative impacts on regional air quality and climate change, 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. However, potential impacts to natural resources and plant and animal species due to climate change are likely to be varied, including those in the southwestern United States. For example, if global climate change results in a warmer and drier climate, increased particulate matter impacts could occur due to increased windblown dust from drier and less stable soils. Cool season plant species' spatial ranges are predicted to move north and to higher elevations, and extinction of endemic threatened/endangered plants may be accelerated.

5.0 COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS

Clean Air Act, as amended and recodified (42 U.S.C. 7401 et seq.) *Compliance.* The 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 required to obtain all necessary permits and approvals for projects requiring CWA permits prior to any disturbance activities. The existing church was constructed in increments of less than one acre. Surface disturbance is 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.

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. The proposed project would have no effect on floodplains, because they are not located in the project area.

Executive Order 12898 Environmental Justice Compliance. The order direct all Federal agencies to identify and address disproportionate adverse effects of their programs, policies, and activities on minority and low-income populations. No minority or low income populations would be directly affected in the vicinity of the proposed action. Indirect effects could include positive effects due to overall benefit related to the new water system in the area. The proposed action will benefit all sectors of society. The minority and low-income populations in the community are the focus of this project. The project would lead better lives in the community, and would further provide a better 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 such 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 would also require 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 site. The church will conduct their haulage and disposal of solid waste on a weekly basis. Existing restrooms with toilets would be employed during operations.

6.0 PUBLIC INVOLVEMENT

The Newcomb Chapter has passed a resolution approving the site. See Appendix B. In the future, a resolution is proposed for the Resource and Development Committee of the Navajo Nation Council, as well as BIA approval of the permit.

7.0 COORDINATION AND REVIEW OF THE EA

NNAD of Shiprock, New Mexico conducted the archeological survey of the site and crafted a field report entitled: *A Cultural Resource Inventory of Re-establishing a Proposed 1.5 Acre Congregational Methodist Navajo Mission Site Near Newcomb, San Juan County, New Mexico.*

Congregational Methodist Church conducted consultation with the Navajo Department of Fish and Wildlife, Navajo Nation. This consultation would assure mandated protection of ESA threatened and endangered species and Tribal species of concern. A concurrence letter and a *Biological Resource Compliance Form* is created for the project.

8.0 CONCLUSIONS

The preferred alternative is reasonable. The proposed action should not have significant adverse impacts on the human environment. No significant adverse impacts to the human environment have been identified during the onsite field reconnaissance and 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.

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APPLICATION FOR MISSION SITE (RELIGIOUS SITE)
NAVAJO NATION LANDS

EXHIBIT

I

DATE: Dec. 31, 2020

Congregational Methodist Navajo Mission

(NAME OF CHURCH)

1/6 Syble A. Vermillion, P.O. Box 7855, Newcomb, NM 87455

(ADDRESS)

hereby makes an application for a religious site covering approximately 1 1/2 acres of Navajo Nation land located in San Juan county, Arizona / New Mexico, as shown on the attached map.

After the local chapter approval of this application and with approval of land clearance given by the Navajo Land Department, a survey plat and legal description of the site prepared by a licensed or registered surveyor shall be submitted to the Navajo Land Department or the Bureau of Indian Affairs for review.

In Support of said application, the applicant hereby submits the following information:

- | | |
|------------------------------------------------------------|-----------------------------------------------------|
| <input type="checkbox"/> Supporting Chapter Resolution | <input type="checkbox"/> Land Use Consent |
| <input type="checkbox"/> Survey Plat | <input type="checkbox"/> Current Petition of Names |
| <input type="checkbox"/> Copy of Articles of Incorporation | <input type="checkbox"/> Other Supporting Documents |

Detailed statement of the purpose(s) for which said Navajo Nation land shall be used. If a missionary or mission body proposes to establish facilities for educational, medical or other non-religious activities, this paragraph shall set forth fully the extent and character thereof:

Religious services; Bible studies; youth and children's activities; food, clothing and other help as needed and as funds or resources are available. We also have summer camps for youth and adults

Description of building and improvements to be placed on tribal land and the estimated cost thereof:

Building inside is completed.
Plans to stucco outside in spring of 2021 at estimated cost of \$5,000.00.

