

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
23rd Navajo Nation Council --- Fourth Year, 2018

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING A
TEMPORARY CONSTRUCTION EASEMENT FOR THE TERM OF TWO YEARS TO THE
STATE OF ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE LAGUNA
CREEK BRIDGE REPLACEMENT PROJECT WITHIN KAYENTA TOWNSHIP,
KAYENTA CHAPTER, NAVAJO NATION

BE IT ENACTED:

Section One. Authority

- A. Pursuant to 2 N.N.C. §500, the Resources and Development Committee is established as a standing committee of the Navajo Nation Council.
- B. Pursuant to 2 N.N.C. §501 (B)(2)(a), the Resources and Development Committee grants final approval for all, non-mineral leases, permits, licenses, rights of ways, and surface easements on Navajo Nation lands and unrestricted (fee) land.

Section Two. Findings

- A. The Arizona Department of Transportation, 206 South 17th Avenue, Phoenix, Arizona, 85007, has submitted an application for a temporary construction easement, for a term of two years, with respect to the Laguna Creek Bridge Replacement Project on Highway US 163 at Mile Post 396 within Kayenta Township, Kayenta Chapter, Navajo Nation. The temporary construction easement is needed for access under the bridge. No new right-of-way is needed for completion of the project. See **Exhibit A**.
- B. The proposed temporary construction easement contains two tracts consisting of 508,944 total square feet, consisting of 11.683 acres, more or less, of Navajo Nation Trust Lands located in Section 1 of Township 38 North, Range 19 North and Section 31 of Township 39 North, Range 20 East, G&SRMB, Navajo County, Arizona and the location is more particularly described in **Exhibit B**.

- C. The Township of Kayenta, by Resolutions KTCA-21-17 and KY17-321-03 has expressed its approval and support for the Laguna Creek Bridge Replacement Project. See **Exhibit C**.
- D. The Project Review Section of the Navajo Land Department has obtained the necessary consents from the affected land users (i.e. Kayenta Township) and are attached as **Exhibit E**.
- E. The necessary Navajo Nation Departmental Reviews have been completed and are found at **Exhibit A**. The Navajo Nation Department of Justice has determined the documents to be legally sufficient. See **Exhibit A**.
- F. The Resources and Development Committee of the Navajo Nation finds it to be in the best interest of the Navajo Nation to approve the request for a temporary construction easement to the Arizona Department of Transportation for the Laguna Creek Replacement Project, subject to the Terms and Conditions as found as **Exhibit D**.
- G. The Resources and Development Committee of the Navajo Nation finds it to be in the best interest of the Navajo Nation to waive the requirement for a bond, insurance or alternative form of security, pursuant to 25 CFR § 169.103 (f)(2).
- H. The Arizona Department of Transportation has requested that the valuation of \$16,834, as found in the Terms and Conditions, Paragraph No. 2, as **Exhibit D**, be reduced to \$2,500.00. See **Exhibit F**.
- I. The Resources and Development Committee of the Navajo Nation finds it to be in the best interest of the Navajo Nation to reduce the valuation as found in the Terms and Conditions from \$16,834.00 to \$2,500.00.


Section Three. Approval

- A. The Resources and Development Committee of the Navajo Nation hereby approves the request for a temporary construction easement to the Arizona Department of Transportation for the Laguna Creek Replacement Project, subject, but not limited to, the Terms and Conditions attached hereto and incorporated herein as found as **Exhibit D**.

- B. The Resources and Development Committee of the Navajo Nation hereby waives the requirement for a bond, insurance or alternative form of security, pursuant to 25 CFR § 169.103 (f) (2).
- C. The Resources and Development Committee of the Navajo Nation hereby approves the reduction of the valuation as found in the Terms and Conditions from \$16,834.00 to \$2,500.00 and directs that the Terms and Conditions as found as **Exhibit D** be corrected accordingly.
- D. The Resources and Development Committee of the Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to affect the intent and purpose of this resolution.

CERTIFICATION

I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at the Navajo Division of Transportation, Tse Bonito, Navajo Nation (New Mexico), at which a quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, 1 abstained on this 21st day of March, 2018.


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

Motion: Honorable Leonard Pete
Second: Honorable Walter Phelps



Douglas A. Ducey, Governor
John S. Halikowski, Director
Dallas Hammit, State Engineer
Steve Boschen, Division Director

April 26, 2017

Navajo General Land Development Department
Attn: Howard Draper, Program & Project Specialist
Navajo Blvd W008-247 Bldg #4 / PO Box 2249
Window Rock, AZ 86515

RE: Project: 163 NA 395 H8455
 Federal ID: 163-A(201)T
 Highway: US163 Kayenta-Utah State Line
 Section: Laguna Creek Bridge
 Parcel: 9-01499



Dear Mr. Howard Draper:

The State of Arizona, by and through its Department of Transportation(ADOT), is requesting to obtain a Temporary Construction Easement across the lands of the Navajo Nation Trust Land within Kayenta Township of Kayenta Chapter on US 163 at Mile Post 396 for Laguna Creek Bridge Replacement Project. The TCE is required for access under the bridge. No new right-of-way is needed for completion of the project.

Pursuant thereto, enclosed you will find the following:

- Application fee of \$500
- Application for a Temporary Construction Easement
- Temporary Construction Easement Legal Description & Exhibit Map
- Temporary Construction Easement Survey plans
- Environmental documentation
- 8 ½ X 11 Project Plans
- Kayenta Township Commission Resolution No. KTCA-21-17
- Kayenta Chapter Resolution No. KY17-321-03
- ADOT Delegation of Authority
- ADOT Title Report
- 11X17 Project Plans & Temporary Construction Easement Exhibit

Pending Navajo Nation determination of value during the evaluation period and/or if necessary, ADOT to conduct a market appraisal to determine the value to meet the valuation requirements of §§ 169.110, 112, 114.

ADOT is a Self-Insured and requests a Waiver of the Bond(s), insurance, and/or other security to be in the Tribes best interest to meet the requirements of §169.103

Your assistance in this matter is greatly appreciated. If you have any questions or require additional information, please contact me at 205 South 17th Avenue, Mail Drop 612E, Phoenix, Arizona 85007, or call 602-712-2166. You may also reach me at my email address: cmullis@azdot.gov.

Sincerely,


Charlene Mullis, Right of Way Agent
Right of Way Group

Enclosures



Intermodal Transportation

Douglas A. Ducey, Governor
John S. Hallikowski, Director
Dallas Hammit, State Engineer
Steve Boschen, Division Director

April 26, 2017

Navajo General Land Development Department
Attn: Howard Draper, Program & Project Specialist
Navajo Blvd W008-247 Bldg #4 / PO Box 2249
Window Rock, AZ 86515

RE: Project: 163 NA 395 H8455
Federal ID: 163-A(201)T
Highway: US163 Kayenta-Utah State Line
Section: Laguna Creek Bridge
Parcel: 9-01499



COPY

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Sincerely,

Charlene Mullis, Right of Way Agent
Right of Way Group

Enclosures

Right of Way Operations Services
Check Delivery Receipt

This receipt is a form of acknowledgement that a warrant(s) is delivered and received:

Warrant Information

Warrant Number: 218221643 Warrant Date: 4/14/17
Payable To: Navajo Nation Land Dept Amount: \$ 500.00
Project Number: 17845502R Parcel Number: 9-1499

Delivered by: Charles Mullis Date: 4-26-17

Received by: _____ Date: _____

Print Name and Title: _____

Note: SIGNED RECEIPTS ARE TO BE RETURNED TO R/W OPERATIONS WITHIN 24 HOURS

Charlene



Please Sign for
Check and return
Receipt in Envelope
Provided.
Thank you
Charlene, Mullis

