

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

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A
TEMPORARY CONSTRUCTION EASEMENT TO THE NAVAJO DEPARTMENT OF
CORRECTIONS TO CONSTRUCT, OPERATE AND MAINTAIN A
WATER/SEWER MAIN FOR THE CHINLE JUDICIAL COMPLEX IN THE
VICINITY OF CHINLE CHAPTER, NAVAJO NATION (APACHE COUNTY,
ARIZONA)

BE IT ENACTED:

Section One. Findings

- A. 2 N.N.C. §500, established, the Resources and Development Committee of the Navajo Nation Council as a Standing Committee of the Navajo Nation Council.
- B. 2 N.N.C. §501(B) 2(a), authorizes the Resources and Development Committee of the Navajo Nation Council to approve surface easements on the Navajo Nation.
- C. Acting Assistant Area Director approved a right-of-way on March 3, 1972 to the Bureau of Indian Affairs for BIA Road Project N27(2) running from Chinle to Nazlini, Arizona, located in the Chinle Chapter vicinity (Apache County, Arizona), documentation of this right-of-way is attached hereto and incorporated as Exhibit A.
- D. In a memorandum dated November 21, 1972, attached as Exhibit B, from the Bureau of Indian Affairs (BIA) Area Road Engineer to the BIA Area Real Property Management Officer, the Area Road Engineer stated that the right-of-way granted on March 3, 1972 encroached on a revocable use permit issued to the Church of Jesus Christ of Latter Day Saints and also encroached on an area on which a house was located. The November 21, 1972 memorandum states "Please consider this memorandum as an application to relinquish the R/W between 75 feet and 100 feet left of BIA Road N27(2) between survey stations 0400 and 4400; the relinquished land being 25 feet in width, 400 feet in length, and containing 0.2295 acre, more

or less." There is no documentation that the requested amendment to the March 3, 1972 right-of-way was issued.

- E. The Chinle Judicial Complex and Navajo Land Department have submitted a memorandum that describes a need for a temporary construction easement. The memorandum dated September 8, 2014 is attached hereto as an application to amend and is incorporated herein as Exhibit C.
- F. The proposed temporary construction easement is 2,285.71 feet in length, 20 feet wide, and consists of 1.0495 acres, more or less, of Navajo Nation Trust Lands located in Chinle Chapter, Navajo Nation (Apache County, Arizona). The location is more particularly described on the survey map attached hereto and incorporated herein as Exhibit D.
- G. A memorandum from the Navajo Nation Land Department Right of Way Agent dated September 3, 2015, Exhibit E, states that the land requested for the temporary construction easement, Exhibit D, "is situated west of the right of way N27(2) therefore; there will be no impact. The south side of N27(2) has no impact as well. The BIA Road Project N27(2) right of way does not infringe on any home sites or other improvements."
- H. The Navajo Land Department has determined that there are no affected land users (i.e., grazing permittees) because there were no grazing areas affected when the BIA approved the right-of-way on March 3, 1972 attached hereto as Exhibit A.
- I. The Chinle Chapter Government is in support of the granting of the temporary construction easement; CHIN-OCT-14-062 is attached as Exhibit G.
- J. The Department of Corrections' in a memorandum dated March 4, 2015, attached as Exhibit H, is in support of the temporary construction easement.
- K. The Department of Corrections' memorandum dated February 13, 2015 in support of the temporary construction easement is attached as Exhibit I.

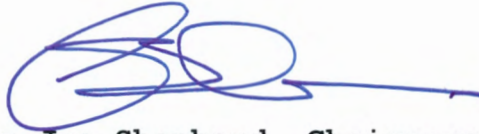
- L. The environmental and archaeological studies have been completed and are attached hereto and made a part hereof by this reference. Exhibit J is Biological Resources Compliance Form EOR113337. Exhibit K is Biological Resources Compliance Form 12DOEL1a4. Exhibit L is Cultural Resources Compliance Form HPD-12-747. Exhibit M is Cultural Resources Compliance Form 92-471. Exhibit N is the Environmental Assessment, Navajo Nation Division of Public Safety Department of Corrections and Judicial Branch. Exhibit O is the Dodge Environmental, LLC., memorandum regarding the Biological Resources Clearance Pursuant to RCS-44-08 of the Division of Natural Resources Administered by Navajo Nation Department of Fish & Wildlife. Exhibit P is the Navajo Nation Environmental Protection Agency memorandum dated June 16, 2015.

Section Two. Approval of Temporary Construction Easement

- A. The Resources and Development Committee of the Navajo Nation Council hereby approves a temporary construction easement to the Navajo Department of Corrections to operate and maintain sewer line and water line, within the Chinle Chapter, Apache County, Arizona. The location is more particularly described on the map attached hereto as Exhibit D.
- B. The Resources and Development Committee of the Navajo Nation Council hereby waives the consideration of \$1,510.56 because this project will benefit the Navajo people.
- C. The Resources and Development Committee of the Navajo Nation Council hereby approves the temporary construction easement subject to, but not limited to, the following terms and conditions attached hereto and incorporated herein as Exhibit F.
- D. Resources and Development Committee of the Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to affect the intent and purpose of this resolution.

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at Navajo Nation Council, Window Rock (Navajo Nation) Arizona, at which quorum was present and that same was passed by a vote of in 5 favor, 0 opposed, 0 abstained this 22nd day of September, 2015.



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

Motion: Honorable Walter Phelps
Second: Honorable Leonard Tsosie
(Presiding Chairperson Not Voting)

TRIBAL XXX
INDIVIDUALLY OWNED _____
GOVERNMENT OWNED _____
RIGHT-OF-WAY N27(2)

GRANT OF EASEMENT FOR RIGHT-OF WAY

KNOW ALL MEN BY THESE PRESENTS:

That the United States of America for and on behalf of the Indian Owners of the lands described in exhibit "A" hereof, acting by and through the Area Director, Bureau of Indian Affairs, Department of the Interior, Window Rock, Arizona, hereinafter referred to as "Grantor", under authority contained in Commissioner's Redelelegation Order 10 BIAN Section 3.1, and pursuant to the provisions of the Act of February 5, 1948 (62 Stat. 17, 25 U.S.C. §§323-328), and Part 161, Title 25, Code of Federal Regulations, in consideration of \$ Waived and other good and valuable consideration, the receipt of which is acknowledged does hereby grant to the UNITED STATES OF AMERICA, Department of Interior, Navajo Area Office, Bureau of Indian Affairs hereinafter referred to as "Grantee", an P. O. Box 1060, Gallup, New Mexico, easement for a right-of-way for the following purpose(s), namely: B.I.A. Road Project N27(2), Chinle to Nazlini Road (including road construction and its operation and maintenance), over, across, in and upon the following described lands located in the County of Apache, State of Arizona.

The said easement, as shown on the Map(s) No.(s). N27(2), Sheets 1 and 2, marked Exhibit "A" attached hereto, is limited to and more particularly described as: shown on the Chinle-Nazlini Right-of-Way Description for Project N27(2), marked Exhibit "A", attached hereto and by this reference made a part hereof.

U.S. DEPARTMENT OF THE INTERIOR
Bureau of Indian Affairs
Navajo Area Office
Window Rock, Arizona 86515

Assistant Area Director (Administration)
Attention: Area Road Engineer

March 6, 1972

Area Real Property Management

Approved Grant of Easement for Right-of-Way, BIA Road
Project N27(2), Chinle-Hazlini, Arizona

Attached for your information and use is an approved Grant of
Easement for Right-of-Way for BIA Road Project N27(2) for 20.395
miles from Chinle to Hazlini, Arizona, with supporting documents.

When the project has been completed, please furnish an affidavit
of completion and final field inspection report from the Chinle
Agency Superintendent.

/S/ ANDREW W. LATHEN

Assistant Area Real Property
Management Officer

Attachments

cc: Superintendent, Chinle Agency
Director, Navajo Real Property Management ~~-----~~



THE NAVAJO TRIBE

WINDOW ROCK, NAVAJO NATION, (ARIZONA) 86515

16 November 1972

PETER MacDONALD
CHAIRMAN, Navajo Tribal Council

WILSON C. SKEET
VICE CHAIRMAN, Navajo Tribal Council

ARPMO	_____
ASST	_____
MINERALS	_____
OGG	_____
LEAD	_____
FILE	_____

MEMORANDUM

To: Area Director, Navajo Area Office
Attention: Area Real Property Management Officer

From: Chairman, Navajo Tribal Council

Subject: Request by the Bureau of Indian Affairs for a
New Right-of-Way for a Portion of Road Project
N27(2), Chinle to Nazlini, Arizona, Navajo
Indian Reservation

In accordance with proper federal regulations dealing with rights-of-way, the Bureau of Indian Affairs had made application for a right-of-way for Road Project N27(2), Chinle to Nazlini, Apache County, State of Arizona, and said right-of-way was granted 21 March 1968. On 24 July 1970, a new application was submitted by the Bureau of Indian Affairs for a right-of-way on the above captioned project involving 2100 feet of realignment between PC Station 685+67.58 and PT Station 706+74.72. The new alignment is more particularly shown on the accompanying right-of-way map entitled "Navajo Indian Reservation, Right-of-Way Map, Route No. N27, Project N27(2)".

All necessary field clearance has been conducted on the portion of the project scheduled for realignment by the Navajo Real Property Management Department of the Navajo Tribe and all authorized land users have given their consent and same is on file with said department. In our estimation, the right-of-way for a portion of Road Project N27(2), will have little effect on Navajo use and occupancy and will be of a benefit to the Navajo Tribe, therefore, your request for the Tribe to waive all deposits and damages is hereby granted, likewise, tribal consent is hereby granted the Bureau of Indian Affairs for a new right-of-way on a portion of Road Project N27(2) which will traverse lands belonging to the Navajo Tribe of Indians located approximately 13 miles south of Chinle, Arizona, subject to the stipulations as contained in CFR 25, §161.5, Attachment "A":

1. To construct and maintain the right-of-way in a workmanlike manner.
2. To pay promptly all damages and compensation, in addition to the deposit made pursuant to § 161.4, determined by the Secretary to be due the landowners and authorized users and occupants of the land on account of the survey, granting, construction and maintenance of the right-of-way.
3. To indemnify the landowners and authorized users and occupants against any liability for loss of life, personal injury and property damage arising from the construction, maintenance, occupancy or use of the lands by the applicant, his employees, contractors and their employees, or subcontractors and their employees.
4. To restore the land as nearly as may be possible to their original condition upon the completion of construction to the extent compatible with the purpose for which the right-of-way was granted.
5. To clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way; and to dispose of all vegetative and other material cut, uprooted, or otherwise accumulated during the construction and maintenance of the project.
6. To take soil and resource conservation and protection measures, including weed control, on the land covered by the right-of-way.
7. To do everything reasonably within its power to prevent and suppress fires on or near the lands to be occupied under the right-of-way.
8. To build and repair such roads, fences, and trails as may be destroyed or injured by construction work and to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the right-of-way.
9. That upon revocation or termination of the right-of-way, the applicant shall, so far as is reasonably possible, restore the land to its original condition.
10. To at all times keep the Secretary informed of its address, and in case of corporations, of the address of its principal place of business and of the names and addresses of its principal officers.

11. That the applicant will not interfere with the use of the lands by or under the authority of the landowners for any purpose not inconsistent with the primary purpose for which the right-of-way is granted.

THE NAVAJO TRIBE OF INDIANS

By 
Chairman, Navajo Tribal Council

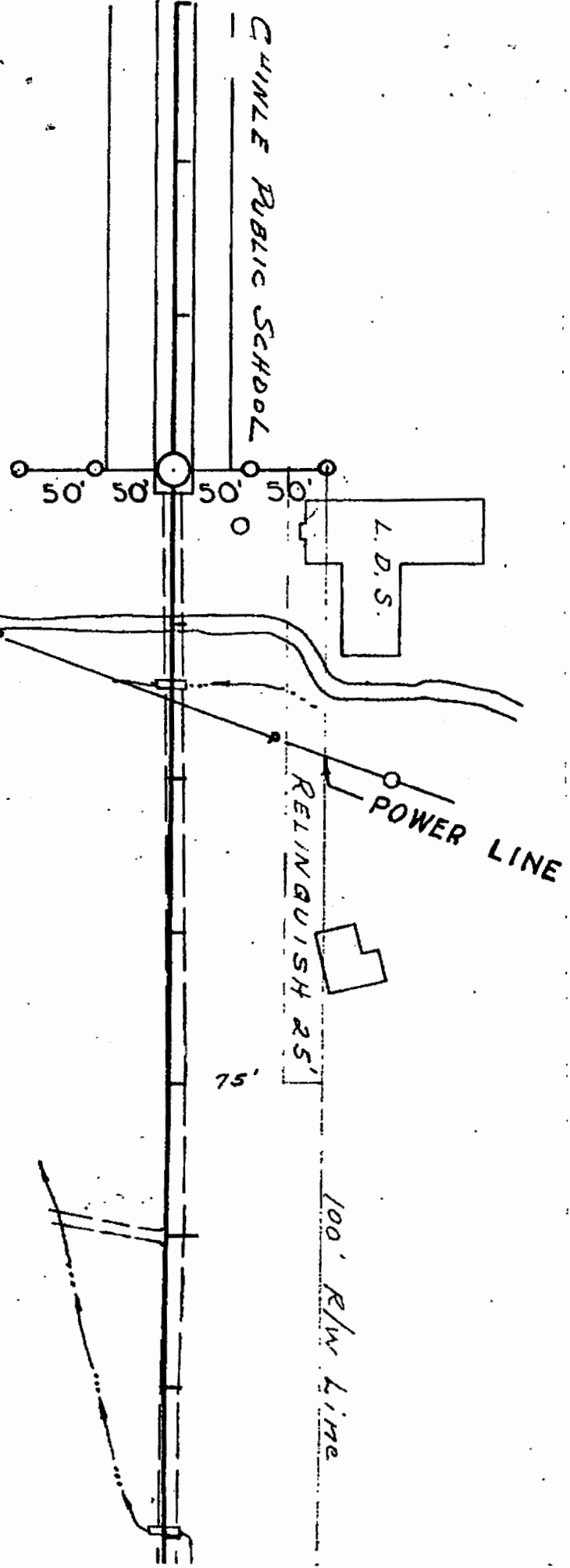
done this 6 day of January,
1972.

B1A ROAD N27(2)

1"=100'

STA.
0+00

sta.
5+00



CHINLE PUBLIC SCHOOL

L.D.S.

POWER LINE

RELINQUISH 25'

75'

100' R/W Line

11-20-72

A tract of land 300' x 145' located south of the Chinle, Co. School, and east of the Chinle-Madlini Road more properly described as follows:

Beginning at the intersection of Navajo Route 7 and the Road, Engineer's Station 0+00 as the same appears on B.I.A. Project #7(3)244

Thence S45°-16'-10"E along centerline of road a distance of 886.0 to Engineer's Station 8+86;

Thence S45°-34'-50"W a distance of 2381.4 feet;

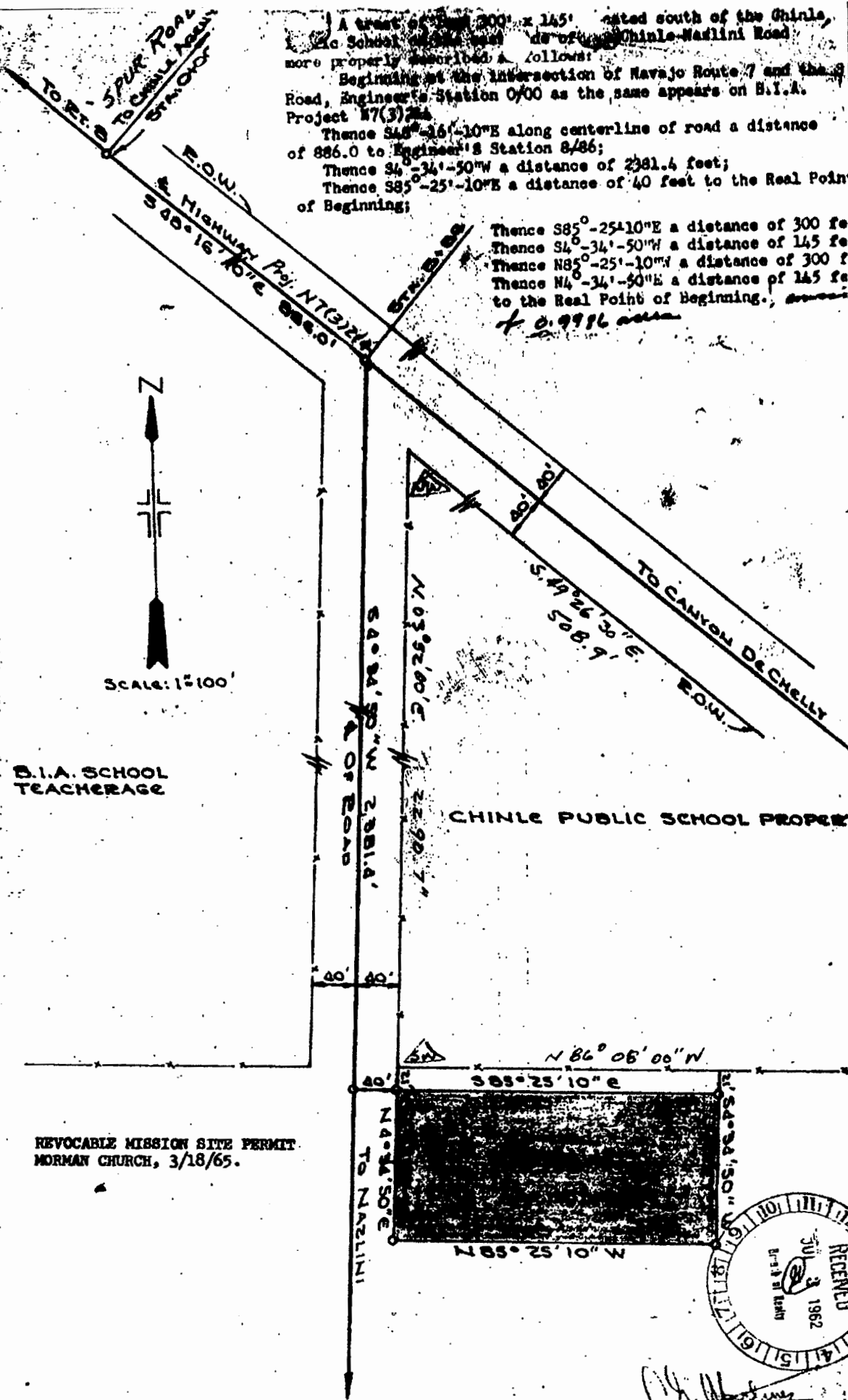
Thence S85°-25'-10"E a distance of 40 feet to the Real Point of Beginning;

Thence S85°-25'-10"E a distance of 300 feet

Thence S45°-34'-50"W a distance of 145 feet

Thence N85°-25'-10"W a distance of 300 feet

Thence N45°-34'-50"E a distance of 145 feet to the Real Point of Beginning, area 0.9986 acres



B.I.A. SCHOOL TEACHERAGE

CHINLE PUBLIC SCHOOL PROPERTY

REVOCABLE MISSION SITE PERMIT
MORMAN CHURCH, 3/18/65.