Applicant's plan for development of water and sewer:

As we are requesting renewal of our present
permit, water and sewer are already in place.

All corporations must attach hereto a copy of their Articles of Incorporation. If foreign to the state where religious site is to be located, the corporation must supply a certified copy of their authority to do business in the state.

All corporations must furnish evidence of authority of the person(s) signing this application to execute papers on their behalf. Evidence should ordinarily be in the form of a general resolution of the Board of Directors certified by the Secretary over the seal of the corporation.

For the purpose of conducting business within the Navajo Reservation, all corporations must file their Articles of Incorporation with the Economic Development Commerce Department of the Navajo Nation. The Commerce Department will issue a corporate number to the church organization.

In all cases of applications on behalf of unincorporated bodies where documents do not explicitly give one individual authority to execute necessary papers, a power of attorney executed before a notary public by all associated parties for this purpose should be attached. If this is not supplied, all such persons must personally sign this application and all other documents submitted to the Navajo Agency.

Unincorporated applicants should submit articles depicting their organization, unless none exists, in which case an explanation of the nature of the organization should be listed on a separate sheet.

Applicant agrees to give preference to qualified local residents of the Navajo Nation for employment in the construction of any improvement on the church site if the permit is granted.

Syble A. Vermillion
Authorized Agent (Print Name)

Syble A. Vermillion
Authorized Agent (Signature)

P.O. Box 7855, Newcomb, NM
Address 87455

505 - 870 - 3607
Phone Number

sybleave@frontiernet.net
Email Address

Sliding Fee Scale Form for Mission Site Permits

Application Information		Today's Date: <u>01-05-2021</u>	
Entity Name: <u>Congregational Methodist Mission</u>			
Mailing Address: <u>% Syble A. Vermillion, PO Box 7855</u>	City: <u>Newcomb</u>	State: <u>NM</u>	Zip: <u>87455</u>
Phone #: <u>(505) 870-3607</u>	Fax #: ()	Congregation Size: <u>15-25</u>	Acres requested: <u>1 1/2</u>

Income Information		
Source	Amount	Frequency (Circle One)
offerings 2015	\$ 1,418.64	Weekly Monthly <u>Yearly</u>
* 2016	\$	Weekly Monthly Yearly
2017	\$ 4,467.59	Weekly Monthly <u>Yearly</u>
2018	\$ 1,776.96	Weekly Monthly <u>Yearly</u>
2019	\$ 3,640.00	Weekly Monthly <u>Yearly</u>
2020	\$ 4,439.57	Weekly Monthly <u>Yearly</u>
	\$	Weekly Monthly Yearly
	\$	Weekly Monthly Yearly
	\$	Weekly Monthly Yearly
Total	\$	Weekly Monthly Yearly

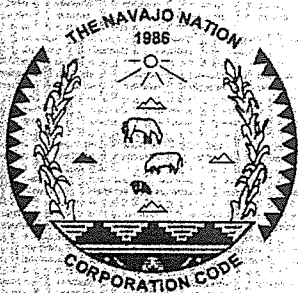
* I could not find records for 2016. Someone else was in charge at that time -

I do hereby swear or affirm that the information provided on this application is true and correct to the best of my knowledge and belief. As an agent of the applicant entity, I hereby acknowledge that I read the foregoing disclosure and understand it.