COPY

STATE OF ARIZONA REMITTANCE ADVICE

WARRANT NO
218221643

AGY: DTA

AGENCY CONTACT: ANITA KLEINMAN

602-712-7007

INVOICE NO.	INVOICE DT.	INVOICE DESCRIPTION	DOCUMENT/LINE NO.	INVOICE AMT.	DISCOUNT AMT.	NET AMT.
91499APPLICA	04/14/2017	9-1499/H845502R/APPLICATION FEE	GAX, DTA, 170000047290 / 1	\$500.00	\$0.00	\$500.00
<div style="font-size: 4em; color: blue; opacity: 0.5;">COPY</div> <div style="color: blue; opacity: 0.5;">NLD-PROJECT REVIEW SECTION</div>						

IF REMITTANCE ADVICE ABOVE IS BLANK, SEE [HTTP://WWW.VENPAY.GAO.AZDOA.GOV/](http://www.venpay.gao.azdoa.gov/) FOR FURTHER DETAILS.EVER WONDER WHERE YOUR PAYMENT FROM THE STATE IS? OR, WHICH
STATE AGENCY PAID YOU THROUGH DIRECT DEPOSIT/ACH? VISIT OUR
VENDOR PAYMENT WEBSITE, [HTTP://WWW.VENPAY.GAO.AZDOA.GOV/](http://www.venpay.gao.azdoa.gov/).

VENDOR NAME: THE NAVAJO NATION

ISSUE DATE:

WARRANT AMOUNT:

VENDOR ID: PZ000021833

04/14/2017

\$500.00

FOLD OR SEPARATE AT COLORED LINE BELOW

STATE OF ARIZONA

NOT GOOD AFTER
VOID DATE SHOWN

DATE ISSUED
MO-DAY-YR
04/14/2017

VOID AFTER
MO-DAY-YR
10/11/2017

DEPARTMENT
DTADOCUMENT ID
170000488412BANK
21WARRANT NO
8221643

PAY THIS AMOUNT

\$500.00

*****FIVE HUNDRED AND 00/100 DOLLARS*****

PAY TO THE ORDER OF

THE NAVAJO NATION
NAVAJO NATION
NAVAJO NATION LAND DEPT
ATTN: HOWARD DRAPER AS01
WINDOW ROCK AZ 86515

Clay C. Brown
DEPARTMENT OF ADMINISTRATION
Douglas A. Duany
COUNTERSIGNED GOVERNOR

PAYABLE THRU STATE SERVICING BANK OF STATE TREASURER OF ARIZONA

⑈8221643⑈ ⑆122101133⑆ 000000000021⑈

EXECUTIVE OFFICIAL REVIEWTitle of Document: ADOT-TCE, Laguna Creek Bridge
Replacemen Contact Name: YAZZIE, ELERINA BProgram/Division: DIVISION OF NATURAL RESOURCESEmail: michellehoskie@frontier.com Phone Number: 928-871-6447☐ **Business Site Lease** Sufficient Insufficient

1. Division: _____	Date: _____	□	□
2. Office of the Controller: _____	Date: _____	□	□
(only if Procurement Clearance is not issued within 30 days of the initiation of the E.O. review)			
3. Office of the Attorney General: _____	Date: _____	□	□

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

1. Division: _____	Date: _____	□	□
2. Office of the Attorney General: _____	Date: _____	□	□

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

1. Office of Management and Budget: _____	Date: _____	□	□
2. Office of the Controller: _____	Date: _____	□	□
3. Office of the Attorney General: _____	Date: _____	□	□

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

1. NNEPA: _____	Date: _____	□	□
2. Office of the Attorney General: _____	Date: _____	□	□

☐ **Lease Purchase Agreements**

1. Office of the Controller: _____	Date: _____	□	□
(recommendation only)			
2. Office of the Attorney General: _____	Date: _____	□	□

☐ **Grant Applications**

1. Office of Management and Budget: _____	Date: _____	□	□
2. Office of the Controller: _____	Date: _____	□	□
3. Office of the Attorney General: _____	Date: _____	□	□

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

1. Division: _____	Date: _____	□	□
2. Office of the Attorney General: _____	Date: _____	□	□

☐ **Relinquishment of Navajo Membership**

1. Land Department: _____	Date: _____	□	□
2. Elections: _____	Date: _____	□	□
3. Office of the Attorney General: _____	Date: _____	□	□

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

Sufficient Insufficient

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

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

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

☐ **Rights of Way**

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

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

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

☐ **Assignment of Mineral Lease**

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

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

1. NLD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. F&W	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. HPD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5. NNEPA	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
6. DNR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
7. DOJ (ic)	<i>Blanket</i>	Date: <i>12/7/17</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. OPVP	<i>12</i>	Date: <i>12-26-17</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

☐ **OTHER:**

1. _____	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. _____	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. _____	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. _____	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5. _____	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



DOJ	
11-29-17 @ 439p	
DATE / TIME	
<input type="checkbox"/> 7 Day Deadline	
DOC #:	008233
SAS #:	
UNIT:	Nm

☐ RESUBMITTAL

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

CLIENT TO COMPLETE			
DATE OF REQUEST:	11/29/2017	DIVISION:	Division Natural Resources
CONTACT NAME:	Michelle Hoskie or Stevie Hudson	DEPARTMENT:	General Land Development Department
PHONE NUMBER:	871-6447 or 6401	E-MAIL:	michellehoskie@frontier.com
TITLE OF DOCUMENT: ADOT - TCE LAGUNA CREEK BRIDGE REPLACEMENT			
DOJ SECRETARY TO COMPLETE			
DATE/TIME IN UNIT:	11-30-17 8:13	REVIEWING ATTORNEY/ADVOCATE:	Muir Chee 12.11.17
DATE TIME OUT OF UNIT: 12.7.17 @ 4:50			
DOJ ATTORNEY / ADVOCATE COMMENTS			
Document (Laguna Creek Bridge) is legally sufficient. Environmental Sewerage (BRCE, CRCE & Field Clearances) and attached along with,			
REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
J Rine	12/7/17	V Blackhat	12/7/17 1:15 PM
Emailed			
DOJ Secretary Called: Michelle & Stevie		for Document Pick Up on 12.7.17 at 1:45 By: Bz	
PICKED UP BY: (Print)		DATE / TIME:	






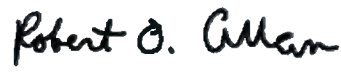
NNDJ/DRRF-July 2013

The Terms & Conditions for TCE.

Thx - IC

COMPLETED

Tier 1 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Eugenia Quintana EPA (Navajo Land Title Data System - Windowrock AZ)	Air and Toxics - Reviewer	Navajo Nation Environmental Protection Agency	Approved	no comments	No Reply	27-Jun-2017	
Lee Anna Martinez EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Reviewer	Navajo Nation Environmental Protection Agency	Approved 1.	ADOT has always complied with our Clean Water Act Section 401 Certification. Should their project cross any waterway, ephemeral or perennial, it highly encouraged to please contact our office at (928) 871-7692. Thank you.	1. No Reply	18-Aug-2017	
Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved 1.	#15adot101	1. No Reply	27-Jun-2017	
Pam Maples EPA (Navajo Land Title Data System - Windowrock AZ)	Storage Tanks Program - Reviewer	Navajo Nation Environmental Protection Agency	Approved	no comments	No Reply	07-Jul-2017	
Patrick Antonio (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Supervisor	Navajo Nation Environmental Protection Agency	Approved 1.	ADOT NE District Responsibilities: Engineer will prepare and submit Notice of Intent to USEPA. Engineer will ensure a Storm Water Pollution Prevention Plan is prepared.	1. No Reply	29-Jun-2017	
Robert Allan DNR (Navajo Land Title Data System - Windowrock AZ)	Deputy Director	DNR Administration	Approved 1.	No BRCF or CRCF. There documents were supplied 9/11/17.	1. No Reply	11-Sep-2017	

Tamara Billie HPD
NNHP Reviewer
(Navajo Land
Title Data
System -
Windowrock
AZ)

Historic
Preservation
Department

Approved 1. HPD-17-
633.