SURVEY AND PLAT BY: J.G. MARTINEZ, JR.
MAY 8, 1962
REGISTERED IN ARIZONA, COUNTY OF COCHISE

A tract of land 300' x 145' located south of the Chinle, Ariz. Public School on the east side of Chinle-Nazlini Road more properly described as follows:

Beginning at the intersection of Navajo Route 7 and the Spur Road, Engineer's Station 0+00 as the same appears on B.I.A. Project N7(3)224.

Thence S48°-16'-10"E along centerline of road a distance of 886.0 to Engineer's Station 8486;

Thence S4°-34'-50"W a distance of 2381.4 feet;

Thence S85°-25'-10"E a distance of 40 feet to the Real Point of Beginning;

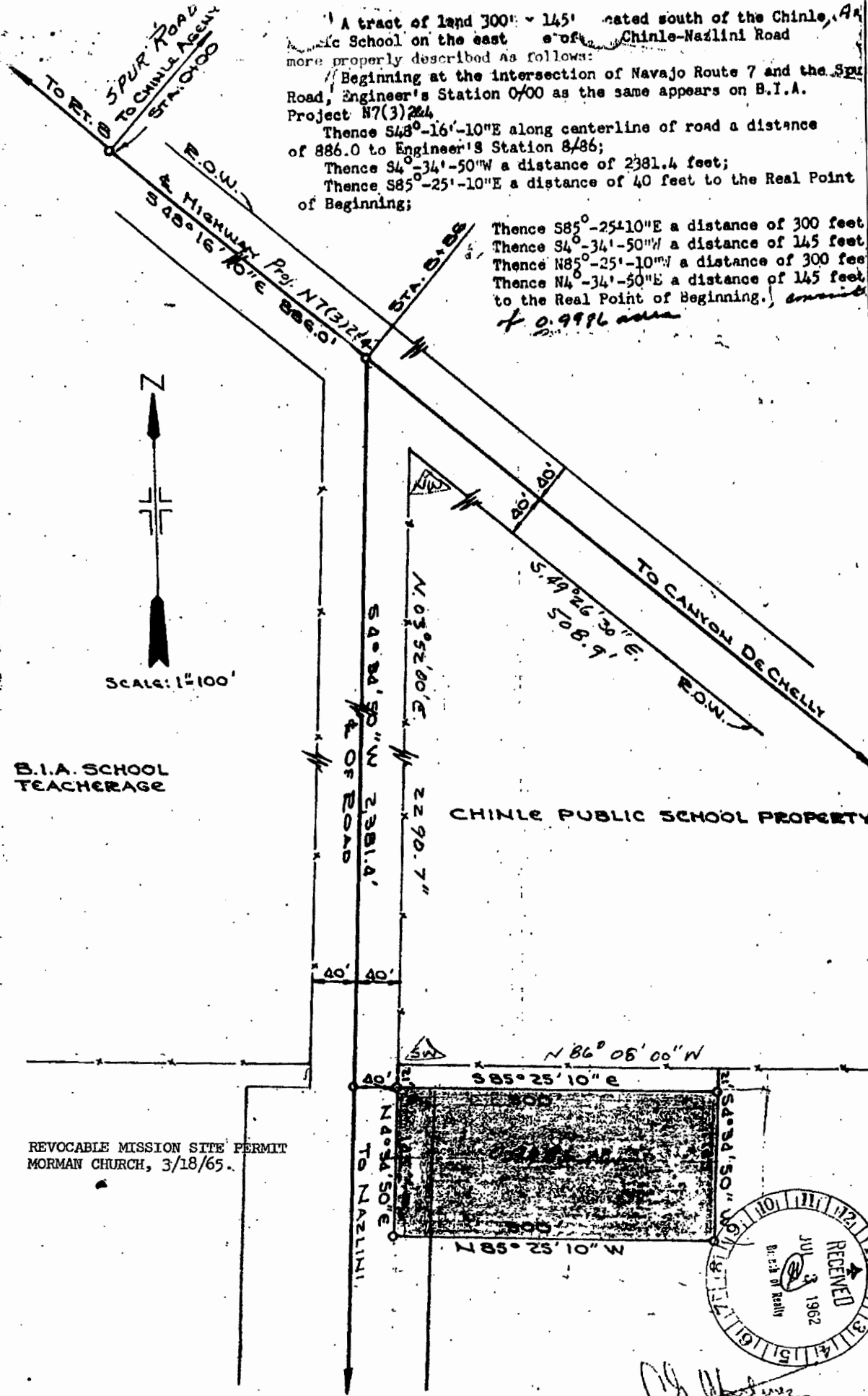
Thence S85°-25'-10"E a distance of 300 feet

Thence S4°-34'-50"W a distance of 145 feet

Thence N85°-25'-10"W a distance of 300 feet

Thence N4°-34'-50"E a distance of 145 feet to the Real Point of Beginning, *omit*

+ 0.9986 area



SURVEY AND PLAT BY: J.G. MARTINEZ, Reg. En.
MAY 5, 1962
AND L.S.N.M. # 1765
PRACTISING IN ARIZONA UNDER LIC. # 2515



UNITED STATES
DEPARTMENT OF THE INTERIOR
RECEIVED BUREAU OF INDIAN AFFAIRS
Navajo Area Office
P. O. Box 1060
Gallup, New Mexico 87301

NOV 21 1972
Area Real Property Management Officer

November 21, 1972



Area Roads

Handwritten file number 780-5728 and other markings on a routing slip.

Memorandum

To: Area Real Property Management Officer
From: Area Road Engineer
Subject: BIA Road N27(2) Right of Way

Right of way was granted March 3, 1972 for 100 feet each side of the road survey centerline beginning at Station 0+00 near Chinle and extending south to Nazlini.

The Church of Jesus Christ of Latter Day Saints has sent a letter stating that this R/W encroaches on their revocable permit issued March 1, 1965, file #780-5728, which land appears to be 40 feet from the center of the road. We do not know if there may have been any amendment to this permit subsequently.

They are willing to have us relinquish the R/W beyond 75 feet and we are willing to do this as it will miss their chapel location and leave them some parking area. They will then apply for a newly defined Mission Site.

It appears that we should relinquish that R/W between 75 and 100 feet on the left (east) side of the road from station 0+00 to 4+00, this being a tract 25' wide by 400' long. This length would also miss a house located beyond station 3+00 on the east side of the road. Advise if there are any other conflicts such as Home-Sites.

Please consider this memorandum as an application to relinquish the R/W between 75 feet and 100 feet left of BIA Road N27(2) between survey stations 0+00 and 4+00; the relinquished land being 25 feet in width, 400 feet in length, and containing 0.2295 acre, more or less.

John A. Dondley
Area Road Engineer

Enclosure

ETA NAVJO AREA OFFICE
OCT 25 1972
1 08 PM '72
TELETYPE UNIT & FILES



IN REPLY REFER TO:

UNITED STATES
DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS
Navajo Area Office
Window Rock, Arizona 86515

November 30, 1972

Mr. Graham Holmes
Director
Office of Navajo Land Administration

Dear Mr. Holmes:

Enclosed is a copy of the Area Road Engineer's memorandum dated November 21, 1972, concerning certain conflicts of interest in the BIA Road N27(2) Right of Way. Apparently, these conflicts were not noted when the original field clearance was made on the project.

We would appreciate your checking to see if there are other conflicts with existing homesites, etc., in addition to the mission site and house shown on the enclosed sketch.

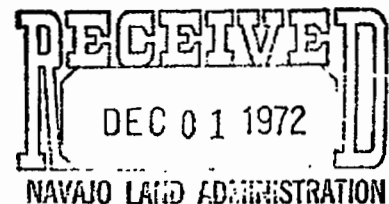
Please also assist the Church of Latter-day Saints in selecting a newly defined site in order that there be no conflict with other interests.

Sincerely yours,

Andrew W. Latham

Area Real Property
Management Office

Enclosure



*Rec'd Draper's g/l in
12/5/72*



UNITED STATES
DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS
Navajo Area Office
Window Rock, Arizona 86515

IN REPLY REFER TO:
MB
ARPM-370

Draper

December 6, 1972

Mr. Graham Holmes

Director, Office of Navajo Land Administration

Dear Mr. Holmes:

Enclosed is a copy of the November 21 memorandum from the Area Road Engineer regarding certain conflicts of interest in BIA Road N27(2) right-of-way. Apparently, the conflicts were not noted when the right-of-way was originally field cleared.

Please check into this matter and advise if there are any other conflicts such as homesites, etc. Also, we would appreciate your assisting the Church of Latter-Day Saints in its request for a newly defined site so as to avoid conflict with other interests.

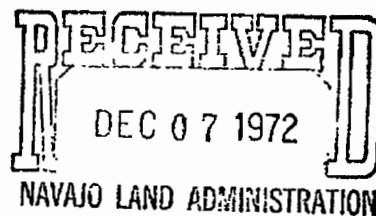
Your recommendation in this matter is requested.

Sincerely yours,

ACTING
ASSISTANT

Thomas J. Lopez
Area Real Property
Management Officer

Enclosures



ONLA 284-72

11 December 1972

Edison N. Woods, Claims Investigator

**E Inspection of Conflict of Interest in Bureau of Indian
Affairs Road Project N27(2) Right of Way at Chinle, Arizona**

It has been reported by the L.D.S. Church at Chinle, Arizona that the Right of Way for Bureau of Indian Affairs Road Project N27(2) infringes upon their leased area. There could be other conflicts beside this mission site, so please schedule a through inspection of this and other possible infringements sometime next week. Before proceeding with this assignment, make certain that you have completed reports on all clearance work assigned you the past two weeks.

Check with Mr. Bitsilley on any homesite that could be affected by this road project, also, obtain a land status map of the Chinle Community before proceeding out to the area. Attached material are for your usage.

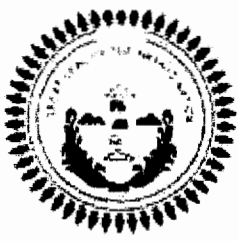
Attachment:

Chrono:

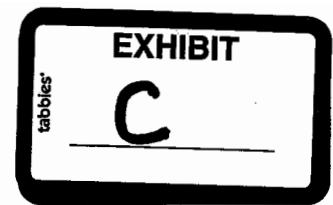
File :

HDRAPER/amk/12-11-72

Howard Draper, Liaison Field Supervisor



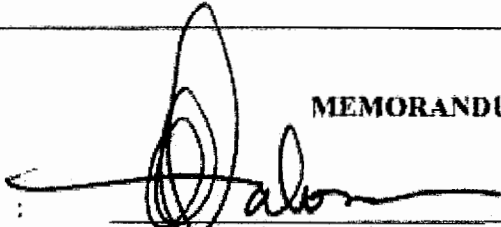
THE NAVAJO NATION

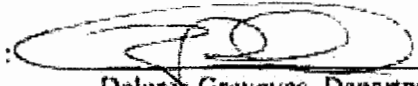


BEN SHELLY
PRESIDENT

RENEE JIM
VICE PRESIDENT

MEMORANDUM:

To : 
Mr. Mike Halona, Land Department, Department Manager III
Window Rock, Arizona 86515

From : 
Delores Greyeyes, Department Manager III
Navajo Department of Corrections/NDPS

Subject : Chinle Judicial Complex – Request for a Temporary Construction Easement on
N27 on BIA Transportation corridor.

Date : September 8, 2014

Approved / Denied

*Will Submit
request to BIA.*

Please consider this memorandum as a request for a Temporary Construction Easement for water and sewer mains to be placed in the current N27 BIA Transportation corridor. Activities and situations on the N27 BIA Transportation corridor have led up to this request.

The Chinle Justice Complex project team was notified August 25, 2014 that there was not an easement or right of way documentation for the N27 corridor for BIA Transportation. The project team and BIA Transportation had intended on amending the existing easement to include utilities for the Chinle Justice Complex project.

The planned proposal will place the proposed new sewer main on the east side of the N27 roadway. The new water main will be placed on the west side of the N27 roadway. Attached to this request are engineered water and sewer alignments overlaid on the current BIA Transportation corridor. The project team understands that there will be N27 road improvements in the near future. We have had numerous meetings and discussions with BIA Transportation and NDOT that allows mutual understanding that both projects can be implemented without conflicts or interference.

This project is of utmost importance to the Navajo Nation. We request your favorable assistance and consideration and look forward to a positive approval response to our request for a Temporary Construction Easement.

Please call me immediately if you have concerns or questions at (928) 871-7555.

Attachments: Map

Cc: Juanita Begay, NDOC
Tim Brand, ARCADIS
Al Francis, ARCADIS

NOTE: EXISTING GAS, WATER, TELECOM, AND SANITARY SEWER PIPES FOUND FIELD MARKERS, FOUND FIELD EVIDENCE, NITUA GIS MAPS, AND OTHER PROVIDED MAPPING. NITUA HAS STATED THAT THE MAJORITY OF THOSE UTILITIES MAY HAVE BEEN ABANDONED. CONTRACTOR SHALL PORTHOLE AND VERIFY PRIOR TO CONSTRUCTION.

☐ SEWER LINE KEYED NOTES

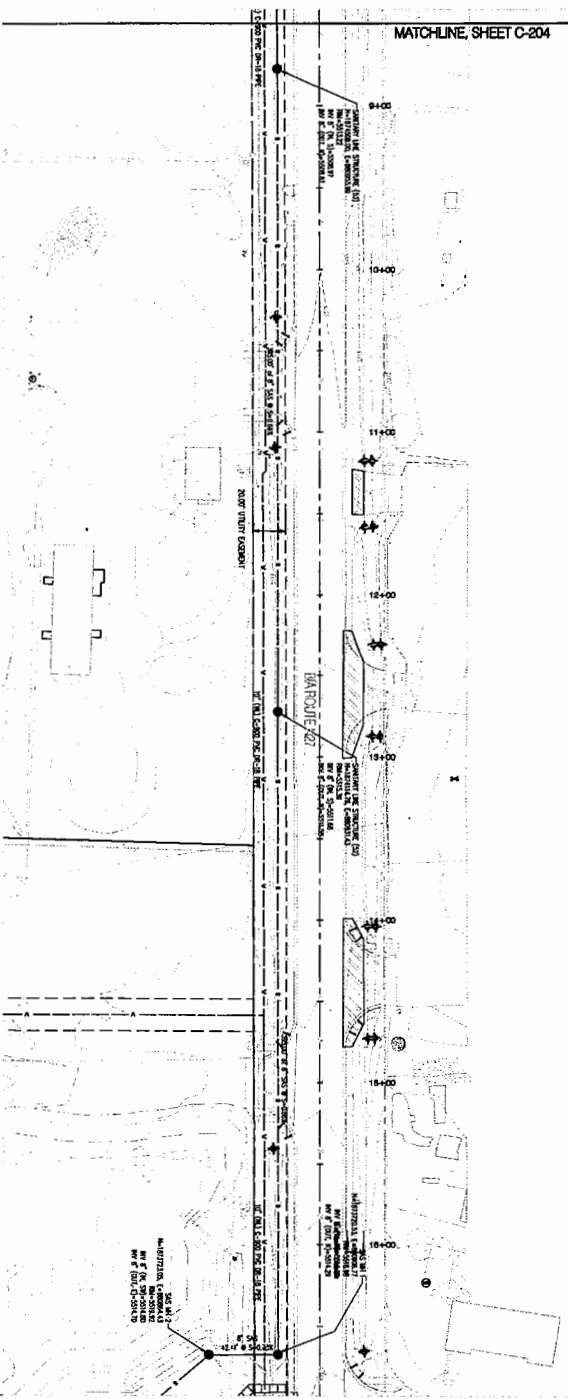
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**NAVAJO NATION
JUSTICE CENTER
SITE PACKAGE**

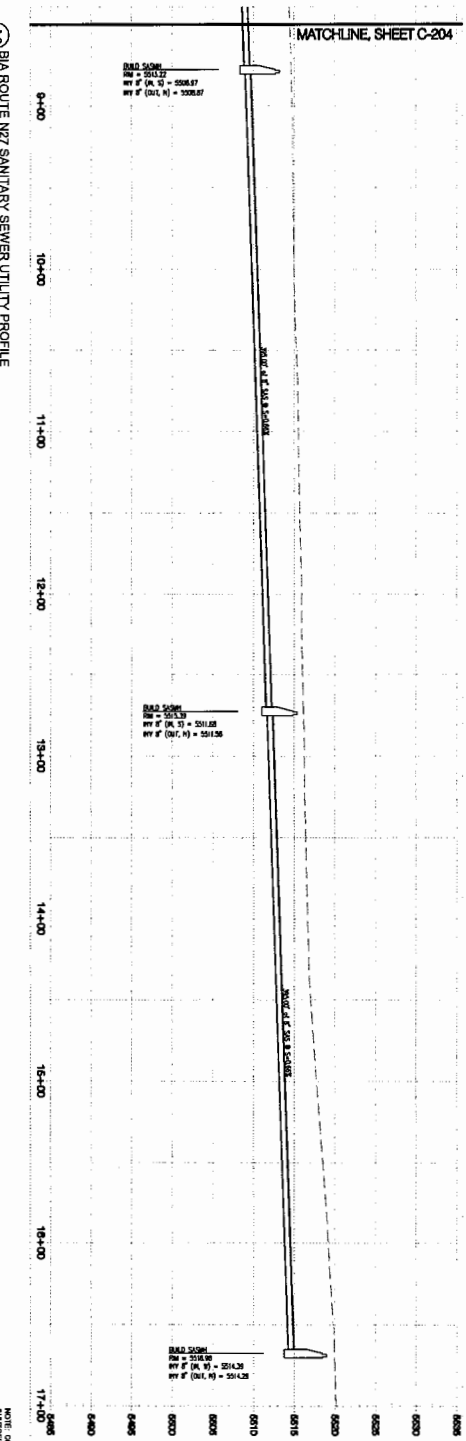
CHINLE, ARIZONA
00% CD, ISSUED FOR CONSTRUCTION
JUNE 28, 2013

LEGEND

- [illegible]



C6 BIA ROUTE N27 SANITARY SEWER UTILITY PLAN
1" = 30'



A6 BIA ROUTE N27 SANTARY SEWER UTILITY PROFILE
HORIZ: 1" = 30'

NOTE: CONTRACTOR SHALL COORDINATE WITH NTA FOR WATER

ONLY GAS & ELECTRIC UTILITY LINES ARE SHOWN FOR THE OBSERVATION DATE. DESIGN & INSTALLATION BY OTHERS. CONTRACTOR SHALL COORDINATE WITH NTLU TO PROVIDE TRACER WIRE AND TRACER PER NTLU REQUIREMENTS AS WELL AS COMPLY THE ENCASEMENT, BENCHING, PAINTING AND CONCRETE PER NTLU REQUIREMENTS.