Name (Print): Syble A. Vermillion

Signature: Syble A. Vermillion

Date: Jan. 5, 2021



NAVAJO NATION CORPORATION ACT

CERTIFICATE OF AUTHORITY

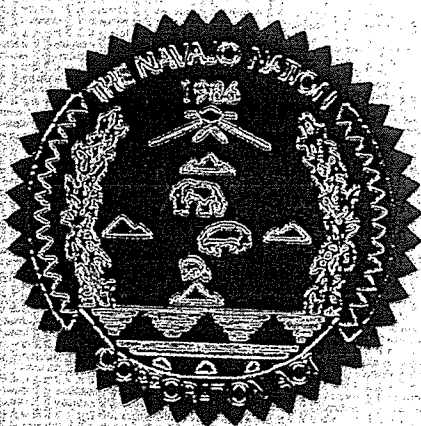
To all to Whom these Presents Shall Come, Greeting:

I, the Manager of the Business Regulatory Department, DO HEREBY CERTIFY
that

CONGREGATIONAL METHODIST NAVAJO MISSION
File Number: 101876

a corporation organized under the laws of the state of NEW MEXICO, was on
the 26th day of August, 2014,
authorized to transact business within the Navajo Nation as a FOREIGN Corporation.

I FURTHER CERTIFY that this corporation has filed all affidavits and required
documents and paid all filing fees required and, therefore, is incorporated as a Foreign
Corporation.



IN WITNESS WHEREOF, I have hereunto set
my hand and affixed the official seal of the
Navajo Nation Corporation Act at Window
Rock, Arizona, this 26th

day of August, 2014 A.D.

Manager, Business Regulatory Department



STATE OF NEW MEXICO

MAGGIE TOULOUSE OLIVER

SECRETARY OF STATE

Certificate of Good Standing and Compliance

IT IS HEREBY CERTIFIED THAT:

CONGREGATIONAL METHODIST NAVAJO MISSION

1192939

the above named entity, a Corporation incorporated under the laws of New Mexico, is duly authorized to transact business in New Mexico as a Domestic Nonprofit Corporation, under the

Nonprofit Corporation Act

53-8-1 to 53-8-99 NMSA 1978

having filed its Articles of Incorporation on August 30, 1983, and Certificate of Incorporation issued as of said date.

It is further certified that the fees due to the Office of the Secretary of State which have been assessed against the above named entity have been paid to date and the entity is in good standing and duly authorized to transact business as its existence has not been revoked in New Mexico. This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entity's financial condition or business activities and practices.

Certificate Issued: **January 5, 2021**

In testimony whereof, the Office of the Secretary of State has caused this certificate to be signed on this day in the City of Santa Fe, and the seal of said office to be affixed hereto.



Maggie Toulouse Oliver

Maggie Toulouse Oliver
Secretary of State

Certificate Validation #: 0044941

A certificate issued electronically from the New Mexico Secretary of State's office is immediately valid and effective. The validity of a certificate may be established by viewing the **Certificate Validation** option on the Business Filing System at <https://portal.sos.state.nm.us/bfs/online> and following the instructions displayed under **Certificate Validation**.

Document No. 016766

Date Issued: 07/09/2021

EXHIBIT
J
EXECUTIVE OFFICIAL REVIEW

Title of Document: Congregational Methodist Navajo Mission Contact Name: YAZZIE, ELERINA B

Program/Division: DIVISION OF NATURAL RESOURCES

Email: e_yazzie@navajo-nsn.gov 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"/>

☐ **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	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
8. OPVP	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☒ **OTHER:** Mission Site

1. NLD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. F&W	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. HHPD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. NNEPA	_____	Date: 9/7/2021	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. DNR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
6. OOC	✓ 9/25/21	Date: 9/25/21	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. DOJ - (IC)	_____	Date: 1/24/22	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. OPVP	_____	Date: 1/27/22	<input checked="" type="checkbox"/>	<input type="checkbox"/>

CLERK OF THE DISTRICT COURT

14 5051

Valinda Shuiling

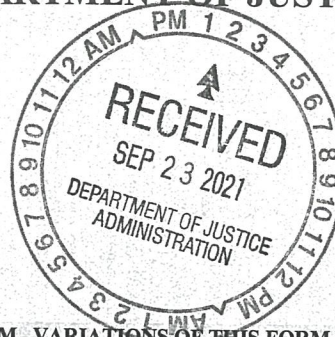
✓ [Signature]