1. No Reply 11-Sep-2017

Tamara Billie

Yolanda Public
Barney EPA Water
(Navajo Land System
Title Data Supervision
System - Agency
Windowrock
AZ)


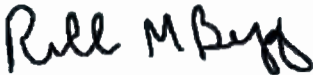




Navajo Nation
Environmental
Protection

Approved no comments

No Reply 30-Jun-2017

Yolanda

Tier 2 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Bidtah N. Becker (FBFA)	FBFA Users	FBFA Action Team	Pending	no comments	No Reply		
Richard Begay (Navajo Land Title Data System - Windowrock AZ)	Navajo Nation Historic Preservation Officer	Historic Preservation Department	Pending	no comments	No Reply		
Ronnie Ben EPA (Navajo Land Title Data System - Windowrock AZ)	Underground Injection Control - Reviewer	Navajo Nation Environmental Protection Agency	Pending	no comments	No Reply		
Sam Diswood (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	no comments	No Reply	29-Nov-2017	
Steven Prince (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	no comments 2. Please permanently include the uploaded Terms & Conditions document with the approval documents. slp, Please permanently include the uploaded Terms & Conditions document with the approval documents. slp	No Reply 2. No Reply	29-Nov-2017	
W. Mike Halona (Navajo Land Title Data System - Windowrock AZ)	Manager III	NLD Navajo Land Administration	Approved	no comments	No Reply	29-Nov-2017	



U.S. Department
of Transportation
Federal Highway
Administration

ARIZONA DIVISION

4000 North Central Avenue
Suite 1500
Phoenix, Arizona 85012-3500
Phone: (602) 379-3646
Fax: (602) 382-8998

<http://www.fhwa.dot.gov/azdiv/index.htm>

October 13, 2015

In Reply Refer To:

163-A(201)T
TRACS No. 163 NA 396 H8455 01C
Laguna Wash Bridge #25
Initial Section 106 Consultation
"no adverse effect"

Richard M. Begay

~~Dr. Ora Marek-Martinez~~
THPO/NNHPD Director
Navajo Nation Historic Preservation Department
P.O. Box 4950
Window Rock, Arizona 86515

Dear ~~Dr. Marek-Martinez~~:

The Federal Highway Administration (FHWA) and the Arizona Department of Transportation (ADOT) are planning to replace the roadway approaches and bridge at Laguna Wash on US 163 just north of the Navajo Nation Community of Kayenta, Navajo County, Arizona. The project area can be located on portions of the Kayenta East, Kayenta West, and Agathla Peak 7.5-minute United States Geological Survey quadrangles. The project area is unplatted but is projected to fall within portions of Sections 1, 2, 11, and 12 of Township 38 North, Range 20 East; Section 36 of Township 39 North, Range 20 East; and Sections 30 and 31 of Township 39 North, Range 21 East of the Gila and Salt River Base Line and Meridian.

Because this project would employ federal funds, it is considered an undertaking subject to Section 106 review. This project would occur on ADOT easement across Navajo Nation land. Consulting parties for this project are FHWA, ADOT, the Navajo Nation Tribal Historic Preservation Office, the Hopi Tribe, and the Moapa Band of Paiute Indians.

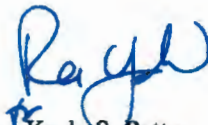
The scope of this project would involve:

- Realigning and restriping US 163 to allow construction of a new bridge directly adjacent to the existing bridge
- Constructing a new pier-supported multiple-span bridge and bridge abutments, with a roadway width that accommodates one travel lane in each direction and paved shoulders on both sides
- Improving drainage structures, as needed
- Installing erosion protection for bridge abutments and other project elements, as needed
- Installing retaining walls, where necessary
- Removing and replacing bridge guardrail and end sections
- Adding or replacing signs, delineators, or object markers, as needed
- Constructing new cattle guards
- Paving driveways to the existing right-of-way limits
- Reconstructing fencing and replacing gates, as needed
- Seeding all disturbed areas and using soil amendments, as needed
- Milling the existing pavement, where necessary, and demolishing the existing bridge
- Completing geotechnical investigations

US 163 is recognized as a historic roadway that is not part of the Historic State Highway System and remains unassessed for the NRHP. If an assessment of the roadway were to find that the property is significant and retains sufficient integrity to be considered NRHP-eligible, the current scope of work, replacement of an existing bridge, would not adversely affect the property. Therefore, FHWA recommends that this project proceed with a finding of "no adverse effect."

Please review the enclosed report and the information provided in this letter. If you find the report adequate and agree with the FHWA finding of project effect, please indicate your concurrence by signing on the line provided. If you have any questions or concerns, please contact ADOT Historic Preservation Specialist James Mallery at 928-779-7595 or at JMallery@azdot.gov.

Sincerely,



Karla S. Petty
Division Administrator

 08/11/17
Signature for NN THPO Concurrence _____ Date _____
163-A(201)T

Enclosure

cc:

Ms. Bitah Becker, Executive Director, Navajo Nation Division of Natural Resources, P.O. Box 9000, Window Rock, AZ 86515

ecc:

~~Dr. Ora Marek Martinez, THPO/NNHPD Director, Navajo Nation Historic Preservation Department
(orammm@navajo-nsn.gov) (with enclosure)~~

**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.: Laguna Wash Bridge #25, 163-A(201)T, 163 NA 396 H8455 01C

DESCRIPTION: Bridge and roadway approaches will be replaced at Laguna Creek.

LOCATION: US 163, milepost (MP) 395.9 to MP 396.4, Kayenta Chapter, Navajo County, Arizona

REPRESENTATIVE: Joshua Fife, Arizona Department of Transportation Environmental Planning

ACTION AGENCY: Bureau of Indian Affairs and Federal Highway Administration

B.R. REPORT TITLE / DATE / PREPARER: BE-Laguna Wash Bridge #25/05 JAN 2016/EcoPlan Associates, Inc.

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA


AVOIDANCE / MITIGATION MEASURES: The NNDFW concurs with ADOT's mitigation measures outlined in the BE Section 5.

CONDITIONS OF COMPLIANCE*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/21 JAN 2016

COPIES TO: (add categories as necessary)

☐ _____ ☐ _____

<u>2 NTC § 164 Recommendation:</u>	Signature	Date
<input checked="" type="checkbox"/> Approval		01/26/16
<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)	Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife	

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



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

CULTURAL RESOURCES COMPLIANCE FORM

ROUTE COPIES TO:

☒ EPA

NNHPD NO.: **HPD-17-633**

OTHER PROJECT NO.: **EPA 07-071132**

PROJECT TITLE: Cultural Resource Survey along US 163 near Milepost 396, Navajo County, Arizona. Laguna Wash Bridge #25, US 163 Milepost 393.90 to 398.40

LEAD AGENCY: FWHA

SPONSOR: Arizona Department of Transportation, Environmental Planning Group, 1611 W. Jackson St, MD EM02, Phoenix, Arizona 85007-3212

PROJECT DESCRIPTION: The proposed undertaking will involve replacing the roadway approaches and bridge at Laguna Wash on US 163. The scope of work entails, demolishing existing bridge, milling existing pavement, realigning, restriping, constructing new pier-supported multiple-span bridge, improve drainage, install erosion protection, install retaining walls, removing & replacing guardrail, installing new signage, new cattle guards, repaving, fencing, gates, reseeding area. The area of effect total is 96.99-acres; 12.7-acres were newly surveyed; 84.29-acres has been previously surveyed. The APE also includes two temporary construction easements (TCEs) which were previously surveyed. Ground disturbance will be intensive and extensive with the use of heavy equipment.