Bohannan  **Huston**
www.bhnc.com 600.877.5332

DYRON MURPHY ARCHITECTS, P.C.



4505 Montebel Place NE, Albuquerque, New Mexico 87107

[illegible]

**BIA ROUTE N27
SANITARY SEWER**

C-205

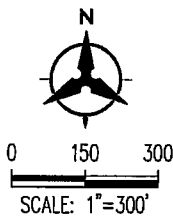
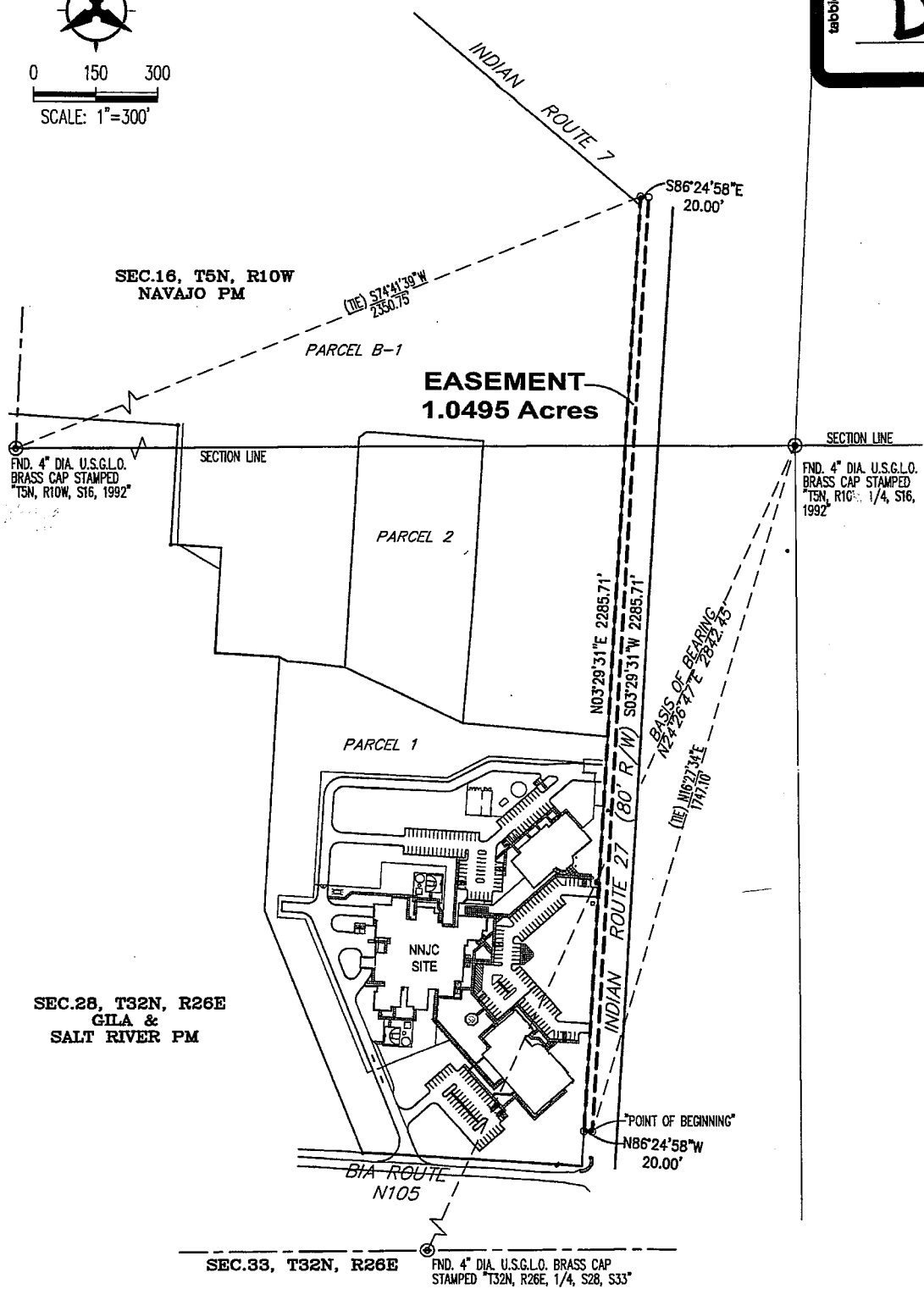


EXHIBIT
D



DRAFT

EXHIBIT A
NAVAJO NATION
JUSTICE CENTER
 CHINLE, APACHE COUNTY, ARIZONA
 DECEMBER, 2014

Bohannon & Huston
 Courtyard I 7500 Jefferson St. NE
 Albuquerque, NM 87109 (505) 823-1000

SHEET 2 OF 2

DESCRIPTION

An Easement situate within Section 28, Township 32 North, Range 28 East, Gila and Salt River Principal Meridian, Chinle, Apache County, Arizona; Section 16, Township 5 North, Range 10 West, Navajo Principal Meridian, Chinle, Apache County, Arizona and being the west 20 feet of Indian Route 27, being more particularly described as follows:

BEGINNING at the southeast corner of the herein described easement, *WHENCE* a found 4" diameter U.S.G.L.O. Brass Cap stamped "T5N, R10W, 1/4, S16, 1992" bears North 16°27'34" East a distance of 1747.10 feet;

THENCE North 86°24'58" West a distance of 20.00 feet to a point on the westerly right-of-way line of said Indian Route 27, coincident with the easterly line of Parcel 1, being the southwest corner of the herein described easement;

THENCE coincident with the westerly right-of-way line of said Indian Route 27 and the easterly line of said Parcel 1 North 03°29'31" East a distance of 2285.71 feet to a point being the northwest corner of the herein described easement, *WHENCE* a found 4" diameter U.S.G.L.O. Brass Cap stamped "T5N, R10W, S16, 1992" bears South 74°41'39" West a distance of 2350.75 feet;

THENCE leaving said westerly right-of-way line of Indian Route 27 and said easterly line of Parcel 1 South 86°24'58" East a distance of 20.00 feet to a point being the northeast corner of the herein described easement;

THENCE South 03°29'31" West a distance of 2285.71 feet to the POINT OF BEGINNING.

Easement contains 1.0495 acres, more or less.

NOTE:

Basis of Bearings is Arizona State Plane Grid Bearings, East Zone NAD 83 as established between a found Brass Cap stamped "T32N, R26E, 1/4, S28, S33" Gila and Salt River Principal Meridian and a found Brass Cap stamped "T5N, R10W, 1/4, S16" Navajo Principal Meridian bearing is North 24°26'47" East a distance of 2,482.45 feet. Bearings were established using OPUS CORS GPS techniques.

SURVEYOR'S CERTIFICATION

I, Robert A. Gromatzky, an Arizona Registered Land Surveyor No. 39099, do hereby certify that this Easement Plat and the actual survey on the ground upon which it is based were performed by me or under my direct supervision; that I am responsible for this survey; that this survey meets the Minimum Standards for Surveying in Arizona; and that it is true and correct to the best of my knowledge and belief. I further certify that this survey is not a land division or subdivision as defined in the Arizona Subdivision Regulations and that this instrument is a legal description of Federally Administered Tribal Lands.

Robert Gromatzky
Arizona Registered Land Surveyor No. 39099

Date: _____



EXHIBIT A
NAVAJO NATION
JUSTICE CENTER
CHINLE, APACHE COUNTY, ARIZONA
DECEMBER, 2014

Bohannon & Huston

Courtyard I 7500 Jefferson St. NE
Albuquerque, NM 87109 (505) 823-1000

SHEET 1 OF 2

[illegible]

NOTE: CONNECTION SHALL COORDINATE WITH NITIA FOR WATER SHUTOFF

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Number	Date	Description
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Sheet Title
**BIA ROUTE N27
SANITARY SEWER
OPTION TWO**

C-204

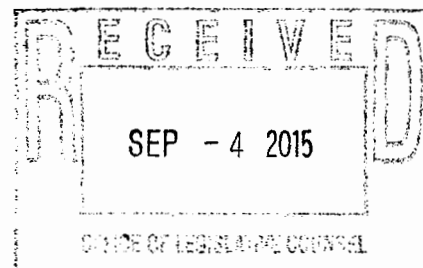


THE NAVAJO NATION

RUSSELL BEGAYE
JONATHAN NEZ



September 3, 2015



MEMORANDUM:

TO : Mariana Kahn, Counsel
Resources & Development Committee
Office of Legislative Services

FROM : Vera Shurley
Vera Shurley, Right of Way Agent
Navajo Land Department
Division of Natural Resources

THRU : Howard P. Draper
Howard P. Draper, Project Review Supervisor
Navajo Land Department/DNR

RE : Temporary Construction Easement for Chinle Judicial

The temporary construction easement application for Division of Public Safety-Chinle Judicial Center lies within the Grant of Easement for Right of Way, BIA Road Project N27(2) which was approved March 3, 1972 by Bureau of Indian Affairs. The proposed temporary construction easement is situated west of the right of way N27 (2) therefore; there will be no impact. The south side of N27 (2) has no impact as well. The BIA Road Project N27 (2) right of way does not infringe on any home sites or other improvements. A map is attached for your reference and verified thru our GIS Department. I hope this explains the issue on the right of way N27(2).

Please call our office for any questions at extension 6447.





FORM 09/12/05

(Gen TCE-State Gov for Trust Land)

EXHIBIT " "

NAVAJO NATION TERMS AND CONDITIONS
FOR TEMPORARY CONSTRUCTION EASEMENT

Navajo Department of Corrections (GRANTEE)

1. The term of the temporary construction easement shall be for two (2) years, beginning on the date the temporary construction easement is granted by the Secretary of the Interior.
2. Consideration for the temporary construction easement at \$ 1,510.56 and shall be shown as the Navajo Nation's contribution to the project.
3. The Grantee may develop, use and occupy the temporary construction easement for the purpose(s) of establishing, operating and maintaining a staging area. The Grantee may not develop, use or occupy the temporary construction easement for any other purpose without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation. The Grantee may not develop, use or occupy the temporary construction easement for any unlawful purpose.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all applicable laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
 - a. Title 25, Code of Federal Regulations, Part 169;
 - b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic

Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices;

- c. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq. and the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq.. Provided, however, the parties hereby acknowledge that the { Navajo Department of Corrections } is an entity of the State of { Arizona } subject to state and federal law and nothing in this temporary construction easement shall be construed as requiring the Grantee to federal law or the applicable laws of the State of { Arizona }
 - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq.. Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
- 5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the temporary construction easement.
 - 6. The Grantee shall clear and keep clear the lands within the temporary construction easement to the extent compatible with the purpose of the temporary construction easement, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during any surface disturbance activities.
 - 7. The Grantee shall reclaim all surface lands disturbed related to the temporary construction easement, as outlined in a restoration and revegetation plan, which shall be approved by Navajo Nation Environmental Protection Agency (NNEPA) prior to any surface disturbance. The Grantee shall comply with all provisions of such restoration and revegetation plan and shall notify the Director of the NNEPA immediately upon completion of the surface disturbance activities so that a site inspection can be made.
 - 8. The Grantee shall at all times during the term of the temporary construction easement and at the Grantee's sole cost and expense, maintain the land subject to the temporary construction easement and all improvements located thereon and make all necessary and reasonable

repairs.

9. The Grantee shall obtain prior written permission to cross existing temporary construction easements, if any, from the appropriate parties.
10. The Grantee shall be responsible for and promptly pay all damages when they are sustained.
11. In accordance with applicable law, the Grantee shall be responsible for any loss of life, personal injury and property damages arising from the development, use or occupancy or use of temporary construction easement by the Grantee.
12. The Grantee shall not assign, convey or transfer, in any manner whatsoever, the temporary construction easement or any interest therein, or in or to any of the improvements on the land subject to the temporary construction easement, without the prior written consent of the Navajo Nation and the Secretary of the Interior. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation.
13. The Navajo Nation may terminate the temporary construction easement for violation of any of the terms and conditions stated herein. In addition, the temporary construction easement shall be terminable in whole or part by the Navajo Nation for any of the following causes:
 - a. Failure to comply with any terms and conditions of the grant or of applicable laws or regulations;
 - b. A non-use of the temporary construction easement for the purpose for which it is granted for a consecutive two year periods; and
 - c. The use of the land subject to the temporary construction easement for any purpose inconsistent with the purpose for which the temporary construction easement is granted.
14. At the termination of this temporary construction easement, the Grantee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear

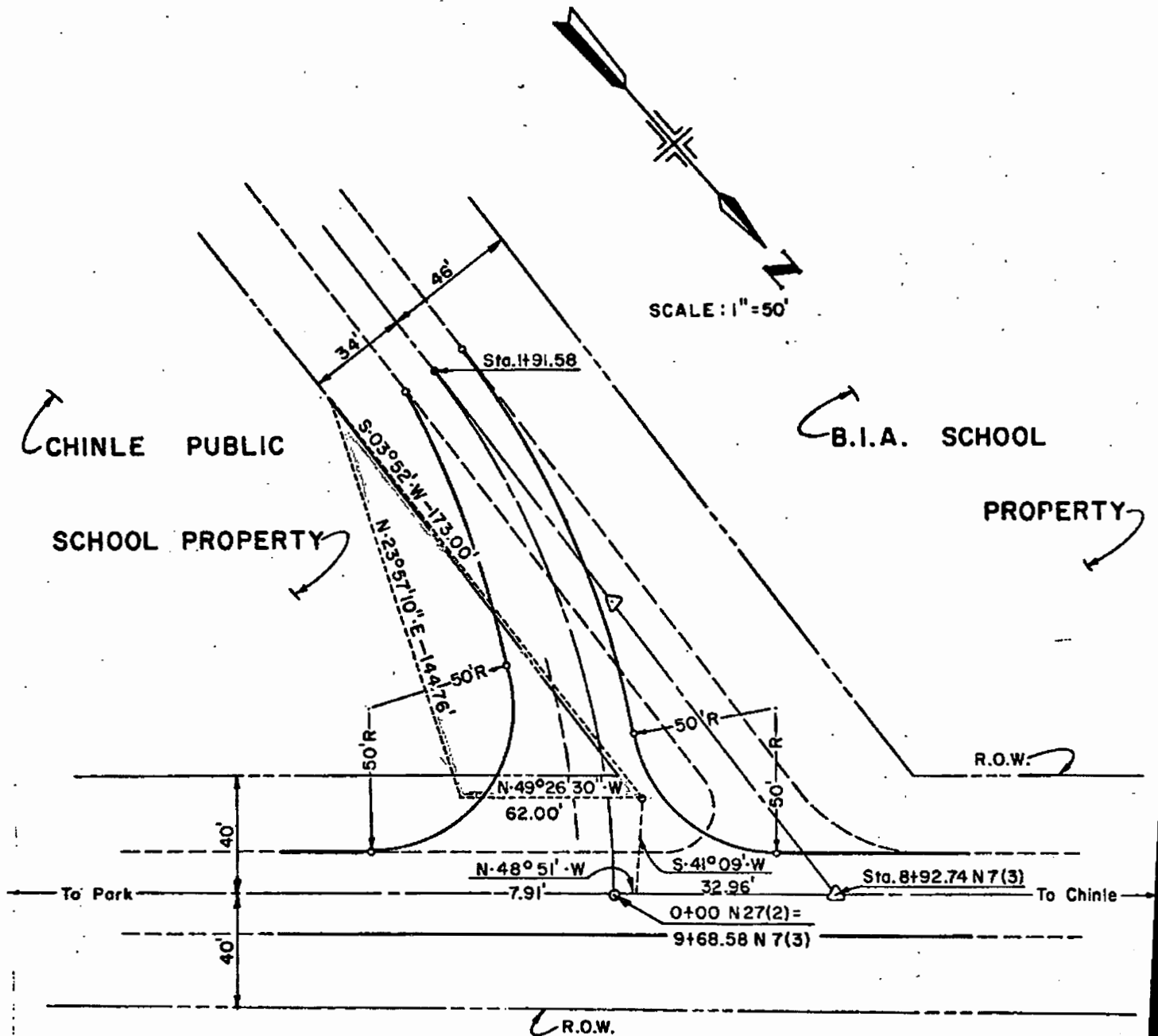
and tear excepted. Upon the written request of the Navajo Nation, the Grantee shall provide the Navajo Nation, at the Grantee's sole cost and expense, with an environmental audit assessment of the premises at least sixty (60) days prior to delivery of said premises.