1/27/22



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



DOJ
9/23/21 @ 1:48p
DATE / TIME
☐ 7 Day Deadline
DOC #: 16766
SAS #:
UNIT: NM

☐ 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: 9/23/2021 DIVISION: NATURAL RESOURCES
CONTACT NAME: Michelle Hoskie or Stevie Hudson DEPARTMENT: GENERAL LAND DEVELOPMENT DEPARTMENT
PHONE NUMBER: x 6447 or x 6423 E-MAIL: michellehoskie@navajo-nsn.gov

TITLE OF DOCUMENT: EOR# 016766 Congregational Methodist Navajo Mission

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 9.23.21 2:30 PM REVIEWING ATTORNEY/ADVOCATE: Inni Chee 10.04.21

DATE TIME OUT OF UNIT: 1.24.22 9:52 AM

DOJ ATTORNEY / ADVOCATE COMMENTS

Besides my memorandum, the packet is legally sufficient.

REVIEWED BY: (Print) DATE / Time SURNAMED BY: (Print) DATE / Time
Inni Chee 1-21-22 V Blackhat 1-24-22 9:00 AM

DOJ Secretary Called: Michelle EMAIL: for Document Pick Up on 1-24-22 at 9:52 AM By: CN

PICKED UP BY: (Print)

DATE / TIME:

NNDOJ/DRRF-July 2013

- EUDU -



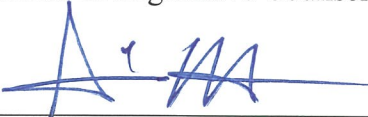
NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

Doreen N. McPaul
Attorney General

Kimberly A. Dutcher
Deputy Attorney General

MEMORANDUM

TO: Mariana Kahn, Attorney
Office of Legislative Counsel

FROM: 
Irvin Chee, Tribal Court Advocate
Natural Resources Unit, Dept. of Justice

DATE: November 16, 2022

SUBJECT: **EOR Document No. 16766 - Congregational Methodist Navajo Mission
located within Newcomb Chapter**

This memorandum is a follow-up to our conversation on the above-mentioned Mission Site. As I had indicated, I inadvertently attached my memorandum dated, January 20, 2022 invoking 16 N.N.C. §§ 1401 *et seq.*, (surface use compensation damages) because the Newcomb Chapter grazing official, Mr. Lawrence Gould had indicated that both permittees, Mr. Thomas Joe Yazzie and Mr. James Brown, had both deceased and both had their names on one grazing permit they shared. I did a follow-up and the grazing official indicated that both parties had separate grazing permits and only Mr. James Brown had deceased but Mr. Thomas Joe Yazzie was alive when he signed off on the land user's consent for one and one-half acres for the Mission Site. In addition, the grazing official indicated that Mr. James Brown's grazing permit was not valid. For the reasons stated above, please disregard my memorandum dated, January 20, 2022 that I had attached invoking 16 N.N.C §§ 1401 *et seq.*, since the land user, Mr. Yazzie had consented and Mr. Brown's consent should not be necessary because his grazing permit is considered not valid, according to the grazing official. Therefore, please disregard my previous memorandum that I had attached, acknowledge the land users consent and process the EOR document forward for approval.

If you should have any questions, please feel free to call me at 928 871-6347.
Thank you.




NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

Doreen n. McPaul
Attorney General

Kimberly A. Dutcher
Deputy Attorney General

MEMORANDUM

TO: 164 Document Reviewers

FROM: 
Irvin Chee, Tribal Court Advocate
Natural Resources Unit, Dept. of Justice

DATE: January 20, 2022

SUBJECT: **Document No. 16766 - Congregational Methodist Navajo Mission located within Newcomb Chapter**

The Department of Justice (DOJ) has reviewed the above-mentioned 164 Review Document Request and has the following comments:





The Newcomb Chapter grazing official, Mr. Lawrence Gould, identified two land users for Newcomb area. According to the grazing official, Mr. Gould, the two grazing permittees, Mr. Thomas Joe Yazzie and Mr. James Brown, had deceased and their grazing permit had not been probated. The two land users were the only known permittees within the proposed mission site area. Therefore, the Navajo Land Department (NLD) is required by 16 N.N.C. §§ 1401 *et seq.*, to estimate the surface damages, if any, and Congregational Methodist Navajo Mission (sponsors) is required to deposit with the Navajo Nation, double the estimated damages determined by NLD to ensure appropriate compensation, if any, to the legal heirs of the above-named deceased. If the legal heirs of the above-named deceased later give their consent and seeks no consideration, then the surface use compensation damages should be returned to the sponsors.

If the affected use area is shared by the two individuals who had deceased and others who have already consented, then the amount of the deposit required should only reflect their prorated share of the damages. The DOJ requests NLD to follow the procedures set forth at 16 N.N.C. §§ 1401 *et seq.*, in processing the Lease approval for Congregational Methodist Navajo Mission Site for 1.5 acres of trust land within Newcomb area.


If you should have any questions, please feel free to call me at 928/871-6347. Thank you.

xc: W. Mike Halona, Department Manager, Navajo Land Department

Tier 1 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Leanna Begay (NLTDS and GLDD)	Navajo Nation Fish and Wildlife (Approver)	Navajo Nation Fish and Wildlife	Approved	1. Conditional Approval memo attached. Request in-season survey and submit for review and compliance.	1. No Reply	26-Jul-2021	
Najamh Tariq (NLTDS and GLDD)	Branch Director (Reviewer)	Department of Water Resources	Approved	no comments	No Reply	21-Jul-2021	
Rebecca Gilchrist MIN (NLTDS and GLDD)	Senior Mining Engineer (Reviewer)	Minerals Department	Approved	no comments	No Reply	05-Aug-2021	
Tamara Billie (NLTDS and GLDD)	Senior NNHP Archeologist (Reviewer)	Navajo Nation Heritage and Historic Preservation Department	Approved	1. HPD-19-690	1. No Reply	16-Aug-2021	

Tier 2 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
David Mikesic (NLTDS and GLDD)	Navajo Nation Zoologist (Approver)	Navajo Nation Fish and Wildlife	Approved	1. The BRCF for this project (review no. 14CMNM-01A) has conditional compliance stating need for re-survey for SCMEVE, surveyor must consult with NNHP Botanist, and submission of survey report to NNHP for compliance. There is no evidence that these conditions were met - both L.Begay and N.Talkington confirmed these conditions were not met, and no further	1. No Reply	03-Sep-2021	

surveys or
reporting
were
completed.

2. Based on conversation between S.Chischilly Jr and N.Talkington, this project was found to be already completed despite no apparent proper clearance. The matter will be investigated between NNHP and NTUA as to whether Fed. Endangered Species Act may have been violated with installation of water line.
2. *No Reply*

Richard Begay NNHP (NLTDS and GLDD)	Department Navajo Nation Manager III Heritage and (Approver) Historic Preservation Department	Approved	<i>no comments</i>	<i>No Reply</i>	17-Aug-2021
-------------------------------------------	-----------------------------------------------------------------------------------------------------------	----------	--------------------	-----------------	-------------

Rich M Begay

Robert Allan DNR (NLTDS and GLDD)	Attorney (Approver) Division of Natural Resources	Approved	<i>no comments</i>	<i>No Reply</i>	18-Aug-2021
--------------------------------------	---------------------------------------------------------	----------	--------------------	-----------------	-------------

Robert O. Allan

Steven Prince MIN (NLTDS and GLDD)	Unknown	Unknown	Pending Approved	<i>no comments</i>	<i>No Reply</i>
---------------------------------------	---------	---------	--------------------------------	--------------------	-----------------

Steven L Prince

Steven L Prince

W. Mike Halona (NLTDS - Admin)	NLD Department Manager III	NLD	Approved	1. The sliding scale should be removed, it was never approved.	1. <i>No Reply</i>	19-Aug-2021
-----------------------------------	----------------------------------	-----	----------	----------------------------------------------------------------	--------------------	-------------

W. Mike Halona

or at stchischilly@navajo-nsn.gov, thank you.