LAND STATUS:	Navajo Tribal Trust Land													
CHAPTER:	Kayenta													
LOCATION:	T.	<u>38</u>	N.,	R.	<u>20</u>	E-	Sec.	<u>01, 02, 11, 12</u>	Kayenta East	Quadrangle,	Navajo	County	Arizona	G&SRPM
	T.	<u>39</u>	N.,	R.	<u>20</u>	E-	Sec.	<u>36</u>						
	T.	<u>39</u>	N.,	R.	<u>21</u>	E-	Sec.	<u>30, 31</u>						
PROJECT ARCHAEOLOGIST:	Jill Heilman													
NAVAJO ANTIQUITIES PERMIT NO.:	B15386													
DATE INSPECTED:	09/02/2015													
DATE OF REPORT:	10/2015													
TOTAL ACREAGE INSPECTED:	12.7 – ac													
METHOD OF INVESTIGATION:	Class III pedestrian inventory with transects spaced <u>20</u> m apart.													
LIST OF CULTURAL RESOURCES FOUND:	(2) Sites (AZ-J-23-33, AZ-J-23-34) Bridge; US 160 Highway (1) Isolated Occurrence (IO)													
LIST OF ELIGIBLE PROPERTIES:	(1) Site (AZ-J-23-34)													
LIST OF UNEVALUATED PROPERTIES:	US 160 Highway													
LIST OF NON-ELIGIBLE PROPERTIES:	(1) Site (AZ-J-23-33); Bridge; (1) IO													
LIST OF ARCHAEOLOGICAL RESOURCES:	(1) Site (AZ-J-23-34)													

EFFECT/CONDITIONS OF COMPLIANCE: No Adverse Effect with the following conditions:

Site AZ-J-23-34:

The contributing component of the site to the NR is NOT within the APE, therefore will be avoided by this undertaking.

Site AZ-J-23-33:

No further work is warranted.

US 160 Highway:

Is not part of the Historic State highway system. Has not been assessed for NRHP eligibility. The replacement of the bridge will not adversely affect the property.

Bridge:

No further work is warranted.

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

FORM PREPARED BY: **Tamara Billie**
FINALIZED: August 11, 2017

Notification to Proceed
Recommended

Conditions:

☒ Yes ☐ No

☒ Yes ☐ No

 08/11/17

Richard M. Begay, Director/THPO Date
The Navajo Nation
Heritage & Historic Preservation Office



Douglas A. Ducey, Governor
John S. Halikowski, Director
Dallas Hammit, State Engineer
Steve Boschen, Division Director

COPY

April 26, 2017

Navajo General Land Development Department
Attn: Howard Draper, Program & Project Specialist
Navajo Blvd W008-247 Bldg #4 / PO Box 2249
Window Rock, AZ 86515



RE: Project: 163 NA 395 H8455
 Federal ID: 163-A(201)T
 Highway: US163 Kayenta-Utah State Line
 Section: Laguna Creek Bridge
 Parcel: 9-01499

Dear Mr. Howard Draper:

The State of Arizona, by and through its Department of Transportation(ADOT), is requesting to obtain a Temporary Construction Easement across the lands of the Navajo Nation Trust Land within Kayenta Township of Kayenta Chapter on US 163 at Mile Post 396 for Laguna Creek Bridge Replacement Project. The TCE is required for access under the bridge. No new right-of-way is needed for completion of the project.

Pursuant thereto, enclosed you will find the following:

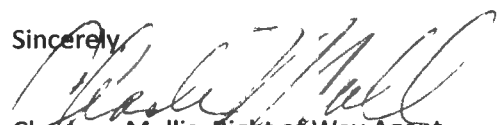
- Application fee of \$500
- Application for a Temporary Construction Easement
- Temporary Construction Easement Legal Description & Exhibit Map
- Temporary Construction Easement Survey plans
- Environmental documentation
- 8 ½ X 11 Project Plans
- Kayenta Township Commission Resolution No. KTCA-21-17
- Kayenta Chapter Resolution No. KY17-321-03
- ADOT Delegation of Authority
- ADOT Title Report
- 11X17 Project Plans & Temporary Construction Easement Exhibit

Pending Navajo Nation determination of value during the evaluation period and/or if necessary, ADOT to conduct a market appraisal to determine the value to meet the valuation requirements of §§ 169.110, 112, 114.

ADOT is a Self-Insured and requests a Waiver of the Bond(s), insurance, and/or other security to be in the Tribes best interest to meet the requirements of §169.103

Your assistance in this matter is greatly appreciated. If you have any questions or require additional information, please contact me at 205 South 17th Avenue, Mail Drop 612E, Phoenix, Arizona 85007, or call 602-712-2166. You may also reach me at my email address: cmullis@azdot.gov.

Sincerely,


Charlene Mullis, Right of Way Agent
Right of Way Group

Enclosures



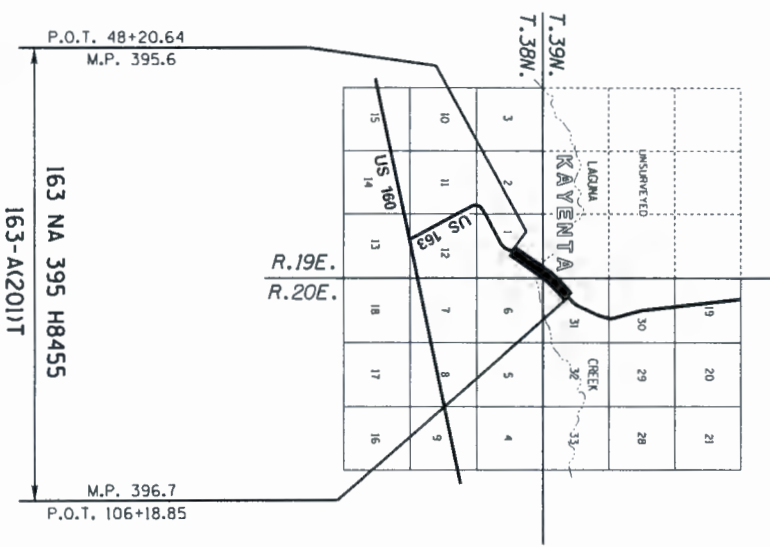
★ **PROJECT LOCATION**

COUNTY NAME: NAVAJO
 LENGTH OF PROJECT: 1.1 MILES
 ADOT DISTRICT: NORTHEAST (NE)
 DRAWING NUMBER: D-9-T-348

SHEET INDEX

COVER SHEET	1
STANDARD ABBREVIATION & SYMBOLS SHEET	S-1
RESULTS OF SURVEY	RS-1 TO RS-3
TCE EXHIBIT SHEET	EX-1
TOTAL SHEETS	6

RIGHT OF WAY PLANS OF THE KAYENTA - UTAH STATE LINE HIGHWAY LAGUNA CREEK BRIDGE 163 NA 395 H8455 163-A(201)T



APPROVED IN ACCORDANCE WITH
 ARIZONA STATE TRANSPORTATION BOARD
 RESOLUTION 2016-05-A-024 DATED 5-20-2016



ADOT DISTRICT 9
 PROJECT: 163-A(201)T
 DRAWING: 163-A(201)T
 DATE: 5-20-2016
 DESIGNED BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]
 TITLE: [Title]
 SIGNATURE: [Signature]
 DATE: [Date]

NAVAJO

EXIST R/W £	
A 75.00'	LT P.O.T. 81+29.36
B 350.00'	RT P.O.C. 82+80.02
C 350.00'	RT P.O.C. 86+99.36
D 75.00'	RT P.O.C. 86+99.36

US 163 SURVEY £	
A	350.00' LT P. O. T. 7+50.00
B	350.00' LT P. O. T. 79+30.00
C	350.00' RT P. D. T. 6+54.28
D	350.00' RT P. O. C. 85+00.00



*NOTE: THE EXISTING R/W CENTERLINE IS IN THE SAME LOCATION OF THE EXIST US 163 SURVEY CENTERLINE SHOWN ON THE DESIGN PLANS. HOWEVER, THE EXIST R/W IS UTILIZING A DIFFERENT BASIS OF STATIONING. SEE ATTACHED RESULTS OF SURVEY FOR ADDITIONAL INFO.