15. Holding over by the Grantee after the termination of the temporary construction easement shall not constitute a renewal or extension thereof or give the Grantee any rights hereunder or into the land subject to the temporary construction easement or to any improvements located thereon.
16. The Navajo Nation and the Secretary shall have the right, at any reasonable time during the term of the temporary construction easement, to enter upon the premises, or any part thereof, to inspect the same and any improvements located thereon.
17. By acceptance of the grant of temporary construction easement, the Grantee covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision shall be construed to negate or impair federal responsibilities with respect to the land subject to the temporary construction easement or to the Navajo Nation.
18. Any action or proceeding brought by the Grantee against the Navajo Nation in connection with or arising out of the terms and conditions of the temporary construction easement shall be brought only in the Courts of the Navajo Nation, and no such action or proceeding shall be brought by the Grantee against the Navajo Nation in any court of any state.
19. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

20. 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.
21. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of the Grantee, and the term "Grantee," whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.
22. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the temporary construction easement and all lands burdened by the temporary construction easement, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the temporary construction easement; and the temporary construction easement and all lands burdened by the temporary construction easement shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.

AA/rj/09/12/05

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
NAVAJO AREA BRANCH OF ROADS



EASEMENT PLAT

Description:

Acres: 0.0987 ±

State of ARIZONA

County of APACHE

R.O.W. Proj. N 7 (3) & N 27 (2)

Chinle Chapter Government

THE NAVAJO NATION

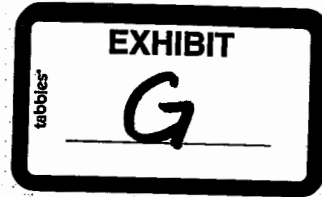
Andy R. Ayze
PRESIDENT

Myron McLaughlin
VICE PRESIDENT

Cynthia Hunter
SECRETARY/TREASURER

Leonard Pete
COUNCIL DELEGATE

Eugene Tso
GRAZING COMMITTEE MEMBER



RESOLUTION OF THE CHINLE CHAPTER NAVAJO NATION CHIN-OCT-14-062

SUPPORTING THE BUREAU OF INDIAN AFFAIRS TO APPROVE THE CONSTRUCTION OF WATER AND SEWER UTILITIES IN THE N27 CORRIDOR FOR THE SOLE PURPOSE OF SUPPORTING THE NECESSARY REQUIREMENT OF THE CHINLE JUDICIAL PUBLIC SAFETY CENTER.

WHEREAS:

1. Chinle Chapter, a recognized certified local government of the Navajo Nation, vested with the power and authority to advocate on behalf of its constituents for the improvement of health, education, safety, and general welfare; and
2. Navajo Nation Regional Judicial Public Safety Center is being construction in Chinle, south of Highway N7 and west of Highway N27; and
3. Water and sewer utilities are required for the construction and operation of the Chinle Judicial Public Safety Center; and
4. Bureau of Indian Affairs maintains the right-of-way corridor for N7 and N27; and
5. The installation of water and sewer utilities in support of the Chinle Judicial Public Safety Center have been planned and designed for construction in the N27 corridor; and
6. The construction and Operation of the Chinle Judicial Public Safety Center is in the best interests of the Chinle Chapter, the Navajo Nation and the Bureau of Indian Affairs.

NOW, THEREFORE BE IT RESOLVED THAT:

1. The Chinle Chapter hereby supports the Bureau of Indian Affairs to approve the construction of water and sewer utilities in the N27 corridor for the sole purpose of supporting the necessary requirement of the Chinle Judicial Public Safety Center.

CERTIFICATION

We, hereby certify that the foregoing chapter resolution was duly considered by the Chinle Chapter at a duly called meeting in Chinle, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 35 in favor, 0 opposed, and 4 abstained, this 21st day of October 2014.

Motioned by: HARRY CLAW

Second by: LEONARD PETE

Andy R. Ayze
Andy R. Ayze, President

Myron McLaughlin
Myron McLaughlin, Vice President

Cynthia Hunter
Cynthia Hunter, Secretary / Treasurer

Chinle Chapter Government

THE NAVAJO NATION

Andy R. Ayze
PRESIDENT

Myron McLaughlin
VICE PRESIDENT

Cynthia Hunter
SECRETARY/TREASURER

Leonard Pete
COUNCIL DELEGATE

Eugene Tso
GRAZING COMMITTEE MEMBER

RESOLUTION OF THE CHINLE CHAPTER NAVAJO NATION CHIN-DEC-14-077

SUPPORTING AND RECOMMENDING APPROVAL FOR RIGHT-OF-WAY WITHIN THE BUREAU OF INDIAN AFFAIR ROUTE N27 CORRIDOR TO INSTALL THE WATER AND SEWER UTILITIES TO CONNECT TO THE NAVAJO TRIBAL UTILITY AUTHORITY UTILITY LINES FOR THE PURPOSE OF PROVIDING SERVICES TO THE CHINLE JUDICIAL PUBLIC SAFETY COMPLEX.

WHEREAS:

1. Chinle Chapter, a recognized certified local government of the Navajo Nation, vested with the power and authority to advocate on behalf of its constituents for the improvement of health, education, safety, and general welfare; and
2. The Chinle Chapter is a growing community that desires to keep up with the progressive trend in community development by the development of the Chinle Justice Center for the safety and welfare of the community; and
3. The water and wastewater utilities, required to operate the Chinle Justice Center, is under design and will be constructed within the BIA Route N27 corridor; and
4. The Navajo Tribal Utility Authority finds it necessary to obtain a permit and right-of-way for a parcel of land consisting of 20 feet wide by 2,285.71 feet in length +/-, more specifically located as shown in Exhibit A; attached hereto and made a part hereof; and
5. The Navajo Tribal Utility Authority will complete all the necessary consents required, the environmental and cultural resources inventories and obtain all clearances required for the proposed undertaking; and
6. The Chinle Chapter requests of the Resources Committee of the Navajo Nation that a waiver or approval be granted, because this proposed undertaking will provide adequate and much needed water and wastewater utility services to the Chinle Justice Center; and
7. The Chinle Chapter finds it in their best interest that the Navajo Tribal Utility Authority obtains the utility permit and right-of-way for the NTUA to provide service, operation and maintenance of the water and wastewater utilities to the Chinle Justice Center within the community.

NOW, THEREFORE BE IT RESOLVED THAT:

1. The Chinle Chapter hereby supports and recommends approval for Right-of-Way within the Bureau of Indian Affairs Route N27 corridor to install the water and sewer utilities to connect to the Navajo Tribal Utility Authority Utility lines for the purpose of providing services to the Chinle Judicial Public Safety Complex.

**SUPPORTING AND RECOMMENDING APPROVAL FOR RIGHT-OF-WAY
WITHIN THE BUREAU OF INDIAN AFFAIR ROUTE N27 CORRIDOR TO
INSTALL THE WATER AND SEWER UTILITIES TO CONNECT TO THE
NAVAJO TRIBAL UTILITY AUTHORITY UTILITY LINES FOR THE
PURPOSE OF PROVIDING SERVICES TO THE CHINLE JUDICIAL PUBLIC
SAFETY COMPLEX.**

CERTIFICATION

We, hereby certify that the foregoing chapter resolution was duly considered by the Chinle Chapter at a duly called meeting in Chinle, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 26 in favor, 0 opposed, and 0 abstained, this 21st day of December 2014.

Motioned by: Wayne Claw

Second by: Sharon Yazzie

Andy R. Ayze
Andy R. Ayze, President

Myron L. McLaughlin
Myron L. McLaughlin, Vice President

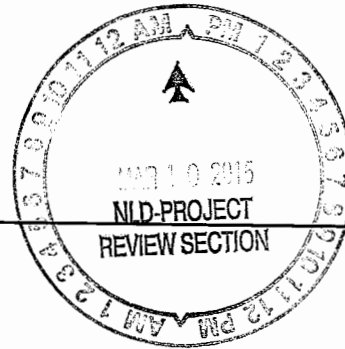
Cynthia Hunter
Cynthia Hunter, Secretary / Treasurer



THE NAVAJO NATION

BEN SHELLY
PRESIDENT

MEMORANDUM



REX LEE JIM
VICE-PRESIDENT

TO : 164 Reviewers

FROM : Delores
Delores Greyeyes, Dept. Manager III
Department of Corrections

DATE : March 4, 2015

SUBJECT : N27 Water and Sewer – Right of Way (ROW)

The Department of Corrections submits this review and approval for construction easement for water and sewer mains to be placed in the current N27 BIA Transportation corridor. The Navajo Nation is constructing an 112,000 sq. ft. Judicial Public Safety Facility Center in Chinle, Arizona. In the first phase, the adult corrections facility was funded for construction and is 40% complete. The Police and Courts building were recently funded for construction as part of this campus and there is a schedule for mass excavation for these two additional buildings starting on February 23, 2015. Attached you will find the Chinle Chapter Supporting Resolution, water and sewer alignments and the ROW acquisition survey.

Due to the time frame for the acquisition of the ROW or easement process, we have requested for a temporary use permit from the Navajo Regional Office and now submitting the formal 164b for formal approval of the Right of Way permit. A copy of the letter submitted for the temporary use permit is also included in this packet for your review and information

Your assistance in review of this package and approval is appreciated. Thank You.

If you should have any questions please feel free to direct them to my attention at (928) 871-7555.

CONCURRENCE:

John Billison 3/6/2015
John Billison, Executive Director
DIVISION OF PUBLIC SAFETY

cc: Juanita Begay, Principal Accountant, NDOC
Tim Brand, Arcadis Project Manager
file



THE NAVAJO NATION

BEN SHELLY
VICE CHAIRMAN



KEN LEE JIM
VICE CHAIRMAN

February 13, 2015

Ms. Sharon Pinto, Director
Navajo Regional Office
Bureau of Indian Affairs
301 West Hill
Gallup New Mexico

Re: Chinle Justice Complex – Temporary Use Permit and Construction Implementation

Dear Ms. Pinto,

This letter will serve as a follow up to our meeting at your office on December 3, 2014, the meeting at the Navajo Nation President's office on December 19, 2014, and the meeting at the Navajo Nation Department of Justice on January 21, 2015. Please consider this letter as a request for a temporary use permit for areas described below and in the attachments.

As you know, the Navajo Nation is constructing a Justice Center project in Chinle, Arizona. The Adult Corrections facility is under construction at 40% complete. The Law Enforcement and Courts facilities have recently been funded. Mass grading and drilling activities are scheduled to begin February 23, 2015 for these facilities.

Current construction is limited to the parcel of land referred to as "Parcel A," which has been withdrawn from BIA and transferred to the Navajo Nation. Parcel B remains as Bureau of Indian Affairs (BIA) land, over which BIA has authority and control. While the Justice Center design maximizes the use of Parcel A, not all of the necessary improvements can be captured in Parcel A.

As discussed at our meetings, we are requesting a "temporary use permit" from BIA for four portions of Parcel B, in order to continue construction activities prior to relinquishment of Parcel B to the Navajo Nation. The temporary use permit will allow for construction to continue while BIA completes the cleanup of soil contamination on portions of Parcel B. When the soil cleanup is concluded, we will request relinquishment of Parcel B, including the areas covered by the temporary use permit, to the Navajo Nation.

We request a temporary use permit for the following four areas, which are further described in the attachments and shown on the map attached as Exhibit 3:

2.5 Acre Cleaned Site – Required for adult detention day use yard, employee parking, site drainage detention area and drainage outlet.

A new site survey and legal description has been prepared. The temporary use permit is the most expeditious way to proceed with construction, pending approval of documents for relinquishment of the property to the Navajo Nation.

Courts Building Corner – This 0.413 acre parcel is required for the southern corner of the Courts Building construction. The project team needs this area for continuation of mass excavation and pier drilling for the building foundation for the Courts facility. BIA's previous sampling has confirmed that there is no subsurface contamination in this area, and that construction activities will not interfere with BIA's mitigation activities.

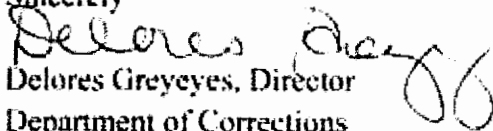
Access and Fire Lane – The roadway is required for site fire access, detainee intake access road, security fencing, and security lighting. It is understood that BIA will maintain first use of this area for their mitigation activities and Navajo activity will adapt to BIA mitigation activities. Under a "Temporary Use Permit," Navajo will lay out the access road alignment and place an aggregate base so it could be used for both construction activities on Parcel A and access to the detainee intake sally port of the Adult Corrections building if the area is still being mitigated by BIA at the time of project completion and operation. In this manner construction may proceed while BIA completes its mitigation activities prior to relinquishment of Parcel B to the Navajo Nation.

Detention Pond Outfall – This north 0.322 acre area is required for site drainage detention pond and drainage outlet. This area has been site surveyed by the NNEPA with detection equipment and has determined there are no underground storage tanks in this area.

It is understood that any Navajo improvement that is placed in the "Temporary Use Permit" area is "at risk" and BIA is not required to replace or reimburse the cost of the improvement if it is removed during BIA mitigation activities.

We respectfully request your expeditious reply to this request for the "Temporary Use Permit" for these four areas.

Sincerely,


Delores Greyeyes, Director
Department of Corrections

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.: Chinle Judicial Public Safety Facility Center - TCE for Water/Sewer Main

DESCRIPTION: Proposed Temporary Construction Easement (TCE) for water/sewer main to be located within the existing BIA N27 road corridor. The TCE is 2,285.74 ft. in length and 20 ft. in width, consisting of 1.0495± acres.

LOCATION: Section 16, T05N, R10W, NPM and Section 28, T32N, R26E, G&SRPM, Chinle, Apache County, AZ

REPRESENTATIVE: Delores Greyeyes, Department of Corrections & Howard Draper, Navajo Land Department

ACTION AGENCY: Bureau of Indian Affairs & Navajo Nation

B.R. REPORT TITLE / DATE / PREPARER: Request for review & concurrence/04 MAR 2015/Greyeyes

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 4.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: NA

CONDITIONS OF COMPLIANCE*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/19 MAY 2015

COPIES TO: (add categories as necessary)

☐ _____ ☐ _____

2 NTC § 164 Recommendation:	Signature	Date <i>20 May 2015</i>
<input checked="" type="checkbox"/> Approval	<i>[Signature]</i> Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife	
<input type="checkbox"/> Conditional Approval (with memo)		
<input type="checkbox"/> Disapproval (with memo)		
<input type="checkbox"/> Categorical Exclusion (with request letter)		
<input type="checkbox"/> None (with memo)		

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



MEMORANDUM

TO : Jeff Cole, Wildlife Manager
Department of Fish and Wildlife
DIVISION OF NATURAL RESOURCES

FROM : Gloria M. Tom / [Signature]
Gloria M. Tom, Department Manager II
Department of Fish and Wildlife
DIVISION OF NATURAL RESOURCES

DATE : May 20, 2015

SUBJECT : DELEGATION OF AUTHORITY

I will be on Annual Leave on Wednesday, May 20, 2015. Therefore, I am hereby delegating you to act in the capacity of the Director, Department of Fish and Wildlife, effective 8:00 am on Wednesday, May 20, 2015. This delegation shall end at 5:00 p.m. on Wednesday, May 20, 2015.

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

ACKNOWLEDGEMENT:

[Signature]
Jeff Cole, Wildlife Manager
Department of Fish & Wildlife



NNDFW Review No. 12DOEL01a4

**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.: Chinle Judicial/Public Safety Facility Project

DESCRIPTION: The Navajo Nation Division of Public Safety, Department of Corrections (Navajo DOC) proposes the construction and long-term operation of a new judicial/public safety facility within a 18.50-acre tract.

LOCATION: S½ of Section 28, T32N, R26E, G&SRM, Chinle, Apache County, Arizona

REPRESENTATIVE: John E. Dodge, Biologist/President, Dodge Environmental, LLC.

ACTION AGENCY: Navajo Nation Division of Public Safety, Department of Corrections

B.R. REPORT TITLE / DATE / PREPARER: Request for biological clearance/20 JUL 2012/John E. Dodge

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 4 - Community Development

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

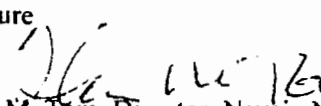
AVOIDANCE / MITIGATION MEASURES: NA

CONDITIONS OF COMPLIANCE*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/31 JUL 2012

COPIES TO: (add categories as necessary)

☐☐

2 NTC § 164 Recommendation: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Conditional Approval (with memo) <input type="checkbox"/> Disapproval (with memo) <input type="checkbox"/> Categorical Exclusion (with request letter) <input type="checkbox"/> None (with memo)	Signature  Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife Date 7/31/12
--	--

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



CULTURAL RESOURCES COMPLIANCE FORM

THE NAVAJO NATION
HISTORIC PRESERVATION DEPARTMENT
PO BOX 4950
WINDOW ROCK, ARIZONA 86515

ROUTING: COPIES TO
AZ SHPO
REAL PROPERTY MGT/330
XX CSWTA

NNHPD NO. **HPD-12-747**
OTHER PROJECT NO.

CSWTA-ARCH-2012065

PROJECT TITLE: A Cultural Resources Inventory Survey of the Proposed Chinle Judicial Center with Associated Utilities In Chinle, Apache County, Arizona.

LEAD AGENCY: BIA/NR

SPONSOR: David Esparza, Iina ba, Inc., 4801 Butler Ave., Ste. 1101, Farmington, New Mexico 87401

PROJECT DESCRIPTION: The proposed undertaking will involve the land withdrawal and construction of a new Chinle Judicial Complex headquarters for a courthouse, police station and jail facilities. The area of effect is 18.5-acres. Ground disturbance will be intensive and extensive with the use of heavy equipment.

LAND STATUS: Navajo Tribal Trust

CHAPTER: Chinle

LOCATION: T.32N, R.26E - Sec. 26; Chinle Quadrangle, Apache County, Arizona G&SRPM

PROJECT ARCHAEOLOGIST: Loretta Flatrock
NAVAJO ANTIQUITIES PERMIT NO.: B12513

DATE INSPECTED: 07/30/12

DATE OF REPORT: 07/31/12

TOTAL ACREAGE INSPECTED: 18.5 -ac

METHOD OF INVESTIGATION: Class III pedestrian inventory with transects spaced 10-12 m apart.