ATTACHMENTS

XC: Division of Natural Resources
Chrono/GLDD File

THE NAVAJO NATION


JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



September 14, 2021

MEMORANDUM

TO: Executive Reviewers

FROM: 
Valinda Shirley, Executive Director
Navajo Nation Environmental Protection Agency

SUBJECT: **Document No. 016766, Mission Site Permit, Congregational Methodist Navajo Mission, Newcomb, New Mexico**

Based upon the review of the above-noted document, a vote of sufficiency is recommended. However, the following comments and recommendations are provided.

According to information from the review package, the Congregational Methodist Navajo Mission is proposing to acquire a mission site permit that will entail use of the 1.5 acres to continue its activities, with the possible future expansion and development within the proposed mission site permit area.

1. Unlike previous packages for mission site permits, this Document No. 016766 packet did not contain a Check List for Mission Site Application. Previous Check Lists for mission site permits provided indication and/or check marks at #11, "ENVIRONMENTAL ASSESSMENT REPORT REVIEWED BY THE Navajo Environmental Protection Agency to ensure there is no contaminated or hazardous materials. NNEPA Office (928) 871-7692." If the Check List has been completed and the Environmental Assessment Report was reviewed and concurred by the Navajo Nation Environmental Protection Agency (NNEPA), please provide a copy of the Check List and a copy of the Environmental Assessment Report that shows the report was reviewed and approved by the NNEPA.
2. If this packet for Document No. 014027 is not subject to the Environmental Review Process (ERP), then a copy of the Environmental Review Record that indicates the Mission Site application is not subject to the Environmental Review Process (ERP), and that a Categorical Exclusion (CATEX) has been determined, should be included in this Executive Review package.¹
3. The Environmental Assessment developed by Denali Environmental Services indicates the church will haul and dispose of solid waste on a weekly basis. There are no references to the Navajo Nation Solid Waste Act that regulates solid waste disposal on the Navajo Nation. At #4, (below) additional information is provided as related to illegal disposal of solid waste, and the Navajo Nation Open Burn Regulations.

¹ Navajo Nation General Leasing Regulations of 2013, Subchapter 8, Environmental Review Process, § 2382. Threshold Determinations.

4. The Terms and Conditions provide that the Permittee will abide by all laws and regulations of the Navajo Nation and of the United States. Attention is directed to the following:
- a. **Navajo Nation Open Burning Regulations (NNOBR), 4 N.N.C., Chapter 11**, particularly at §201, Prohibition of Open Burning and, §302, Open Burn Permit Requirement. Households, businesses, and other organizations are responsible to ensure waste generated from their activities are properly managed. Exempted burn activities should be voluntarily registered. In the event that the church will utilize open burning in its related activities, the Applicant should become familiar with activities for which burn registrations should be pursued.
 - b. **NESHAP 40 CFR §61.145, Subpart M**, for applicable demolition and renovation activities. For asbestos NESHAP, USEPA Region 9 has sole jurisdiction over all 25 tribal lands in Arizona. There are no Navajo Nation laws or regulations specifically related to asbestos. For asbestos (the pollutant) from a source such as demolition, the contractor would need to provide notification, wet and remove friable asbestos (40 CFR Part 61). For waste disposal related to demolition/renovation as a source, the contractor would need to provide notification and ensure there are no visible emissions from the removal activity(ies).