LEGEND

Set Monument

Found Monument

Calculated position

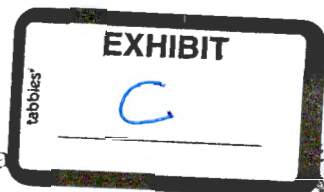
Existing ADOT Benchmarks

[illegible]

...\\162k0309.00001.dgn



Navajo Nation Kayenta Chapter
Post Office Box 1088
Kayenta Chapter, Navajo Nation, AZ 86033
Chapter Resolution



Resolution No: KY17-321-03

**SUPPORTING THE ARIZONA DEPARTMENT OF TRANSPORTATION
(ADOT) TEMPORARY CONSTRUCTION EASEMENT WITHIN THE
KAYENTA CHAPTER OF THE NAVAJO NATION TRUST LAND ON US 163
LAGUNA CREEK BRIDGE REPLACEMENT PROJECT**

WHEREAS,

1. Kayenta Chapter is recognized by the Navajo Nation pursuant to 26 N.N.C. as a local governmental subunit of the Navajo Nation and is a government comprised of local citizens and their elected Chapter Officials, and;
2. Kayenta Chapter is recognized by the Navajo Nation pursuant to 11 N.N.C. § 10, as being located within District 8, Western Navajo Agency, and;
3. The Arizona Department of Transportation (ADOT) presented to the Kayenta Chapter information pertaining to the US 163 Laguna Creek Bridge Replacement Project schedule for Fiscal Year 2018; and
4. The Arizona Department of Transportation (ADOT) is responsible for the maintenance of US Highway 163; and
5. The purpose of the project is to replace the existing bridge due to the narrow bridge width and that it is approaching its design life span. Replacing the bridge with a new wider bridge meeting current standards and requirements will improve the safety for the motorists and reduce future maintenance costs; and
6. ADOT requires a Temporary Construction Easement for two years to construct an access road under the bridge and to allow an area for proposed staging and stockpiling for the construction of the Laguna Creek Bridge replacement; and
7. This Commission has heard the presentation and examined the proposed TCE delineation attached hereto as Exhibit "A", the proposed project design plans TCE Delineation Exhibit attached hereto as Exhibit "B", the request for resolution with scope of work included attached hereto as Exhibit "C", and aerial photo of area involved attached hereto as Exhibit "D" and has determined that said project will contribute to the safety of the community and its residents.

THEREFORE, BE IT RESOLVED,

1. The Kayenta Chapter hereby supports the ADOT US 163 Laguna Creek Bridge Replacement Project and the required TCE hereto as Exhibit "A", necessary for ADOT to accomplish the Bridge construction and is in the Chapter's best interest, is hereby approved.
2. The Chapter Officials are hereby authorized to execute any and all documents necessary to effectuate the intent of this resolution.

CERTIFICATION

WE hereby certify that the foregoing resolution was duly considered by the Kayenta Chapter, Kayenta, Navajo Nation, Arizona, at which a quorum was present and that the same was passed by a vote of 3 in favor, 0 opposed, and 3 abstaining, this 29th day of March, 2017.

Motioned By: Albert Bailey

Seconded By: Andrew Bradley

Stanley Clitso
Stanley Clitso, Kayenta Chapter President



THE KAYENTA TOWNSHIP

P.O. BOX 1490 KAYENTA, AZ 86033 • PHONE: (928) 697-8451 FAX: (928) 697-8461

Continuing the legacy of brilliant leadership through local empowerment since 1948.



Resolution No: KTCA-21-17

RESOLUTION OF THE KAYENTA TOWNSHIP COMMISSION

Approve Support of the Arizona Department of Transportation (ADOT) Temporary Construction Easement within the Kayenta Township of the Navajo Nation Trust Land on the US 163 Laguna Creek Bridge to allow access under the bridge for the Laguna Creek Bridge Replacement Project is in the Best Interest of the Township

WHEREAS:

1. Pursuant to 2 N.N.C §4083 (B), (C) (2005) the Kayenta Township is a duly recognized and certified township of the Navajo Nation Government; and
2. Pursuant to 2 N.N.C §4083 (B), (C) (2005) the Kayenta Township is vested with the authority to review all matters affecting the community and to make appropriate correction when necessary and make recommendation to the Navajo Nation and other local agencies for appropriate actions; and
3. Pursuant to 2 N.N.C §4083 (B), (C) (2005) the Kayenta Township is a governmental authority with respect to local matters consistent with Navajo law, including custom and tradition; and
4. The Arizona Department of Transportation (ADOT) presented to the Kayenta Township Commission (KTC) information pertaining to the US 163 Laguna Creek Bridge Replacement Project schedule for Fiscal Year 2018; and
5. The Arizona Department of Transportation (ADOT) is responsible for the maintenance of US Highway 163; and
6. The purpose of the project is to replace the existing bridge due to the narrow bridge width and that it is approaching its design life span. Replacing the bridge with a new wider bridge meeting current standards and requirements will improve the safety for the motorists and reduce future maintenance costs; and
7. ADOT requires a Temporary Construction Easement for two years to construct an access road under the bridge and to allow an area for proposed staging and stockpiling for the construction of the Laguna Creek Bridge replacement; and
8. This Commission has heard the presentation and examined the proposed TCE delineation attached hereto as Exhibit "A" and the proposed project design plans attached hereto as Exhibit "B" and has determined that said project will contribute

to the safety of the community and its residents and will be in the best interest of the Township.

THEREFORE BE IT RESOLVED THAT:


1. The Kayenta Township hereby supports the ADOT US 163 Laguna Creek Bridge Replacement Project and the required TCE hereto as Exhibit "A", necessary for ADOT to accomplish the Bridge construction and is in the Township's best interest, is hereby approved.
2. The Town Manager is hereby authorized to execute any and all documents necessary to effectuate the intent of this resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was considered by the Kayenta Township Commission at a duly called meeting at Kayenta, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 4 in favor, 0 opposed, and 0 abstained, this 11th day of April, 2017.