LIST OF CULTURAL RESOURCES FOUND:	None
LIST OF ELIGIBLE PROPERTIES:	None
LIST OF NON-ELIGIBLE PROPERTIES:	None
LIST OF ARCHAEOLOGICAL RESOURCES:	None

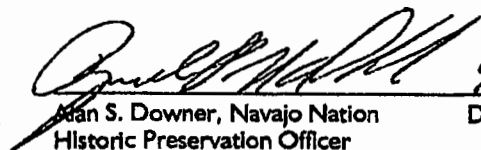
EFFECT/CONDITIONS OF COMPLIANCE: **No historic properties affected.**

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) 871-7147.

FORM PREPARED BY: Tamara Billie
FINALIZED: September 25, 2012

Notification to
Proceed Recommended:
Conditions:

Yes XX No
Yes No XX

 9-26-12
Alan S. Downer, Navajo Nation
Historic Preservation Officer Date

Navajo Region Approval:

Yes X No

 10/11/12
Acting BIA-Regional Director Date

TLN 10-10-12

ARCHAEOLOGICAL INVENTORY REPORT DOCUMENTATION PAGE (HPD APR/93)**1. HPD REPORT NO.**

2. TITLE OF REPORT: A Cultural Resources
Inventory Survey of the Proposed Chinle Judicial Center
with Associated Utilities in Chinle, Apache County,
Arizona.

3. FIELDWORK DATES:

July 30, 2012

4. REPORT DATE:

July 31, 2012

5. CONSULTANT NAME AND ADDRESS:

CSWTA, Inc.
Post Office Box 790
Tuba City, Arizona 86045

6. PERMIT NO.:

B12513

7. CONSULTANT REPORT NO.:

CSWTA-ARCH-2012065

8. SPONSOR NAME AND ADDRESS:

David Esparza
iiná bá, Inc.
4801 N. Butler Ave., Ste. 1101
Farmington, New Mexico 87401

9. SPONSOR REPORT NO.:

NA

10. AREA OF EFFECT: 18.5 ac.**TOTAL AREA SURVEYED:** 18.5 ac.**11. LOCATION (MAP ATTACHED):****a. Chapter:** Chinle**e. Land Status:** Navajo Tribal Trust Lands**b. Agency:** Chinle**f. UTM Zone 12:** See attached sheet (Figure 3)**c. County:** Apache**g. Legal:** Township 32N, Range 26E, Section 26**d. State:** Arizona**h. 7.5" Map(s):** Chinle, AZ 1982**i. Lead Agency:** BIA**12. REPORT ATTACHMENTS:**

- a. Description of the Undertaking:** CSWTA, Inc., Archaeological Consultants conducted a cultural resources inventory survey which included both a Traditional Cultural Properties assessment and an Archaeological Survey on an 18.5 acre parcel of land at the request of David Esparza of iiná bá, Inc. of Farmington, New Mexico. The Traditional Cultural Properties assessment was conducted by Navajo speaking personnel of CSWTA, Inc. Carol S. Yazzie-Ward and Loretta Flatrock conducted a pedestrian archaeological survey on July 30, 2012 under NNHPD permit B12513.

The proposed Chinle Judicial Center project parcel is on a 530.97 feet by 639.43 feet by 616.60 feet by 21.98 feet by 49.62 feet by 90.39 feet by 316.22 feet by 353.35 feet by 1,046.04 feet parcel of disturbed land (see Figure 3 for corner points). The total area of potential effect equals 805,862.40 square feet or 18.5 acres. Ground disturbance may be expected to be intensive and extensive from the use of heavy equipment.

Chinle Chapter proposes to build a new Chinle Judicial Complex headquarters for a courthouse, police station and jail facilities on this parcel of land to do tribal and associated business. Construction activities will consist of vehicle and heavy earthmoving equipment within the project area to erect buildings and pave parking area.

- b. **Existing Data Review:** Before fieldwork was conducted a site file search of the project area was conducted at the Navajo Nation Historic Preservation Department (NNHPD) in Window Rock, Arizona. The file search indicated that no sites were previously recorded within 300 feet of the project area. Seven projects were previously reported: #HPD 93-1005, #HPD 00-270, #HPD 03-1059, #HPD 05-1122, #HPD 04-02, #HPD 01-861 and #HPD 04-230. Five sacred places were reported: #87 is Ch'inli/outflow/Chinle Wash approximately one mile to the northeast, #373 is Tse Biniaz'eetti/Rock That Thing Float Around which is to the east in Canyon De Chelly, #432 is Tsini'Kooch Hal ohii'/Red Rock Ledge Canyon which is to the east in Canyon De Chelly, #426 is Tse Nihani/Squared-Off Rock which is to the east in Canyon De Chelly, and #217 is ibli Sila/Gray Pour/South rim of Canyon De Chelly to the east.
- c. **Area Environmental & Cultural Setting:** The proposed Chinle Judicial Complex project area is located in Chinle approximately ¼ mile south of NR 7 and on the west side of NR 27 at elevations between 5,557 and 5,522 feet above mean sea level. The area has a chain link fence and was the former Chinle Agency Housing, built in the early 1970's. The dilapidated apartment units and houses were demolished approximately 3-4 years ago. All utilities are still available to this project site.

The project site is located on the Colorado Plateau in northeastern Arizona. The terrain varies from semidesert plateau to wooded mesas and mountain ranges. There are canyons and valleys with heavy wooded and forested mountains to the east. The soils consist predominantly of sand and clays, which are of medium to high plasticity. Vegetation included morning glory, shadescale, globemallow, knapweed, banana yucca, Russian thistle and elm trees. Annual average precipitation is over 9.0 inches per year. Severe rainstorms occur during summer months and high winds can occur any month. Average daily temperatures range from 90° F in the summer to below 0° F in the winter. The nearest water resources are Chinle Wash to the north, Nazlini Wash to the west and Cottonwood Wash to the west.

Prehistoric Anasazi people settled this region because of permanent water, game and sustainable agriculture. Modern usage is Navajo.

- d. **Field Methods:** Carol S. Yazzie-Ward and Loretta Flatrock walked subparallel transects spaced 10-12 meters apart to survey for cultural resources. The total area surveyed equaled 805,856.90 square feet or 18.5 acres. All exposed ground surfaces were carefully examined and special attention was given areas of erosion and deflation. Mr. Timothy Begay, Chapter official, was interviewed for knowledge of Traditional Cultural Properties or sacred places and had no concerns of any Traditional Cultural Properties on or near the project area.

13. CULTURAL RESOURCE FINDINGS:

- a. **Location/Identification of Each Resource:** No cultural resources were inventoried, no Traditional Cultural Properties or sacred places were found.
- b. **Evaluation of Significance of Each Resource:** No significant findings were made.

14. **MANAGEMENT SUMMARY (RECOMMENDATIONS):** Archaeological clearance is recommended for the proposed project site with associated utilities.

15. CERTIFICATION:

Signature: Carol S. Fazzle-Ward DATE: 09/05/2012
General Charge Name: Loretta Flatrock
Signature: Carol S. Fazzle-Ward DATE: 09/05/2012
Direct Charge Name: Carol S. Fazzle-Ward

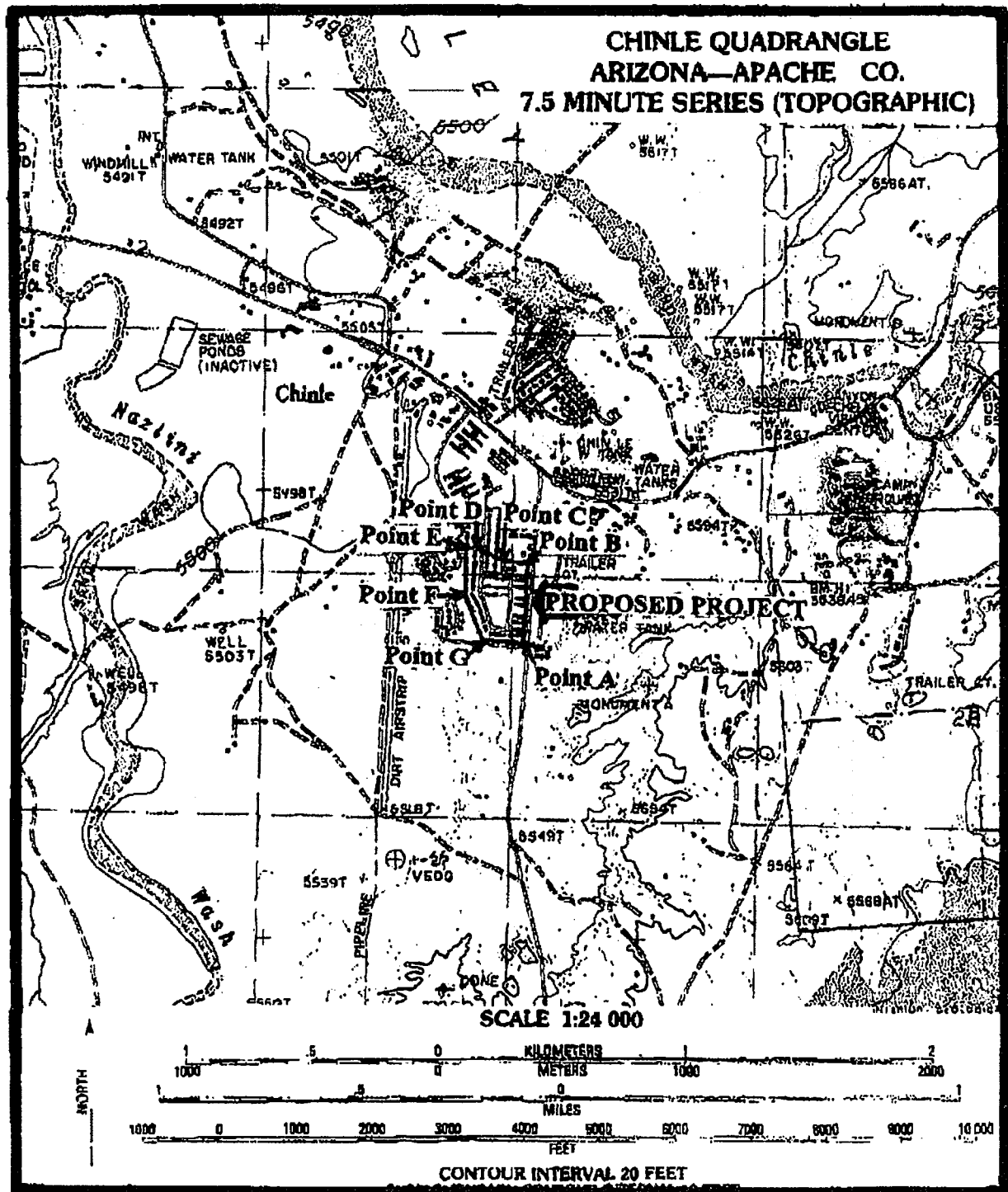
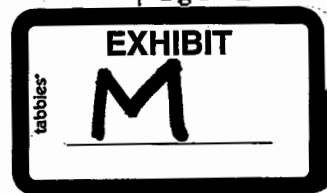


Figure 1. The project area on USGS Chinle Quadrangle, 7.5-minute series, Apache County, Arizona within the Chinle Chapter.



CULTURAL RESOURCES COMPLIANCE FORM
HISTORIC PRESERVATION DEPARTMENT
PO BOX 4950
WINDOW ROCK, ARIZONA 86515

ROUTING: COPIES TO

AZ	SHPO
X	ACHP
X	REAL PROPERTY MGT/330
X	BIA Branch of Roads
X	Pueblo of Acoma
X	Pueblo of Laguna
X	Hopi Tribe
X	Pueblo of Zia
X	Pueblo of Zuni

NNHPD NO. 92-471

OTHER PROJECT NO.

BOR-92-007Sponsor # N27 (4-3) 2 & 4

PROJECT TITLE: (a.) A Cultural Resources Reassessment Survey for Proposed Roads Construction Project BIA Roads Project N27 (4-3) 2&4 Chinle to Nazlini, Apache County, Arizona (Trianni 1992); (b.) Letter of April 18, 1995, from Dennis Gilpin, SWCA, INC. Environmental consultants, to Reid Nelson, Navajo Nation Historic Preservation Department, Roads Planning Program (Gilpin 1995).

LEAD AGENCY: Bureau of Indian Affairs, Navajo Area Office, Branch of Roads

SPONSOR: Wilfred Frazier, Bureau of Indian Affairs, Navajo Area Office, Branch of Roads

PROJECT DESCRIPTION: The undertaking will include the realignment, construction and paving of the southern portion of Navajo Route 27. This undertaking will involve construction along approximately the southern 5.6 miles of N27, with a right-of-way of 200 feet. The road improvement project begins at Station No. 775 and continues 29354 feet south and southeast to Station 1068+53.66, just north of Nazlini, Arizona. During the course of the proposed undertaking extensive ground disturbance is anticipated with the use of heavy equipment.

LAND STATUS: Navajo Tribal Trust

CHAPTER(S): Chinle and Nazlini

LOCATION: Chinle and Nazlini, Apache County, Arizona.
B.O.P.- unplatted; Township 3 North, Range 10 West (projected)
E.O.P.- unplatted; Township 3 North, Range 10 West (projected)

PROJECT ARCHAEOLOGIST(S): (a.) Robert J. Trianni; (b.) Dennis Gilpin, Ginny Newton, and Randy Fox.

PROJECT ETHNOGRAPHER (b.): Ginny Newton.

NAVAJO ANTIQUITIES PERMIT NO.: (a.) Navajo Tribal Code; (b.) B9366-I2.

DATE INSPECTED: (a.) May 16 to June 14, 1992; (b.) October 10 to 21, 1994.

DATE OF REPORT: (a.) August 18, 1992; (b.) April 18, 1995.

TOTAL ACREAGE INSPECTED: (a.) 490.6 acres (198.7 ha); (b) 490.6 acres (198.7 ha).

METHOD OF INVESTIGATION: Archaeological Methods: Class III Pedestrian survey with transects spaced no more than 15 meters apart. Ethnographic Methods: Interviews with local residents, knowledgeable individuals, and chapter

officials.

LIST OF CULTURAL RESOURCES FOUND:

Ten (10) sites.
One (1) In-Use Site.

LIST OF ELIGIBLE PROPERTIES:

AZ-P-5-24
AZ-P-5-5
AZ-P-5-27
AZ-P-5-29
AZ-P-5-30
AZ-P-5-32

LIST OF NON-ELIGIBLE PROPERTIES:

AZ-P-5-25
AZ-P-5-28
AZ-P-5-31
AZ-P-5-33

LIST OF ARCHAEOLOGICAL RESOURCES:

AZ-P-5-24

EFFECT/CONDITIONS OF COMPLIANCE: Pursuant to Stipulation 3 of "A Programmatic Agreement among the Navajo Nation, the Bureau of Indian Affairs-Navajo Area Office, the Advisory Council on Historic Preservation, the Arizona State Historic Preservation Officer, the New Mexico State Historic Preservation Officer, and the Utah State Historic Preservation Officer for Cultural Resource Management Projects Conducted Under the Auspices of the Navajo Nation Historic Preservation Department, Roads Planning Section within the Boundaries of the Navajo Nation," the Navajo Nation Historic Preservation Department has determined that this undertaking will have **no adverse effect** on historic properties, provided that the BIA adhere to the following stipulations:

AZ-P-5-27 is a Second Night area for an Enemy Way ceremony (Anaa'ji), and is partially located within the right-of-way near Station 785. Local residents have indicated no objections to the road passing through this area since it will not interfere with the continued practice of this ceremony. Therefore, this undertaking will not adversely effect those characteristics which contribute to the sites eligibility for nomination to the Register.

AZ-P-5-24 is a Basketmaker II habitation site, and is located between stations 844-845. The site will be avoided by the use of a surveyed reroute. The site boundary shall be fenced under the supervision of a qualified archaeologist prior to any ground disturbing activity. Any ground disturbance within 50 feet of the site boundary shall be monitored by a qualified archaeologist. A brief letter report documenting the success of the fencing effort and the results of monitoring shall be submitted to NNHPD-CRCS within 60 days of the completion of monitoring.

AZ-P-5-5 is an Enemy Way site, and is located within the right-of-way near Station 964. Local residents have indicated no objections to the road passing through this area since it will not interfere with the continued practice of this ceremony. Therefore, this undertaking will not adversely effect those characteristics which contribute to the sites eligibility for nomination to the Register.

Cultural Resources Compliance Form
NNHPD-92-471
Page 3.

AZ-P-5-5 is an Enemy Way site, and is located within the right-of-way near Station 964. Local residents have indicated no objections to the road passing through this area since it will not interfere with the continued practice of this ceremony. Therefore, the undertaking as proposed will not affect those characteristics that contribute to the site's eligibility to the National Register of Historic Places.

AZ-P-5-29 Navajo habitation component: Located adjacent to the right-of-way near Station 1005. This component will be avoided by the undertaking. Due to its close proximity to the right-of-way, the site boundary shall be fenced under the supervision of a qualified anthropologist prior to any ground disturbing activity. No monitoring is necessary.

AZ-P-5-29 (continued) Navajo Yei bi chei component: Located partially within the right-of-way near Station 1005. One feature (a ramada) will be dismantled as part of the project. Local residents have indicated no objections to the road passing through this area since it will not interfere with the continued practice of this ceremony. Therefore, the undertaking as proposed will not affect those characteristics that contribute to the site's eligibility to the National Register of Historic Places. The site boundary shall be fenced under the supervision of a qualified anthropologist prior to any ground disturbing activity. No monitoring is necessary.

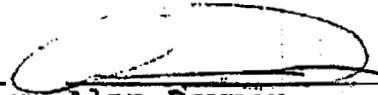
A brief letter report documenting the success of all of the stipulated fencing and monitoring efforts shall be submitted to NNHPD-CRCS within 60 days of the completion of monitoring.

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 520-871-7132.