The asbestos NESHAPs lists acceptable procedures for asbestos emissions control for demolition of buildings containing friable asbestos material (40 CFR Part 61). Tearing down buildings is considered demolition and would require notification to USEPA Region 9.

Asbestos NESHAP notifications should also be provided to the Air & Toxics Department, Box 339, Window Rock, AZ 86515, as a courtesy in informing of the particular activity(ies) being undertaken on the Navajo Nation. and, adhere to best practices that lessen fugitive dust emissions during demolition and construction activities by minimizing potential impacts during modernization activities, such as applying water to roads.

- c. **Navajo Nation Air Pollution Prevention and Control Act (Navajo Clean Air Act), 4 N.N.C. §§ 1134-40**, Air Quality Control Programs. Provisions include Best Management Practices (BMPs) to control dust that would be generated during earth moving activities. Details the BMPs to control excessive amounts of particulates.
- d. **Navajo Nation Solid Waste Act prohibits open dumping**. Open dumping is defined as the act of depositing solid waste in a non-complying manner of management practice. Solid waste generated from activities at this location should continue to be properly disposed of.
- e. **Section 402 of the Clean Water Act (CWA) established the National Pollutant Discharge Elimination System (NPDES) General Construction permit for storm water discharges**. The CWA regulations implementing Section 402, define “storm water discharge associated with industrial activity” to include discharges associated with construction activity, including clearing, grading, and excavation resulting in land disturbance of 1.0 acre or more. Operators at construction sites that involve clearing, grading, and excavating activities that disturb 1.0 acre or more will need to obtain coverage under a National Pollutant Discharge Elimination System (NPDES) General Construction permit for storm water discharges. A Notice of Intent (NOI) will need to be submitted to USEPA 14 days prior to earthmoving

activities, including development of a Storm Water Pollution Prevention Plan (SWPPP) prior to NOI submission.

I can be contacted at valinda.shirley@navajo-nsn.gov. You may also contact eugeniaquintana@navajo-nsn.gov if there are any questions in this regard. Thank you.

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



Memorandum

To: Resources and Development Committee of the 24th Navajo Nation Council

From: 
Steven T. Chischilly Jr.
Environmental Specialist
Navajo Nation General Land Development Department
Division of Natural Resources

Date: June 25, 2021

Subject: Environmental Compliance Determination for the Congregational Methodist Navajo Mission, Mission Site Permit located at within the SE1/4, Section 35, Township 24 North, Range 18 West, New Mexico Prime Meridian, Newcomb Chapter, San Juan County, New Mexico

The General Land Development Department's Environmental Compliance Determination (ECD) confirms the above mentioned permit application meets the environmental clearance criteria of the Navajo Nation General Leasing Regulations (16 N.N.C. § 2301 et. Seq.). The proposed Mission Site Permit poses no significant impact(s) to the cultural, biological and the natural environments of the Navajo Nation.

The proposed permit will be lawfully granted by the Navajo Nation through the authority of 25 U.S.C. §415(e) and Navajo Nation Council Resolution No. CO-53-13 codified at 16 N.N.C. §2301.

In addition, the ECD is valid so long as the "Effect/Conditions of Compliance" out-lined on "Cultural Resources Compliance Form (NNHPD No. HPD-14-690)" and the " Biological Resource Compliance Form (NNDFW Review No. 14CMNM-01A)" are implemented.

If at anytime any historical properties, archeological resources, human remains, or other cultural items not previously reported are encountered, all activity will cease and the Navajo Nation Historic and Heritage Preservation Department will be contacted immediately.

Furthermore, the aforementioned Mission Site Permit applicant will also consult with the Navajo Nation Environmental Protection Agency (NNEPA) to ensure compliance with all Navajo Nation Environmental laws and permits (4 N.N.C. § 901 et. Seq.) that will be enforced after said permit is granted as Directed by the NNEPA Executive Director via memorandum on April 10, 2019.