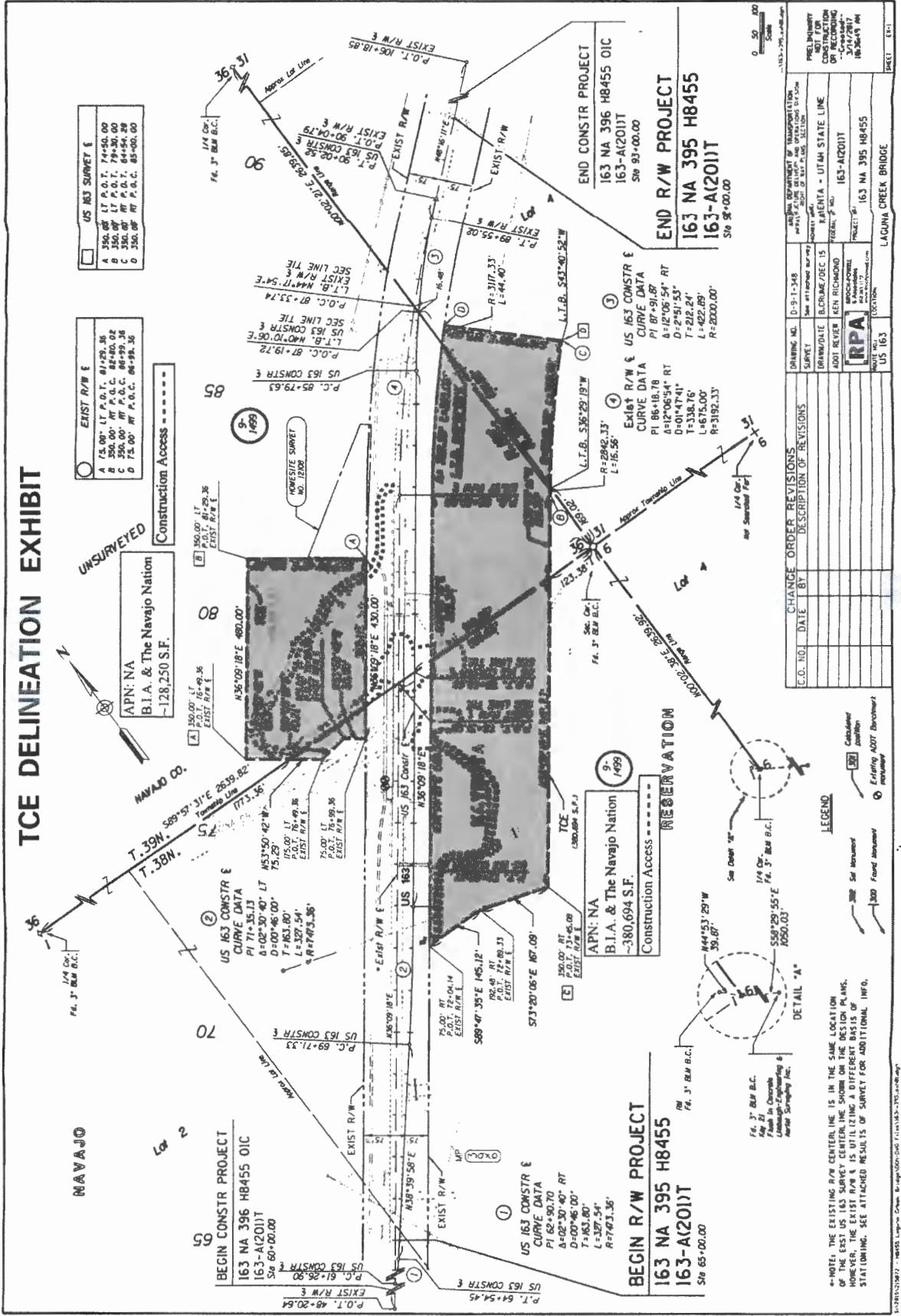
Motion: Commissioner E. Seaton

Second: Commissioner G. Sisco, III.



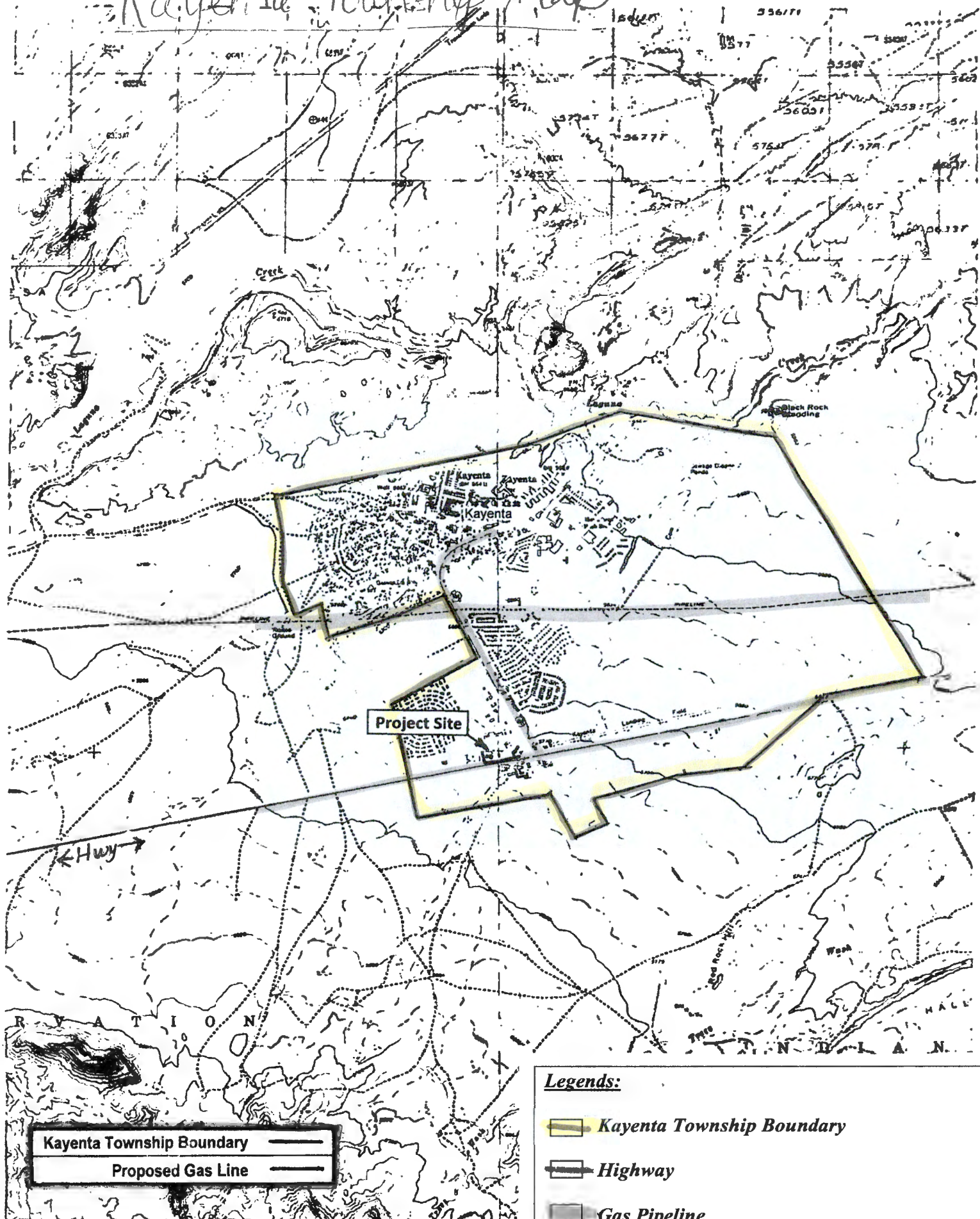
Rodger Grey, Chairperson
Kayenta Township Commission

TCE DELINEATION EXHIBIT





Kayenta Township Map



**DESCRIPTION FOR
TEMPORARY CONSTRUCTION EASEMENTS
NAVAJO NATION**

PARCEL NO. 1:

That portion of Section 1, Township 38 North, Range 19 East, and Section 36, Township 39 North, Range 19 East, Gila and Salt River Meridian, Navajo County, Arizona, described as follows:

COMMENCING at a 3 inch BLM brass cap marking the North quarter corner of said Section 1, being North 89°57'31" West 2639.82 feet from a 3 inch BLM brass cap marking the Northeast corner of said Section 1;

thence along the North line of said Section 1, South 89°57'31" East 1773.36 feet to the POINT OF BEGINNING;

thence North 53°50'42" West 99.71 feet;

thence North 36°09'18" East 480.00 feet;

thence South 53°50'42" East 275.00 feet to the existing northwesterly right of way line of U.S. Highway 163 (KAYENTA - UTAH STATE LINE HIGHWAY);

thence along said existing northwesterly right of way line of U.S. Highway 163, South 36°09'18" West 430.00 feet;

thence North 53°50'42" West 50.00 feet;

thence South 81°09'18" West 70.71 feet;

thence North 53°50'42" West 75.29 feet to the POINT OF BEGINNING.

128,250 square feet, more or less.