FORM PREPARED BY: Peter J. Kakos
FINALIZED: July 26, 1995

Notification to
Proceed Recommended:
Conditions:

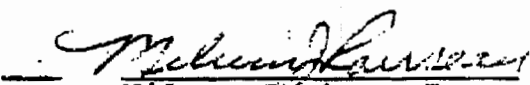
Yes x No
Yes x No


Alan Downer
Navajo Nation Historic
Preservation Officer

7/31/95
Date

Agency Approval:

Yes f No


Wilson Barber, Jr.
Area Director

8/8/95
Date



THE NAVAJO NATION

ALBERT A. HALE
PRESIDENT

NAVAJO NATION HISTORIC PRESERVATION DEPARTMENT
ROADS PLANNING PROGRAM
214 E. NIZHONI BLVD.
GALLUP, NEW MEXICO 87301

THOMAS E. ATCITTY
VICE PRESIDENT

April 25, 1997

ATTENTION: Signatories and Interested Parties to the Navajo Nation Historic Preservation Department - Roads Planning Program Programmatic Agreement

RE: **NNHPD-92-471.1: Additional Easement on the N27 Road Project to Improve and Extend Turnouts, Improve Grades, Obliterate Existing Roads, and Add Drainage Cuts for Pipes, Apache County, Arizona (BOR-92-007.1).**

Pursuant to Stipulation 6 of "A Programmatic Agreement among the Navajo Nation, the Bureau of Indian Affairs-Navajo Area Office, the Advisory Council on Historic Preservation, the Arizona State Historic Preservation Officer, the New Mexico State Historic Preservation Officer, and the Utah State Historic Preservation Officer for Cultural Resource Management Projects Conducted Under the Auspices of the Navajo Nation Historic Preservation Department, Roads Planning Section within the Boundaries of the Navajo Nation," the enclosed documentation is provided for your reference.

NNHPD-92-471.1 documents the findings of an assessment requested by the Bureau of Indian Affairs - Navajo Area Office - Branch of Roads for the survey of various additions to the N27 right-of-way on the southern 5.6 miles of the route between stations 28+552 - 36+765 meters. These additions are for the extension of existing turnouts, the improvement of grades, the obliteration of existing roads, and the addition of drainage cuts for culverts. No cultural resources were identified within the newly expanded project area. In accordance with these findings, the Navajo Nation Historic Preservation Department has determined that the proposed change of scope (added construction easements) will not affect historic properties or the previous determination of no adverse effect on historic properties (NNHPD-92-471). We recommend that the change in scope be authorized by the BIA, provided that BIA ensures adherence to all previous conditions of compliance established in conjunction with this undertaking.

Should you have any questions, please contact Reid Nelson, Program Manager, at (505) 863-9349.

Sincerely,

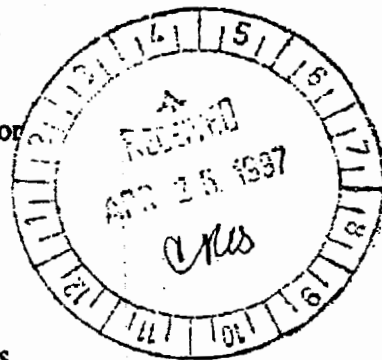
C-O-N-C-U-R-R-E-N-C-E

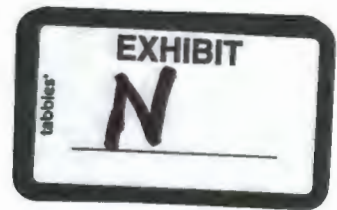
Alan S. Downer, Director
Navajo Nation Historic Preservation Department

Wilson Barber, Jr., Director
BIA, Navajo Area Office

AD/m 97.129
Enc.: Report NNHPD-92-471.1
cc: Don Klima, ACHP
James Garrison, AZ-SHPO
Leigh Kuwanwisima, Hopi Tribe
Joseph Diahna, Pueblo of Zuni
Ron Shutiva, Governor, Pueblo of Acoma

Roland Johnson, Governor, Pueblo of Laguna
Gabriel Galvan, Governor, Pueblo of Zia
Wilfred Frazier, BIA-NAO-BOR
Peter Noyes, Program Manager, NNHPD-CRCS
N27 Project File





**ENVIRONMENTAL ASSESSMENT
Navajo Nation Division of Public Safety
Department of Corrections and Judicial Branch
Proposed Chinle Judicial/Public Safety Complex Project
NAVAJO NATION INDIAN RESERVATION
Apache County, Arizona**



December 2012

Prepared by:

**David A. Esparza
Environmental Engineer**

***iiná bá, Inc.*
4801 N. Butler Avenue, Suite 1101
Farmington, New Mexico 87401**

***iiná bá, Inc.* Project No: ARCADIS-00001
Navajo Nation Contract No: CO9418**

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CHAPTER 1.0 - PURPOSE OF AND NEED FOR ACTION

1.1 INTRODUCTION

This Environmental Assessment (EA) was prepared in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, 42 USC. 4321 *et seq.*, the regulations therein, (40 CFR Part 1500 *et seq.*), 516 DM 1-15 and the Indian Affairs Manual (IAM) part 59, Chapter 3. The Navajo Nation Division of public safety/Department of Corrections and Judicial Branch (NNDPS/DCJB) proposes to construct/develop a new headquarters facility, including all ancillary services and equipment within an approximate 19-acre parcel of land (hereinafter referred to as Proposed NNDPS/DCJB Complex), within the S1/2 Section 28 Township 32 North Range 26 East Gila & Salt River Meridian. The construction of the Chinle Public Safety / Judicial facility will be planned and constructed in two phases. *Phase I* – The 8.507+- acres of land are deemed “clean and contaminate free” by Navajo Nation Environmental Protection Agency (NNEPA) and the Bureau of Indian Affairs (BIA) will be the first to be constructed on. The first phase of the project will plan and construct a 48 bed male and female Adult Corrections facility on contaminate free 8.507 acres known as Parcel A. *Phase II* – Plan and construction of the Judicial Courts and Law Enforcement facilities on Parcel B. The rest of the 9.991+- acres of land deemed “unsuitable and contaminated” will be relinquished after the BIA “dig and haul” project. Once the BIA has completed the relinquishment of Parcel B, the Judicial Courts and Law Enforcement facilities will be planned and constructed.

1.2 PURPOSE AND NEED

The purpose of the undertaking is the construction and long-term operation of the new NNDPS/DCJB complex that will most likely include the district court, corrections, law enforcement, probation, peacemaking programs, prosecutors and public defenders as occupants. Appurtenant utility services will include water, sanitary sewer, electrical power, natural gas and communications. The proposed Judicial Complex will consolidate and update the existing facilities that are scattered and are in need of extensive repairs. Currently the Navajo Nation Department of Corrections (NNDP) Adult Corrections is using the existing Juvenile Corrections facility. Juvenile detainees are currently being transported to the Tuba City and Tohatchi Juvenile Corrections facilities. The Adult Corrections facility had been deemed unsafe and unusable thus had been demolished. The proposed construction will provide a safe and secure facility for adult male and female detainees.

1.3 PROJECT LOCATION

The approximate 19-acre parcel of land is located on the west side of Navajo Route-27 (NR-27) and can be further described as located in Chinle, Arizona in the S1/2 Section 28 Township 32 North Range 26 East Gila & Salt River Meridian (see project vicinity and location maps, pages 2, 3 and 4). The 8.507 acre Parcel A is currently a Chinle Administrative reserve. When the Navajo Nation withdraws the parcel, it will become Navajo Tribal trust land. The subject property is located on BIA Road 27 south of BIA Road 7 in Chinle, Arizona. BIA relinquishment of the parcel to become tribal trust property and subsequent construction of the Public Safety and Judicial facility is the current goal for the property.

1.4 DECISIONS TO BE MADE

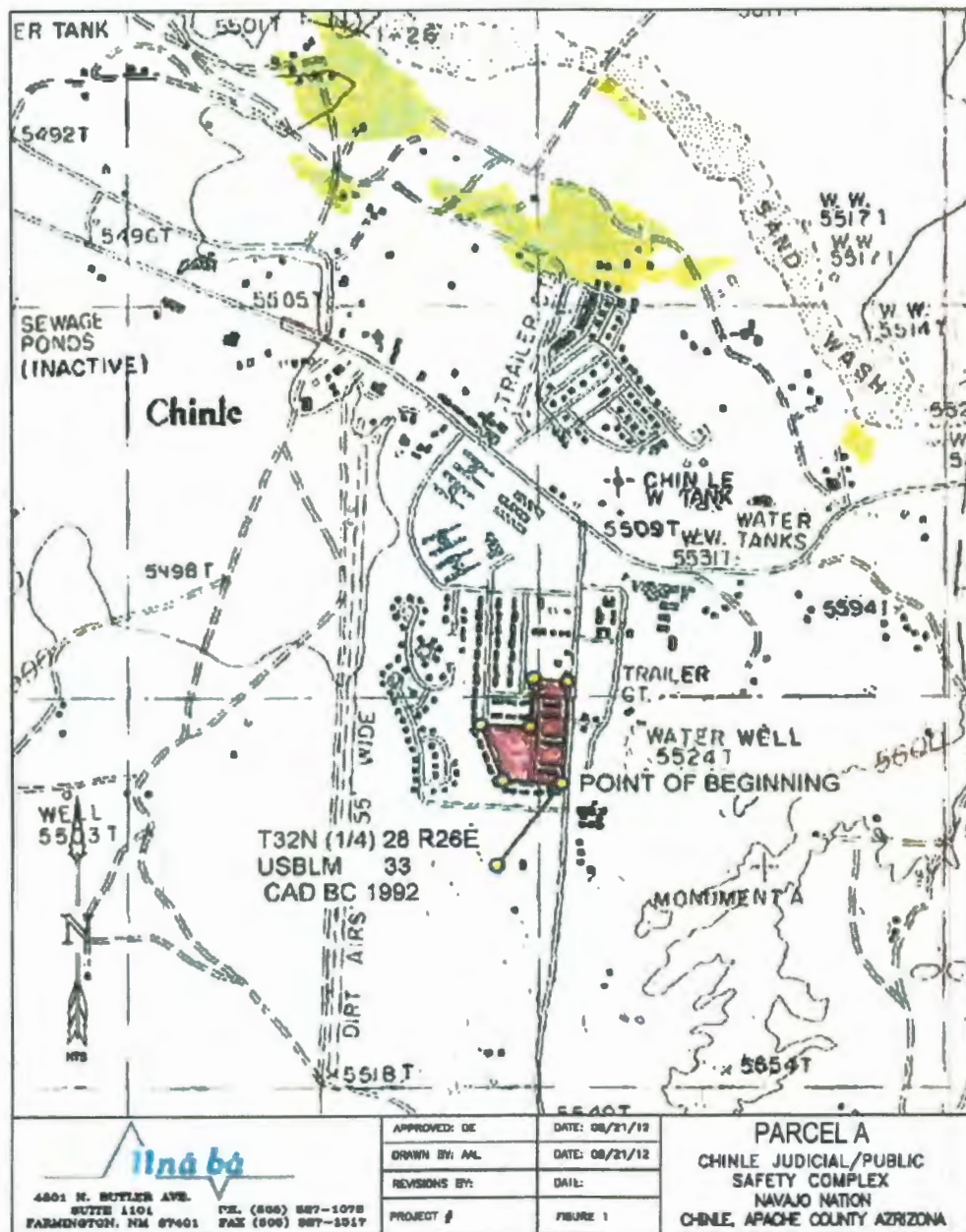
After consideration and review of the information presented in this EA and public review, the Bureau of Indian Affairs (BIA) will determine if the proposed action is a major action which may significantly affect the quality of the human environment.

Project Vicinity Map
Chinle Judicial/Public Safety Complex
Chinle Chapter of the Navajo Nation
Apache County, Arizona



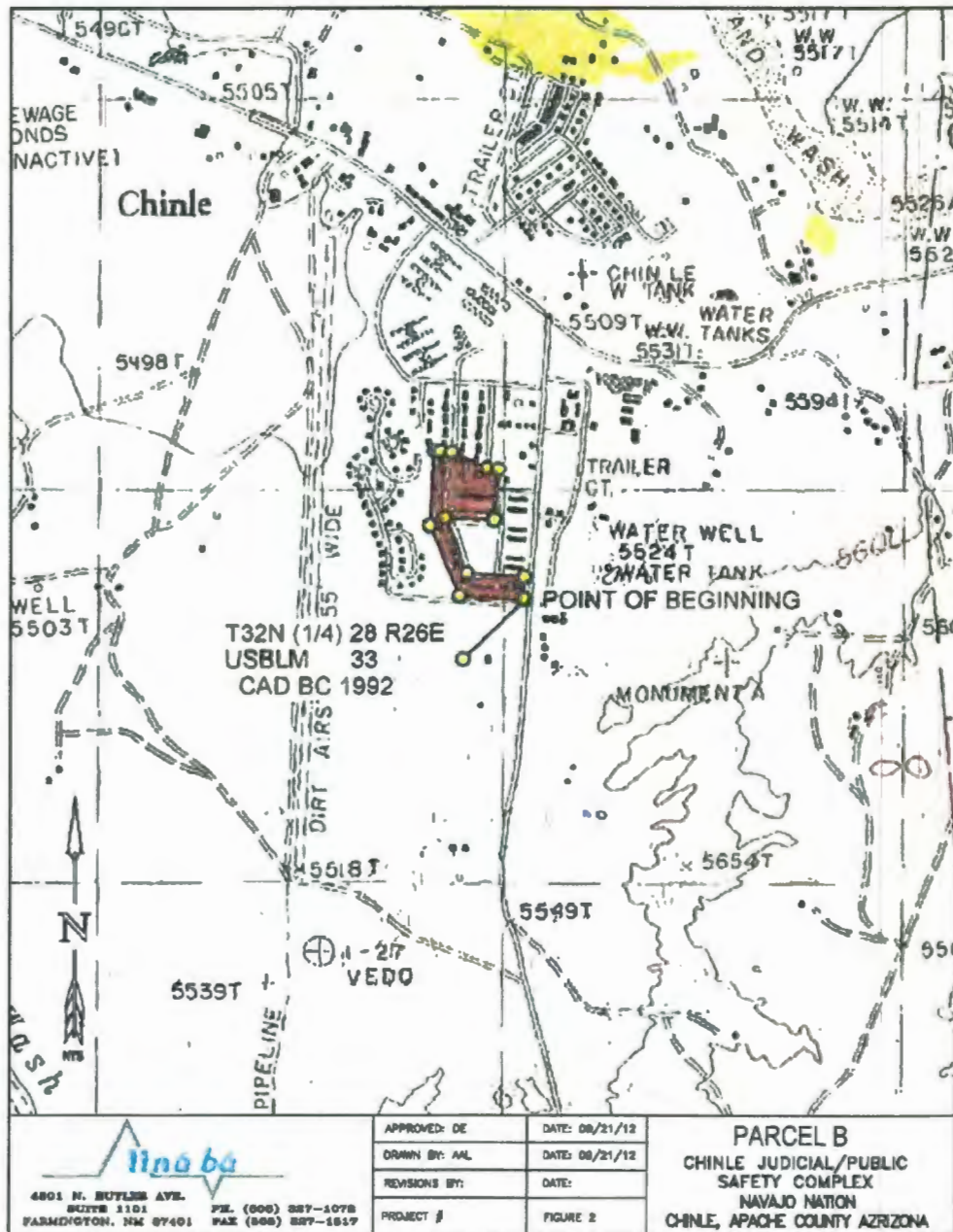
Proposed Chinle Judicial/Public Safety Complex 3
 Navajo Nation
 Apache County, Arizona

Project Location Map- Parcel A
Chinle Judicial/Public Safety Complex
Chinle Chapter of the Navajo Nation
Apache County, Arizona



Proposed Chinle Judicial/Public Safety Complex 4
 Navajo Nation
 Apache County, Arizona

**Project Location Map- Parcel B
Chinle Judicial/Public Safety Complex
Chinle Chapter of the Navajo Nation
Apache County, Arizona**



Proposed Chinle Judicial/Public Safety Complex 5
Navajo Nation
Apache County, Arizona

1.5 NECESSARY PERMITS/LICENSES AND REGULATORY COMPLIANCE

Prior to the start of any construction activities, the BIA must be in possession of all the necessary federal, tribal, and state permits or licenses from the respective and appropriate entities (i.e., Navajo Nation, BIA, United States Environmental Protection Agency, Army Corps of Engineers, ADOT, etc.).

Regulatory compliance issues/procedures relevant to the proposed Judicial Complex and any appurtenant permits/certifications are as follows:

- **Clean Water Act §402 National Pollutant Discharge Elimination System (NPDES) Permit** - As of March 2003, construction activities that disturb one acre or more are now regulated under the NPDES storm water program. The United States Environmental Protection Agency (EPA) Construction General Permit (CGP) regulation states that construction sites must develop and implement storm water pollution prevention plans (SWPPP) and obtain permit coverage from the primacy agency if more than one acre of land is disturbed.

Additional federal regulations and laws include the Migratory Bird Treaty Act; Eagle Protection Act; Clean Air Act; Clean Water Act; National Historic Preservation Act of 1966, as amended; Native American Graves Protection and Repatriation Act of 1990; and Executive Order 12898 of 1994 (Environmental Justice) and Endangered Species Act.

CHAPTER 2.0 - ALTERNATIVES

2.1 INTRODUCTION

This chapter describes the proposed action and the alternatives to that action. These alternatives and/or potential environmental consequences herein were derived through discussions and consideration of local recommendations, minimizing impacts (cultural and traditional) and costs. The considered alternatives to the proposed Judicial Complex, listed in reverse order of viability, are as follows:

- No Action
- Construction (proposed alternative)

2.2 DESCRIPTION OF ALTERNATIVES

2.2.1 No Action Alternative

The No Action Alternative would change nothing and no facility improvements would be constructed. Once the Adult Corrections facility is built, the existing Juvenile facility housing adult detainees will be returned to Juvenile Corrections for their use in the Chinle community. The transportation of local area juvenile detainees to Tuba City and Tohatchi will no longer be necessary.

2.2.2 Proposed Action Alternative (Construction of a Judicial Complex)

Deleted in its entirety.

2.2.3 Other Alternative Considered and Discussed

The Chinle community and the Navajo Department of Public Safety (NDPS) and the Navajo Nation Judicial Branch could not find or identify another feasible location for the proposed public Safety / Judicial facility. The 8.507 acre Parcel A has the required utility infrastructure (natural gas, sewer, water and power) at or near the site. In addition, this parcel has ample acreage required for the proposed construction.