If at any time over the duration of the term of the Mission Site Permit an environmental taking or violation occurs, the grantee may be subject to disciplinary actions and possible cancellation of the permit. This pertains to all Navajo Nation and Federal environmental laws, regulations and policies applicable to the permitting based undertaking which include, but are not limited to the following:

- National Historic Preservation Act, 16 U.S.C. §§ 470 et seq.
- Endangered Species Act, 7 U.S.C. §136, U.S.C. §§1531 et seq.
- Farmland Protection Policy Act, 7 U.S.C. §§ 4201 et seq.
- Clean Air Act, 42 U.S.C. §§ 7401 et seq.
- Eagle Protection Act, 16 U.S.C. §§ 668-668c
- Migratory Bird Treaty Act, 16 U.S.C. §§ 703-712
- Navajo Nation Environmental Policy Act, 4 N.N.C. §§ 901 et seq.
- Navajo Nation Cultural Resource Protection Act, 19 N.N.C. §§ 1001 et seq.
- Navajo Nation Solid Waste Act, 4 N.N.C. §§ 101 et seq.
- Navajo Nation Air Pollution Prevention and Control Act, 4 N.N.C. §§ 1101 et seq.
- Navajo Nation Prevention and Control Act, 4 N.N.C. §§ 1101 et seq.
- Navajo Nation Safe Water Drinking Water Act, 22 N.N.C. §§ 2501 et seq.
- Navajo Nation Clean Water Act, 4 N.N.C. §§ 1301 et seq.
- Navajo Nation Underground Storage Tank Act, 4 N.N.C. §§ 1501 et seq.
- Navajo Nation Pesticide Act, 4 N.N.C. §§ 301 et seq.
- Golden and Bald Eagle Nest Protection Regulations (GBENPR)
- Navajo Endangered Species List (NESL)
- Biological Resource Land-Use Clearance Policies and Procedure (RCP)
- All other applicable Navajo Nation and Federal Laws, Regulations and Policies

If there are any questions, do not hesitate to contact me at Stchischilly@navajo-nsn.gov or at (928)-871-6447. Thank you.

**RESOURCES AND DEVELOPMENT COMMITTEE
24th NAVAJO NATION COUNCIL**

FOURTH YEAR 2022

**ROLL CALL
VOTE TALLY SHEET**

LEGISLATION #0229-22: AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING A MISSION SITE PERMIT FOR 1.5 ACRE, MORE OR LESS, FOR THE CONGREGATIONAL METHODIST NAVAJO MISSION, IN THE VICINITY OF NEWCOMB CHAPTER, NAVAJO NATION. *Sponsor: Honorable Rickie Nez*

Date: November 30, 2022 – Regular Meeting (Twin Arrows Casino Resort and Teleconference)
Location: Twin Arrows Casino Resort – 22181 Resort Boulevard – Flagstaff, Arizona. Resources and Development Committee called in via teleconference from their location within the boundary of the Navajo Nation.

Amendment #1:

M: Herman M. Daniels **S:** Rickie Nez **V:** 5-0-1 (PTCNV)
In Favor: Rickie Nez; Thomas Walker, Jr.; Kee Allen Begay, Jr.; Herman M. Daniels; Mark A. Freeland
Opposition: None
Excused: None
Not Voting: Wilson C. Stewart, Jr., *Pro Tem Chairperson*

Main Motion:

M: Kee Allen Begay, Jr. **S:** Herman M. Daniels **V:** 5-0-1 (TPCNV)
In Favor: Rickie Nez; Thomas Walker, Jr.; Kee Allen Begay, Jr.; Herman M. Daniels; Mark A. Freeland
Opposition: None
Excused: None
Not Voting: Wilson C. Stewart, Jr., *Pro Tem Chairperson*



Honorable Wilson C. Stewart, Jr., *Pro Tem Chairperson*
Resources and Development Committee

Rodney L. Tahe
Rodney L. Tahe, *Legislative Advisor*
Office of Legislative Services