(continued)

EXHIBIT "A"
PAGE 1

PROJECT: 163 NA 395 H8455
163-A(201)T

LOCATION: Laguna Creek Bridge

PARCEL: 9-1499
sr 03-14-2017

PARCEL NO. 2:

That portion of Section 1, Township 38 North, Range 19 East, and of Section 31, Township 39 North, Range 20 East, and of Section 36, Township 39 North, Range 19 East, Gila and Salt River Meridian, Navajo County, Arizona, described as follows:

COMMENCING at a 3 inch BLM brass cap marking the Northeast corner of said Section 1, being South 89°57'31" East 2639.82 feet from a 3 inch BLM brass cap marking the North quarter corner of said Section 1;

thence along the North line of said Section 1, North 89°57'31" West 123.38 feet to the POINT OF BEGINNING;

thence South 36°09'18" West 742.23 feet;

thence North 73°20'06" West 167.09 feet;

thence North 89°47'35" West 145.12 feet to the existing southeasterly right of way line of U.S. Highway 163 (KAYENTA – UTAH STATE LINE HIGHWAY);

thence along said existing southeasterly right of way line, North 36°09'18" East 1075.88 feet;

thence continuing along said existing southeasterly right of way line, along a curve to the Right, having a radius of 3117.33 feet, a length of 409.49 feet;

thence South 46°19'08" East 275.00 feet;

thence from a Local Tangent Bearing of South 43°40'52" West, along a curve to the Left, having a radius of 2842.33 feet, a length of 356.81 feet to the West line of said Section 31, being North 00°02'21" East 169.02 feet from said Northeast corner of said Section 1;

thence from a Local Tangent Bearing of South 36°29'19" West, along a curve to the Left, having a radius of 2842.33 feet, a length of 16.56 feet;

thence South 36°09'18" West 192.70 feet to the POINT OF BEGINNING.

380,694 square feet, more or less.

EXHIBIT "A"

PAGE 2



Infrastructure Delivery and Operations

Douglas A. Ducey, Governor
John S. Hallkowsky, Director
Dallas Hammit, State Engineer
Steve Boschen, Division Director

March 16, 2017

FACSIMILE

Stanley Clitso
Chapter President
Kayenta Chapter
PO Box 1088
Kayenta, AZ 86033

RE: Project: 163 NA 395 H8455
 Federal ID: 163-A(201)T
 Highway: US163 Kayenta-Utah State Line
 Section: Laguna Creek Bridge MP395
 Parcel: 9-01499

Dear Mr. Stanley Clitso:

Arizona Department of Transportation (ADOT) is requesting to attend a commission meeting to request a Resolution of Support from Kayenta Chapter for a Temporary Construction Easement (TCE) over Navajo Nation Trust Land within Kayenta Chapter on US 163 at Mile Post 396 for Laguna Creek Bridge Replacement Project, Federal ID 163-A(201)A. The TCE is required for access under the bridge. No new right-of-way is needed for completion of the project.

The existing bridge needs to be replaced due to the narrow bridge width and that it is approaching its design life span. Replacing the bridge with a new wider bridge meeting current standards and requirements will improve the safety for the motorists and reduce future maintenance costs.

The scope of work will consist of:

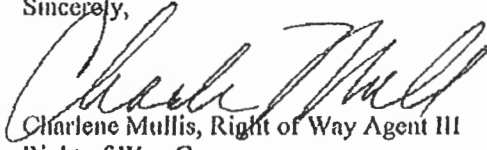
- Realigning and restriping US163 to allow construction of a new bridge directly adjacent to the existing bridge
- Constructing a new pier-supported multiple-span bridge and bridge abutments, with a roadway width that accommodates one travel lane in each direction and paved shoulders on both sides
- Improving drainage structures, as needed
- Installing erosion protection for bridge abutments and other project elements, as needed
- Installing retaining walls, where necessary
- Removing and replacing bridge guardrail and end sections
- Constructing new cattle guards
- Paving driveways to the existing easement limits
- Adding or replacing signs, delineators, or object markers, as needed
- Reconstructing fencing and replacing gates, as needed
- Seeding all disturbed areas and using soil amendments, as needed
- Milling the existing pavement, where necessary, and demolishing the existing bridge
- Conducting geotechnical investigations

Please confirm that ADOT has been added to the agenda at the next Kayenta Chapter Planning meeting to present the SR163 Laguna Creek Bridge project and to request support and approval for the Temporary Construction Easement. Let me know the meeting location, dates and times.

I can be reached at 205 South 17th Avenue, Mail Drop 612E, Phoenix, Arizona 85007, or call 602-712-2166 or email cmullis@azdot.gov.

Thank you for your consideration and cooperation in this matter.

Sincerely,



Charlene Mullis, Right of Way Agent III
Right of Way Group

Enclosures



EXHIBIT " D "

NAVAJO NATION TERMS AND CONDITIONS
For Temporary Construction Easement (TCE)

Navajo Department of Transportation (GRANTEE)

1. The term of the temporary construction easement shall be for two (2) years, beginning on the date the temporary construction easement (TCE) is granted by the Secretary of Interior.
2. Consideration for the temporary construction easement is assessed at \$ 16,834, and shall be paid in full to the Controller of the Navajo Nation, in lawful money of the United States, and a copy of the receipt for such payment provided to the Navajo Nation Minerals Department, or its successor, with 10 days of approval of and consents to the grant of the temporary construction easement by the Navajo Nation.

Consideration for the grant of the temporary construction easement is hereby waived.

☐ NO ☐ YES

Consideration for the temporary construction easement is assessed at \$ 16,834. The Navajo Nation contributes this amount to the project because the project will benefit Navajo residents.

3. The Grantee may develop, use and occupy the temporary construction easement for the purpose(s) of . 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 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 archaeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices;
 - c. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., and the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq.; and
 - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq.. Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.

5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.
6. The Grantee shall clear and keep clear the lands within the temporary construction easement to the extent compatible with the purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uprooted or otherwise accumulated during any surface disturbance activities.
7. The Grantee shall reclaim all surface lands disturbed related to the right-of-way, as outlined in a restoration and revegetation plan, which shall be prepared with the assistance of the Navajo Nation Environmental Protection Agency (NNEPA), and shall be submitted to and must be approved by NNEPA prior to any surface disturbance. The Grantee shall comply with all provisions of such restoration and revegetation plan and shall notify the Director of the NNEPA immediately upon completion of the surface disturbance activities so that a site inspection can be made.
8. The Grantee shall at all times during the term of the 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 rights-of-way, if any, from the appropriate parties.
10. The Grantee shall be responsible for and promptly pay all damages when they are sustained.
11. The Grantee shall indemnify and hold harmless the Navajo Nation and the Secretary of the Interior and their respective authorized agents, employees, landusers and occupants against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of temporary construction easement by the Grantee.
12. The Grantee shall not assign, convey, transfer or sublet 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 right-of-way, without the prior written consent of the Navajo Nation and the Secretary of the Interior. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation.
13. The Navajo Nation may terminate the 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 period; 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 right-of-way, the Grantee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. Upon the written request of the Navajo Nation, the Grantee shall provide the Navajo Nation, at the Grantee's sole cost and expense, with an environmental audit assessment of the premises at least sixty (60) days prior to deliver 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 in or to 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 right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any improvements located therein.
17. By acceptance of the grant of right-of-way, the Grantee consents to the full territorial legislative, executive and judicial jurisdiction of the Navajo Nation, including but not limited to the jurisdiction of the Navajo Nation, including but not limited to the jurisdiction to levy fines and to enter judgments for compensatory and punitive damages and injunctive relief, in connection with all activities conducted by the Grantee within the Navajo Nation or which have a proximate (legal) effect on persons or property within the Navajo Nation.
18. By acceptance of the grant of right-of-way, the Grantee covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision shall be construed to negate or impair federal responsibilities with respect to the land subject to the temporary construction easement or to the Navajo Nation.
19. Any action or proceeding brought by the Grantee against the Navajo Nation in connection with or arising out of the terms and conditions of the 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.
20. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.
21. Except as prohibited by applicable federal law, the law of the Navajo Nation shall govern the construction, performance and enforcement of the terms and conditions contained herein.
22. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of the Grantee, and the term "Grantee," whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.
23. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the temporary construction easement and all lands burdened by the right-of-way, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the right-of-way; and the 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.