CHAPTER 3.0 - AFFECTED ENVIRONMENT

3.1 INTRODUCTION

Chapter 3.0 discusses the area in which the proposed action would occur and those aspects that may be impacted. Additionally, the site can be described as an arid, high desert environment lying within the Colorado Plateau physiographic province of the North American Cordillera of the southwestern United States. The topography across the entire proposed Judicial Complex site is relatively flat.

The climate of the site is characterized by a four-season climate with moderate temperatures. The air is normally clear with low humidity. The majority of the annual precipitation occurs in the form of summer thunderstorms that are usually of short duration resulting from convective

and/or orographic lifting of the air masses. Relevant resource components of the existing environment are presented.

3.2 GEOLOGY/SOILS

The proposed project is located on the Colorado Plateau in northeastern Arizona. The Colorado Plateau, also called the Colorado Plateau Province, is a physiographic region of the southwestern United States. Throughout the Paleozoic Era, the Colorado Plateau region was periodically inundated by tropical seas. Thick layers of limestone, sandstone, siltstone, and shale were laid down in the shallow marine waters. During times when the seas retreated, stream deposits and dune sands were deposited or older layers were removed by erosion. As the years passed layer upon layer of sediment accumulated. Existing infrastructure in the general vicinity of the proposed project consists of commercial development, paved highways, scattered residential developments, and utility infrastructure.

The soils in the project area consist of Claysprings-Lithic Torriorthents-Typic Torriorthents complex, badlands, 1 to 60 percent slopes, Jocity-Tezinie-Nazlini complex, sodic, 0 to 5 percent Slopes and complex, badlands Urban land-Ives-Jocity complex, sodic, 0 to 3 percent. These soils range from Clay/Silty clay loam/Clay loams, Gravelly sandy loam/Bedrock to Loamy coarse sand/Sandy loam/Gravelly loamy coarse sand/Sandy clay loam/Coarse sand.

3.3 HYDROLOGY

The proposed project is located within the Little Colorado River drainage which is part of the Little Colorado River Plateau Basin. Surface water is short-lived and occurs primarily as spring.

There are no perennial water resources in the form of rivers, lakes, ponds or streams, or any wetland or riparian habitats, within the proposed project area. The nearest water resources are Chinle Wash to the north, Nazlini Wash to the west and Cottonwood wash to the west.

3.3.1 Floodplains

A significant amount of off-site drainage flows towards the proposed project site. The Floodplain Assessment (FA) states the identified "Wash A" and Indian Route 27 (IR-27) cuts off the runoff from the drainage area OFF-A and directs it towards Nazlini Wash. While this appears to be adequate for small storm events, the potential for storm water diversion in major events is reduced by the minimal definition of "Wash A" in conjunction with a storm drain culvert exhibiting a capacity less than the "wash".

3.4 AIR QUALITY

Apache County, Arizona, as is most of the Navajo Nation, is designated as an attainment area/non-classified with the National Ambient Air Quality Standards (NAAQS) (www.epa.gov/region9/air/maps) for six air pollutants: ozone, airborne particulates, carbon monoxide, sulfur dioxide, nitrogen dioxide, and lead as established as amended under the Clean Air Act of 1970. Air quality in the area is generally good. This was confirmed in a telephone conversation with Ms. Carmen Billie, NNEPA/Air Quality. Vehicular exhaust, roadway dust, or wood-burning smoke contributes to the airborne particulate matter within the general area.

Natural occurring radon is known to be on the project site. Radon is a naturally occurring radioactive gas released in rock, soil and water from the decay of uranium. While levels outside pose a relatively low risk, radon can build up inside buildings to dangerous levels. Radon is measure in pCi/L (pico curies per liter of air). It is recommended the project design team provide design provisions in the building foundation to mitigate and provide for relief of radon presence. The civil engineer of record should provide provisions considering radon presence.

3.5 BIOLOGICAL RESOURCES

A biological evaluation of the project area has been performed by Dodge Environmental, LLC (Dodge). The report of findings for this evaluation is included as Appendix A.

According to the Biological Resources Land Clearance Policies and Procedures (RCP) RCS-44-08; approved September 10, 2008, previously approved by the Resources Committee of the Navajo Nation Council, by Resolution Number RCMA-34-03, dated March 13, 2003.

Dodge letter requested concurrence from the Navajo Nation Department of Fish and Wildlife (NNDFW) that the proposed Chinle Judicial/Public Safety Facility project (proposed project) is not likely to affect any of the 17 U.S. Fish and Wildlife Services (USFWS) federally listed threatened, endangered, proposed, or candidate species for Apache County, Arizona, nor Navajo Nation Endangered Species List (NESL) species of concern. The proposed project would be located within the Chinle community development area, in close proximity to various tribal affiliated developments and residential subdivisions, and would be adjacent to NR-27.

The purpose of the RCP is to ensure the Navajo Nation government and Chapters are in compliance with federal and Navajo laws which protect, wildlife resources, including plants, and their habitat resulting in an expedited land use clearance process, as outlined from the RCS-44-08. A map was obtained from Navajo Natural Heritage Program (NNHP) of the NNDFW, and is available online at <http://www.nndfw.org/zones/pdf/chinle.pdf> (access July 20, 2012). The proposed project is located within a "community development" (Area 4) designated by the NNDFW. Because the proposed project is located within an Area 4, a Biological Evaluation report is not required, as outlined in the RCS-44-08 letter from the NNDFW to assist the Navajo Nation government and chapters. Therefore, the proposed project is not expected to affect any USFWS federally listed threatened, endangered, proposed, and candidate species for Apache County, Arizona or NESL species of concern. Species of concern also includes other rare or otherwise sensitive species (e.g. Eagle Protection Act; Migratory Bird Treaty Act; and species of economic and cultural significance).

Ms. Gloria Tom, Director, Navajo Nation Department of Fish and Wildlife (NNDFW), issued a Biological Resources Compliance form (12DOEL-01a4) on July 31, 2012, stating the proposed project is within Area 4- Community Development (NNDFW Concurrence Appendix A).

3.6 CULTURAL RESOURCES

ARCADIS-US, Inc. provided a photograph copy of a BIA Cultural resources Approval letter dated August 10, 2004 (reference No. HPD-83-304.01: copy attached) pertaining to the removal of underground storage tanks (UTS's) and contaminated soils within the Chinle Agency Headquarters and Housing Area (HPD project No. 042/AR/04). This cultural approval addressed approximately 24-acres of land, but did not include part of the NNDPS/DCJB

complex. Therefore, CSWTA, Inc. (CWSTA) was contracted to complete an evaluation of the proposed NNDPS/DCJB complex site.

A Traditional Cultural Properties (TCP) assessment was conducted by Navajo speaking personnel Ms. Loretta Flatrock and Ms. Carol Yazzie-Ward, CWSTA on July 30, 2012 under NNHPD permit B12513. This TCP assessment included a pedestrian archaeological survey. Furthermore the CWSTA findings states “no cultural resources were inventoried, no TCP’s or sacred places were found”.

Mr. Alan Downer, Historic Preservation Officer, Navajo Nation Historic Preservation Department (NNHPD), issued a Cultural Resources Compliance form (HPD-12-747) on September 26, 2012, stating the proposed project is compliance as no historic properties are affected (NNHPD Concurrence Appendix B).

3.7 SOCIO-ECONOMIC RESOURCES

The Navajo Nation is a semi-autonomous Native American homeland covering approximately 26,000 square miles and encompasses approximately 17 million acres of land. The Navajo Nation occupies all of northeastern Arizona, the southeastern portion of Utah and northwestern New Mexico. It is the largest land area within the United States assigned to a Native American jurisdiction. The unemployment level fluctuates between 40 and 45 percent, but in some communities it can be as high as 85 percent or as low as 15 percent. These rates could be due to the remoteness of a majority of the communities and the lack of employment opportunities on the reservation, thus mandating residents to travel many miles to seek employment. The Navajo Nation Division of Economic Development (DED) has completed various developments through their development plan. Additional economic opportunities include cattle, tourism and recreation within the Reservation. The population of the Navajo Nation within its recognized boundaries is approximately 180, 500 residents according to the U.S. Census Bureau – Census 2000. The median household income is approximately \$22,400.00.

The project would provide short term construction jobs for the Navajo Nation. The project construction project is projected to provide up to 250 short term construction jobs. The project would be a new construction start, thus allowing occupations relative to the start and finish of the project for all horizontal and vertical construction disciplines. The project would also provide for additional long term staffing of the new facilities as they are brought online for operations. Adult detainees would be housed in a safe and secure Adult Corrections facility as well as, the new facility would provide a safe and secure environment for the community of Chinle, Arizona. The new addition of the Adult Corrections facility would provide the existing facility for Juvenile detainees as originally intended. In addition, this would eliminate safety risk of transporting and detaining Juveniles in distant locations.

3.8 RESOURCE USE PATTERNS

3.8.1 Hunting, Fishing, and Gathering

Many Chapter residents utilize this and other areas in manners consistent with traditional cultural practices, e.g. gathering herbs and medicinal plants that grow within the surrounding areas. Some local residents may also spend recreational time hiking in the vicinity of the proposed NNDPS/DCJB Complex; however it is doubtful hunting occurs.

3.8.2 Agriculture

The Navajo Nation community members do have fields of various agricultural farming products, but not in the immediate area of the project site.

3.8.3 Navajo Sheep Grazing

The Navajo Nation does have grazing rights for sheep and other livestock in the region, but not in the immediate area of the project site.

3.8.4 Transportation Networks

The parcel of land is located approximately 1,400-feet south of the intersection NR-7 and NR-27 or northwest of the intersection of NR-102.5 and NR-27. The project can be accessed off the east side of NR-27 and the north side of NR-102.5.

3.9 PUBLIC HEALTH AND SAFETY

Ingress and egress to NR-27 and NR-102.5 will be included via newly constructed turn-out to asphalt paved roadways for driver safety, improved vision and to provide access to the proposed NNDPS/DCJB Complex. The new Public Safety/Judicial facility construction staff activities are within in a safe distance from the Indian Health Services Medical Center for medical services. The facility staff and adult detainees are also in close proximity of the Indian Health Services Medical Center for medical services.

3.10 HAZARDOUS MATERIALS

A preliminary initial site assessment (PISA) was conducted within the approximate 19-acre project area an identified some impacted areas within of Parcel B (see Exhibit 2: Conceptual Utility Exhibit: prepared by Bohannon-Huston/Dyron Murphy Architects). Fuel oil impacts still exist on portions of Parcel B that exceed the regulatory standard of 500 parts per million (ppm) by the Navajo Nation Environmental Protection Agency (NNEPA). The BIA has begun the remedial action to clean the remaining 25 tank locations that exceed the 500 ppm NNEPA standards. The portions of Parcel B that contain former UST pits with impacts above regulatory goals (entire 25 pits) will be "excluded" from the land transfer and a new "Project Site" parcel will be created for immediate transfer to the Nation so building can begin. The subject property cannot be "transferred" from the BIA to the Navajo Nation until the site meets regulatory guidelines. The configuration of the judicial center will be designed by the architects to maximize the available space. It should be noted that Parcel A is not within the impacted area. The 8.507 acre parcel is clean and does meet the NNEPA cleanup standards.

3.10.1 Other Hazards; Oil Pollution Prevention Act (OPPA)

Background – Previous site activities

Remediation Report, dated November 2011, *iiná bá* Inc.

In 2008, a previous contractor (Whitehouse Pacific) completed the demolition of the former BIA South Quarters residential Complex. The former housing complex consisted of approximately 35

units (duplex style) each containing a small home heating oil underground storage tank (UST) (approximately 250 to 275 gallons). The USTs were discovered as abandoned in place without proper closure measures. Prior to demolition of the complex, each UST was removed from the subsurface and any petroleum impacted soil was left in place. It is believed that the use of each UST ended in the 1960s when the residential housing units were converted to natural gas.

Conclusions:

- The removal of an estimated 329 cubic yards (445.17 tons) of grossly impacted soil with No. 2 fuel oil (heating) has been completed at 36 former UST locations targeted for remediation by the BIA.
- The in-situ density of the existing (native) on-site soils is less than the BIA requested compaction density for the former UST excavations of 95% unless the soils are amended (water added or blended), additionally compacted, or removed and replaced with soils exhibiting a higher compaction rating.
- The compaction densities achieved using the off-site material source are at least equal to and more often greater than what is currently present at the site, and in many cases exceeds the 95% compaction density. No settlement issues are anticipated at any of the 36 former UST locations. Additional compaction efforts or material amendment/replacement may be required in those areas onsite that significant load-bearing structures are to be constructed.
- The removal of the BIA requested quantity of petroleum contaminated soil (PCS) at the subject site was not adequate to achieve the proposed BIA target residual cleanup level in soil of 100 ppm.
- The removal of the grossly-impacted soil at the 36 specified locations has additionally reduced the risk to human health and the environment, but has not remediated the site to a level that signifies a “clean closure”.
- The limited soil remediation effort has reduced the level of risk for the major potential routes of exposure pathways to the residual contamination, such as ingestion, dermal contact and inhalation (vapors).
- There is still a limited potential exposure risk (pathway) to the residual impact still present at depth due to certain operations that may be conducted onsite (i.e., construction worker exposure during deep excavation/trenching excavations).

3.11 OTHER RESOURCES

3.11.1 Visual Resources

The general scenery in the project vicinity is indicative of developed properties. The surrounding areas have been cleared of native vegetation for the most part. There are numerous existing residential structures in the immediate vicinity of the project area.

3.11.2 Noise

The noise environment in the vicinity of the proposed NNDPS/DCJB Complex is typical of rural developed areas, consisting primarily of traffic noise generated from vehicle traffic. Additionally, noise in the proximity is generated by the wind, wildlife, the existing electrical generating station and occasional aircraft flyovers.

CHAPTER 4.0 - ENVIRONMENTAL CONSEQUENCES

4.1 INTRODUCTION

The potential for consequences of the No Action and Proposed Action alternatives on selected environmental resources are described in this chapter. This EA discusses impacts and related feasible mitigation measures under the same headings and in the same order as found in Chapter 3. Under the No Action Alternative the overall topography would remain undisturbed. Under the Proposed Action Alternative temporary disturbances around the construction areas may exist during the project activities due to the necessity for the construction of the proposed facilities and construction yard. Therefore, the Proposed Action Alternative will pose topographical changes due to construction of the campground and the proposed improvements.

4.2 GEOLOGY/SOILS

No Action Alternative

Under the No Action Alternative, there would be no changes to the existing conditions and the geologic conditions would remain the same. Impacts on the parcel would be short term and minor.

Proposed Action Alternative

Under the Proposed Action Alternative the construction of the proposed NNDPS/DCJB Complex will require numerous activities resulting in the disturbance of native soils. These activities will include the advancement of boreholes for the geotechnical evaluation and the excavation associated with the proposed project activities. Potential erosion and vagrant dust would be controlled by implementation of Storm Water Pollution Prevention (SWPPP) and Soil Erosion Control Plans (SECP). Mitigation or site restoration procedures in conjunction with these Plans will lessen potential effects. With storm water pollution protect plan (SWPPP) / mitigation, impacts will be long term and minor.

4.3 HYDROLOGY

4.3.1 Surface Water (Floodplains)

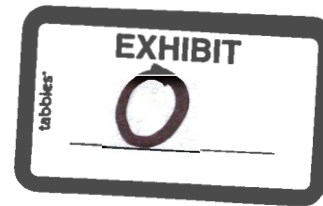
No Action Alternative

This alternative would not change the current conditions related to water quality in the NNDPS/DCJB Complex area. Impacts would be short term and minor.

Proposed Action Alternative

This alternative would have no long term deleterious effects on surface water quality.

A minor temporary increase in the amount of topsoil carried by natural runoff (and a decrease in water quality) is possible but should be controlled by implementation of the contractors Storm Water Pollution Prevention Plan (SWPPP).



Dodge Environmental, LLC.

July 20, 2012

Sent via electronic mail

Gloria M. Tom, Department Manager II
The Navajo Nation
Department of Fish and Wildlife
Division of Natural Resources
P.O. Box 1480
Window Rock, AZ 86515

Subject: Biological Resources Clearance – Pursuant to RCS-44-08 of the Division of the Natural Resources Administered by Navajo Nation Department of Fish & Wildlife.

Project Name: Chinle Judicial/Public Safety Facility Project – 18.50 acre

This letter constitutes a request for concurrence from the Navajo Nation Department of Fish and Wildlife (NNDFW) that the proposed Chinle Judicial/Public Safety Facility project (proposed project) is not likely to affect any of the 17 U.S. Fish and Wildlife Services (USFWS) federally listed threatened, endangered, proposed, or candidate species for Apache County, Arizona, nor Navajo Nation Endangered Species List (NESL) species of concern. The proposed project would be located within the Chinle community development area, in close proximity to various tribal affiliated developments and residential subdivisions, and would be adjacent to Navajo Route 27 (Figure 1, Attachment A). Project construction is tentatively scheduled to begin in fall of 2013.

According to the Biological Resources Land Clearance Policies and Procedures (RCP) RCS-44-08; approved September 10, 2008, previously approved by the Resources Committee of the Navajo Nation Council, by Resolution Number RCMA-34-03, dated March 13, 2003. The purpose of the RCP is to ensure the Navajo Nation government and chapters to be in compliance with federal and Navajo laws with protect, wildlife resources, including plants, and their habitat resulting in an expedited land use clearance process, as outlined from the RCS-44-08. A map was obtained from Navajo Natural Heritage Program (NNHP) of the NNDFW, and is available online at <http://www.nndfw.org/zones/pdf/chinle.pdf> (access July 20, 2012). The proposed project is located within a “community development” (Area 4) designated by the NNDFW. Because the proposed project is located within an Area 4, a Biological Evaluation report is not required, as outlined in the RCS-44-08 letter from the NNDFW to assist the Navajo Nation government and chapters. Therefore, the proposed project is not expected to affect any USFWS federally listed threatened, endangered, proposed, and candidate species for Apache County, Arizona or NESL species of concern. Species of concern also includes other rare or otherwise sensitive species (e.g. Eagle Protection Act; Migratory Bird Treaty Act; and species of economic and cultural significance).

iina’ bá, Inc. of Farmington, New Mexico retained Dodge Environmental, LLC to assist the biological resources, including a threatened and endangered (T&E) species review, and prepared this biological concur letter for the construction and long-term operation of the proposed project.

The proposed project can be found on the Chinle, Arizona U.S. Geological Survey (USGS) 7.5-minute quadrangle map (Figure 1, Attachment A). The legal description of the proposed action lies within South ½ of Section 28, Township 32 North, Range 26 East, Gila and Salt River Meridian, Apache County, Arizona (Figure 1, Attachments A). The proposed project is included in the Bureau of Indian Affairs (BIA) Chinle

Navajo Agency, Chinle Chapter. A project legal land survey is provided as Attachment B. Photographs of the proposed project location are provided in Attachment C.

The proposed action is the construction and long-term operation of a new Chinle Judicial/Public Safety facility that could likely house the district court, corrections, law enforcement, probation, peacemaking program, prosecutors, and public defenders, for the Navajo Nation Division of Public Safety, Department of Correction (Navajo DOC) and the Navajo Nation Judicial Branch. The proposed development would require an application for a revocable permit on the Navajo Nation lands. The proposed structural built for the proposed project would be designed and constructed according to applicable federal and tribal regulations. Construction of the proposed action would be confined within the 18.50-acre tract (see legal land survey in Attachment B).

Utility services area located adjacent to and on the project site. The specific right-of-way (ROW) areas for utility services have not been determined. Therefore, electric service connections, public water service connections, and sanitary sewage disposal facilities are not discussed in detail in this letter.

During construction, traffic to the proposed project site would consist of various construction equipment and vehicles. Increased traffic, including daily travel to the project area is anticipated during construction. Access to the project area would be from the existing access road, off of Navajo Route 27.

The entire project site has been previously disturbed from past activities, that has currently been in the closure process that has included the removal of debris, surplus materials from the area, followed by restoration the disturbed land.

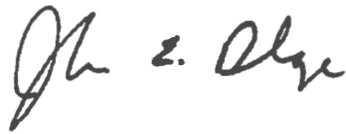
Russian knapweed (*Acroptilon repens*), a Class B noxious weed species listed by the Bureau of Indian Affairs (BIA) Navajo Region, were identified at seven scattered isolated patches with low to dense cover within the project site.

Based on the information presented in this letter and site visit on July 19, 2012 by John Dodge of Dodge Environmental, I concur with NNDFW's determination that there would be no direct, indirect, or cumulative effects to USFWS threatened, endangered, proposed, or candidate species or critical habitats for Apache County, Arizona, nor any appreciable effects to NESL species of concern from the development of the proposed Chinle Judicial/Public Safety Facility project. No specific mitigation measures are recommended for USFWS federally listed threatened, endangered, proposed, or candidate species or NESL species of concern.

General mitigation measures for the project would include confining construction activities to the proposed project area to prevent any unnecessary or additional habitat destruction. In addition, best management practices will be implemented where feasible to control sedimentation, erosion, and wind deposition. In addition, regular maintenance activities will include control of weedy and invasive species that may become established within the project area. The Navajo Nation Environmental Protection Agency (NNEPA) will be consulted on acceptable weed control methods.

I respectfully request, on behalf of NDOC and the Navajo Judicial Branch, your concurrence with our determination. Thank you for your proper attention to this matter. Please contact me if you have any questions about information contained in this letter at (505) 330-1361.

Sincerely,



John E. Dodge,
Biologist/President

Cc: Pamela A. Kyselka, NNDFW (electronic)
David Esparza, P.E., iina' bá, Inc. (electronic)

Enclosure

Figure 1. Project Area Map

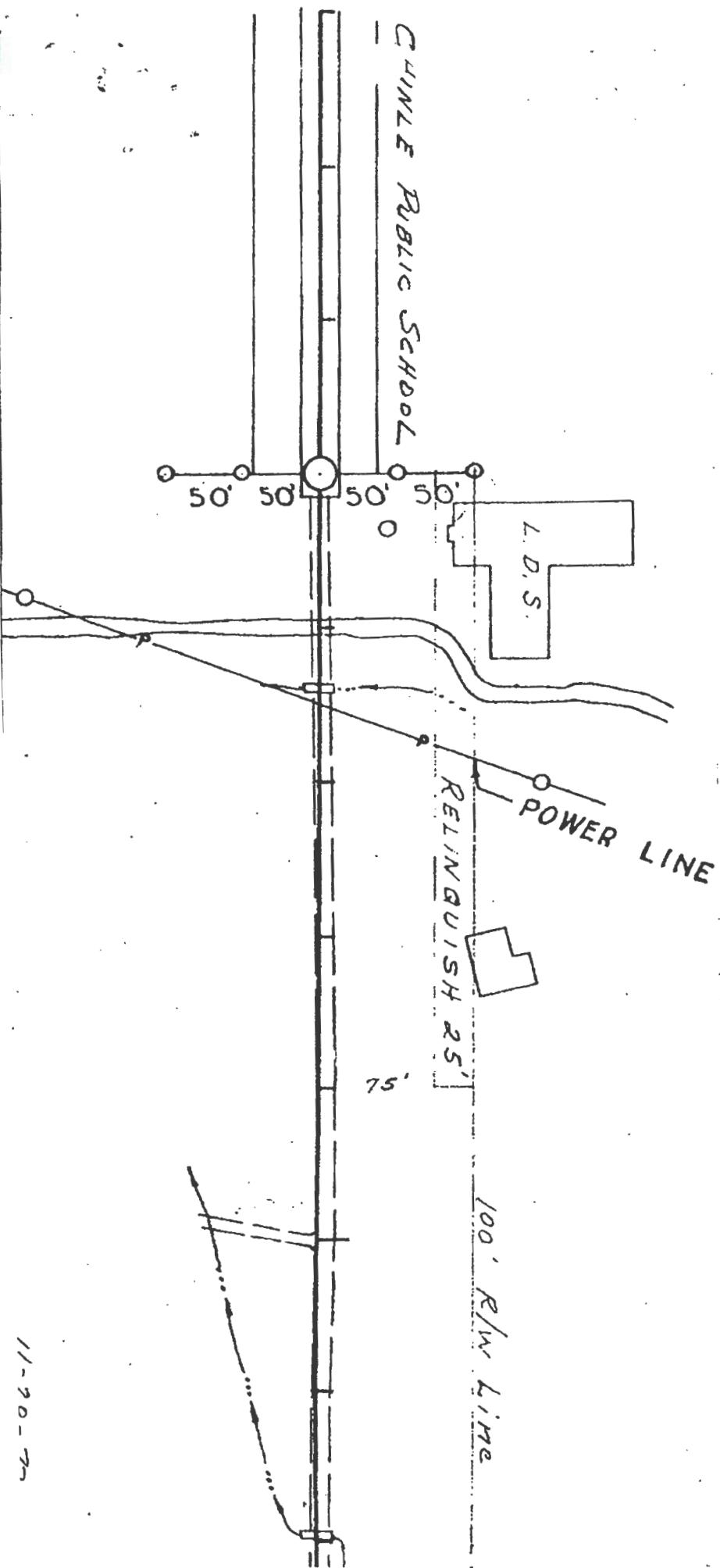


B1A ROAD N27(2)

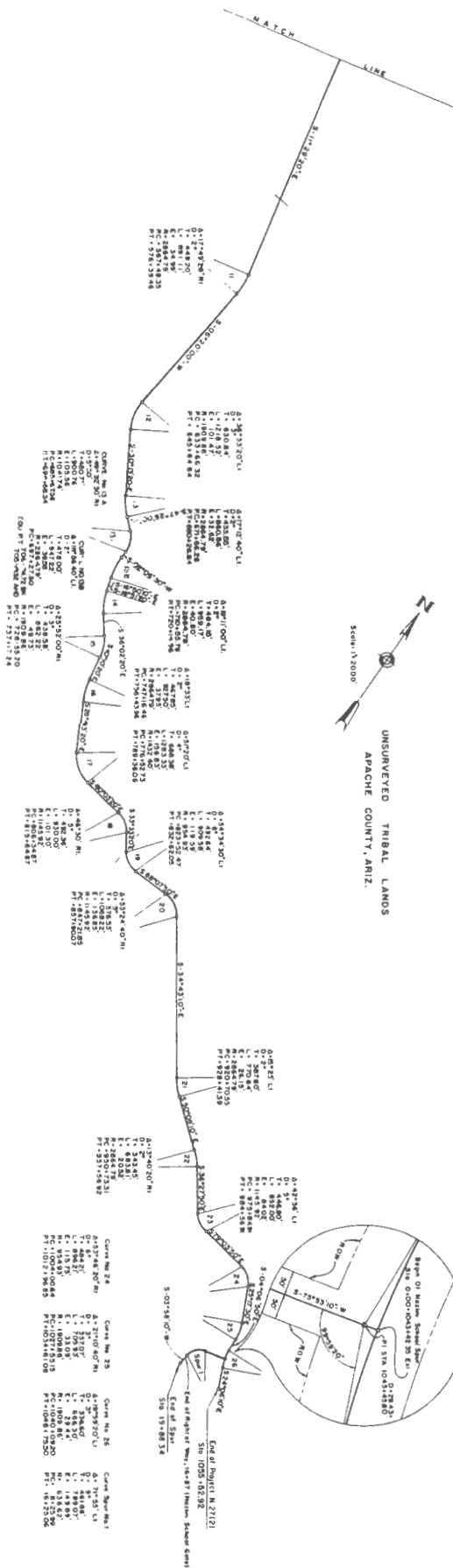
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11-20-77





THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT



ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF EXECUTIVE DIRECTOR/ADMINISTRATION
OFFICE OF ENVIRONMENTAL REVIEW
PO BOX 339 WINDOW ROCK ARIZONA 86515 Office: 928/871-7188 Fax: 928/871-7996
Website: www.navajonationepa.org

M E M O R A N D U M

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

FROM:

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

DATE: June 16, 2015

SUBJECT: 164 EOR 003337 Chinle N27 Water and Sewer Division of Public Safety

The Chinle Judicial Complex and Navajo Land Department (NLD) submitted a temporary construction easement (TCE) that is 2,285.71 feet in length, 20 feet wide, consisting of 1.0495 acres, more or less, within the as-built N27 road. There is currently no right-of-way (ROW) or an easement for N27 but that will be coming forth from BIA. The water and sewerline are being proposed to be placed within the N27 BIA Corridor.

The Navajo Nation Environmental Protection Agency (NNEPA) reviewed¹ and recommends **conditional approval** for the proposed waterline project as stated in EOR 003337 pursuant the Title 4, NNC Chapter 9 Navajo Nation Environmental Policy Act, Subchapter 1, §904.

1. Navajo Nation Clean Water Act (CWA):

- a. **NNEPA Water Quality determines the waters of the US and Navajo Nation.**
- b. CWA Section 401 Certification and 404 permit not required for the proposed action as determined by Patrick Antonio, Principal Hydrologist, NNEPA Water Quality Program.

¹ iina ba Inc. Environmental Assessment Navajo Nation Division of Public Safety Department of Corrections and Judicial Branch Proposed Chinle Judicial/Public Safety Complex Project Navajo Nation Indian Reservation Apache County Arizona. December 2012.

- c. CWA Section 402 –Land surface disturbance in excess of 1.0495 acre will require compliance with the federal General Construction Permit requirements for storm water discharges. The project will disturb 1.0495 of land. Best Management Practices is highly recommended to be implemented to prevent sediment runoff.
2. ***Navajo Nation Safe Drinking Water Act:***
- a. The NNEPA - Public Water Systems Supervision Program (PWSSP) *recommends approval for the proposed project.*
 - b. PWSSP recommends *all proposed drinking water projects to be permitted by the PWSSP and all proposed drinking water projects (extensions, upgrades, new wells, new public water systems, etc.) must also comply with the design review and construction permit pursuant the §§1501 and 1601 of the Navajo Nation Primary Drinking Water Regulations.*
 - c. *All proposed wastewater projects will be permitted by the Domestic Wastewater Program. Extensions, upgrades, new sewer infrastructure, septic tanks and other wastewater infrastructure must comply with the design review and construction permit requirements pursuant to §201 of the Domestic Wastewater Program.*
 - d. Contact Yolanda Barney, Environmental Program Manager, NNEPA, Surface & Groundwater Protection Department, PWSSP at 928/871-7755 for questions.
3. ***Navajo Nation Air Pollution Prevention and Control Act:***
- a. Apply water to control dust to lessen air impacts to community members and public located in or near the proposed action.
4. ***Navajo Nation Pesticide Act:***
- a. IHS and Navajo Tribal Utility Authority (NTUA) are required to monitor and prevent invasive and noxious weeds either by manual or chemical control.
 - b. Before applying any chemicals, contact the NNEPA Pesticide Program at 928/871-7815/7810/7892 to ensure the product is in compliance and appropriately applied by a certified and licensed applicator.
 - c. Pesticide staff will also may need to be onsite to monitor during pesticide/herbicide application.
5. ***Navajo Nation Solid Waste Act:***
- a. Solid waste generated from the construction and operation activities will be collected and transported by contractor to a designated trash bins to minimize significant impacts to human and wildlife resources.
 - b. If a sub-contractor will be hired to transport waste, ensure the contractors are certified and licensed with the Navajo Nation Business Regulatory Office.
 - c. The contractor must submit a copy of the landfill receipt/ticket to guarantee the construction waste has been properly disposed.
 - d. Do not allow public to take construction and operation waste. Cumulatively NNEPA receives complaints and reports on illegal trash dumpings on rural areas and in the waters of the US and Navajo Nation.
 - e. All illegal waste currently on the proposed site is the responsibility of the land user.
6. ***Navajo Nation Comprehensive Environmental Response, Compensation and Liability Act (NNCERCLA)***
- a. Approved by the Navajo Nation Council, CF-07-08, February 26, 2008, the NN CERCLA includes petroleum (including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas or synthetic gas usable for fuel (or mixtures of natural gas and synthetic gas)) unlike the US CERCLA or the Superfund Law and mandates petroleum, operator and guarantor to report petroleum release ≥ 25 gallons at the site and/or during transport immediately to the Navajo Nation

Department of Emergency Management within the Navajo Nation Division of Public Safety.

7. Navajo Nation Storage Tank Act:

- a.* Amended and approved by the Navajo Nation Council, CJA-09-12, February 2012, the aboveground tanks are included to be regulated.
- b.* No underground or aboveground greater than 100 gallons is expected to be at the proposed site.
- c.* If there will be any plans to install an UST or AST, NNEPA Storage Tank Program must be informed. The design specifications must meet the requirements listed in the Storage Tank Act. Mr. Warren Roan, Tanya Yazzie or Nathaniel Yazzie can be reached at 928/871-7993.

8. Others:

- a.* Jack Utter, PhD, JD, Department of Water Resources, Water Code Administration is the contact for water permit. He can be reached at 928/729-4132.

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

Cc: Chinle Judicial Complex, Delores Greyeyes, Division of Public Safety
NTUA, Waterline Extensions, PO Box 170, Fort Defiance, Arizona, 86504
NNEPA Water Quality, PWSSP; Air Quality, OPP; Pesticides; Superfund; RCRP; Storage Tank
Program; Administration chrono file
Contact person: Delores Greyeyes, 928/871-7555

Document No. 003337Date Issued: 01/21/2015

RUSH

EXECUTIVE OFFICIAL REVIEW

RUSH

Title of Document: Chinle - N27 Water and SewerContact Name: FRANCISCO, JACQUELINEProgram/Division: DIVISION OF PUBLIC SAFETYEmail: yoshi928@gmail.comPhone Number: 871-7555

			Sufficient	Insufficient
<input type="checkbox"/>	Business Site Lease			
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"/>
<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"/>
<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"/>
<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"/>
<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"/>
<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"/>
<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"/>
<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: _____ ☐ ☐
2. Office of the Attorney General: _____ Date: _____ ☐ ☐

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

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

☒ Rights of Way

1. NLD *✓* _____ Date: *19 May 15* ☒ ☐
2. F&W _____ Date: *20 May 2015* ☒ ☐
3. HPD _____ Date: *3 June 2015* ☒ ☐
4. Minerals _____ Date: *6-3-15* ☒ ☐
5. NNEPA _____ Date: *6-16-2015* ☒ ☐
6. Office of the Attorney General: *-(ic)* _____ Date: *6/19/15* ☒ ☐
7. OPVP _____ Date: *6-22-15* ☒ ☐

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

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

☐ Assignment of Mineral Lease

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

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

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

☐ OTHER:

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



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM

☐ RESUBMITTAL



DOJ	
6/17/15 10:10	
DATE / TIME	
<input type="checkbox"/> 7 Day Deadline	
DOC #:	003339
SAS #:	
UNIT:	NRLA

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

CLIENT TO COMPLETE

DATE OF REQUEST:	5/11/2015	DIVISION:	Natural Resources (DNR)
CONTACT NAME:	Howard P. Draper or Vera Shurley	DEPARTMENT:	Navajo Land Dept (NLD)
PHONE NUMBER:	X-6447, 6401, 6490	E-MAIL:	howarddraper@frontiernet.net or verashurley@frontiernet.net

TITLE OF DOCUMENT: *Approving a Temporary Construction Easement to Chinle Judicial Complex to construct, operate and maintain a water/sewer mains that will encroach into an "As-Built" N-27 road currently operated and maintained by the Bureau of Indian Affairs (BIA) Transportation as an access road in Chinle, Arizona*

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: *6/17/15 10:45* REVIEWING ATTORNEY/ADVOCATE: *Harrison Raul*

DATE TIME OUT OF UNIT: *6-18-15 @ 1:20pm by SSA*

DOJ ATTORNEY / ADVOCATE COMMENTS

- Document is legally sufficient.

REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
<i>Tim AEE</i>	<i>6/18/15</i>	<i>Paul SPRUTAN</i>	<i>6/18/15 12:24</i>

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

PICKED UP BY: (Print) *handcarried by Livingston* DATE / TIME: *6/18/15 @ 1:24pm*

NNDJ/DRRF-July 2013

COMPLETED