THE NAVAJO NATION

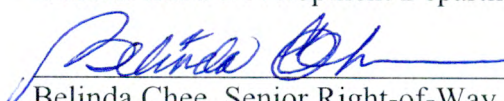


THE PRESIDENT
VICE PRESIDENT

Utah Land Office/General Land Development Dept.
Post Office Box 410
Montezuma Creek, Utah 84534

MEMORANDUM

To: Ms. Elerina Yazzie, Program Manager
General Land Development Department/DNR

From: 
Belinda Chee, Senior Right-of-Way Agent
Utah Land Office/General Land Development Department

Date: June 6, 2017

Subject: Field Clearances to Laguna Creek Bridge Replacement Project for Arizona
Department of Transportation

Pursuant to the Field Clearance request, the Utah Land Office has completed the below cited Field Clearances with Mr. Jerry H. Begay, Grazing Committee Member of Inscription House Chapter, and no grazing permit holder within Kayenta Township area. Mr. Jonathan Nez, Grazing Committee Member of Kayenta Chapter was unavailable to concur to this proposed project because he is taking training for ranger position. And Mr. Jerry Begay is assigned to Kayenta Chapter. Thus, forward this proposed project for further processing and approval. The proposed projects are described below:

Laguna Creek Bridge Replacement Project. Arizona Department of Transportation (ADOT), Temporary Construction Easement across the lands of the Navajo Nation Trust Land within Kayenta Township of Kayenta Chapter on US 163 at Mile Post 396 for Laguna Creek Bridge Replacement Project. On two (2) Parcels: Parcel No. 1 in Section 1, Township 38 North, Range 19 East, and Section 36, Township 39 North, Range 19 East, Gila and Salt River Meridian, Navajo County, within Kayenta Township of Kayenta Chapter, Navajo Reservation, Arizona, 2.95 acres/128,250 square feet, more or less, and Parcel No. 2 in Section 1, Township 38 North, Range 19 East, and Section 31, Township 39 North, Range 20 East, and of Section 36, Township 39 North, Range 19 East, Gila and Salt River Meridian, Navajo County, within Kayenta Township of Kayenta Chapter, Navajo Reservation, Arizona, 8.74 acres/380,694 square feet, more or less. And total of 11.69 acres/508,944 square feet, more or less.

All of the original Field Clearance documents are attached. For any inquiries you may contact me at (435) 651-3504, fax (435) 651-3506, email at belchee@frontier.com And if you should have any questions to ADOT you may contact Ms. Charlene Mullis, Right of Way Agent III, Right of Way Group at (602) 712-2166, email at cmullis@azdot.gov Thank you.

Attachments

Page 2 – Continued
Memo to Elerina Yazzie, Program Manager/GLDD
June 6, 2017

xc:

Charlene Mullis, Right of Way Agent, Right of Way Group/ADOT
Jerry H. Begay, GCM/Inscription House Chapter/NN
Stanley Clitso, Chapter President/Kayenta Chapter/NN
Akhtar Zaman, Director/Minerals Dept./NN
Yolanda Barney/NNEPA/NN
Bertha Spencer/BIA
File, Utah Land Office/GLDD/DNR/NN

FIELD CLEARANCE CHECKLIST

(This form covers only damages and compensation to individual land users. It does not cover consideration or other fees to the Navajo Nation. If necessary, use the back of this form for completion.)

1. Project Identification:

Applicant: Arizona Department of Transportation (ADOT),
205 South 17th Avenue MD612E, Phoenix, Arizona 85007.

Project: Laguna Creek Bridge Replacement Project. Arizona Department of Transportation (ADOT), Temporary Construction Easement across the lands of the Navajo Nation Trust Land within Kayenta Township of Kayenta Chapter on US 163 at Mile Post 396 for Laguna Creek Bridge Replacement Project.

Location (Legal Description): Two (2) Parcels: Parcel No. 1 in Section 1, Township 38 North, Range 19 East, and Section 36, Township 39 North, Range 19 East, Gila and Salt River Meridian, Navajo County, within Kayenta Township of Kayenta Chapter, Navajo Reservation, Arizona, and Parcel No. 2 in Section 1, Township 38 North, Range 19 East, and Section 31, Township 39 North, Range 20 East, and of Section 36, Township 39 North, Range 19 East, Gila and Salt River Meridian, Navajo County, within Kayenta Township of Kayenta Chapter, Navajo Reservation, Arizona.

Amount of land affected: Two (2) Parcels: Parcel No. 1 of 2.95 acres/128,250 square feet, more or less, and Parcel No. 2 of 8.74 acres/380,694 square feet, more or less. And total of 11.69 acres/508,944 square feet, more or less.

Land status: Trust/Kayenta Township Fee Other

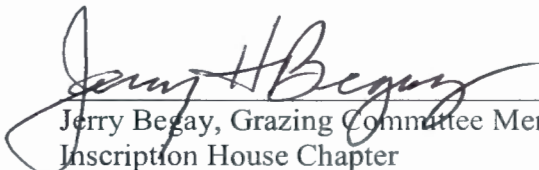
2. List of land use/grazing permittee whose land use rights will be affected project:

- | <u>Names</u> | <u>Census No.</u> | <u>Type of and Use Right</u> |
|-----------------------------|-------------------|------------------------------|
| a. No Grazing Permit Holder | N/A | In Kayenta Township |
3. Are all land users in the above list no. 4 with claims to the affected lands shown in the Branch of Land Operations records? Yes No
4. Have the Grazing Committee or Land Board Member (whichever is appropriate) for the affected area confirm the list no. 4 by signing acknowledgement form below.

ACKNOWLEDGEMENT

I acknowledge that due notice was given to the affected community of the proposed project, and according to my records and to the best of my knowledge, the list no. 4 includes all land users who have rights in the affected lands.

6/6/17
Date


Jerry Begay, Grazing Committee Member
Inscription House Chapter

08
District

5. Are any damages expected to individual improvements? Yes No

If yes, contact the Director of Navajo Land Administration because special arrangements will have to be made to compensate for these damages.

If no give full explanations why: No damages is expected to individual improvement. Surface damage compensation are waived.

6. List of land users where diminishment in value of land use rights is expected and/or where land use rights is expected to be enhanced as a result of the project. Specify whether or not there is diminishment or enhancement in value of land use rights. Note whether or not land users have consented and which consent forms were used. (If no expected damages, use Consent Form No. 1.)

<u>Names</u>	<u>Expected Diminishment</u>	<u>Expected Enhancement</u>	<u>Did Land Users Consent? Form?</u>
a. "No Grazing Permit Holder"	None	None	Yes, consent #3

7. List again the land users from list no. 8 where land use rights value will be diminished as a result of the project. Specify if land users is to receive compensation and the monetary amount in-kind compensation to be received, and use Consent Form No. 2. Indicate whether compensation is be received is adequate for the estimated damages to land use rights. Note whether land users have consented and which consent forms used. (If waiver of compensation for damages, use Consent Form No. 3.)

<u>Names</u>	<u>Compensation Amount</u>	<u>Is Amount Adequate</u>	<u>Did Land Users Consent? Form?</u>
a. "No Grazing Permit Holder"	Waived	Waived	Yes, consent #3

8. How, when and by whom will land users be paid compensation? If any, is it specified in list no. 9 above?

Surface damages compensation will be waived.

9. Is a topographical map of the project attached? Yes No

10. Was the project fully explained to the land users? Yes No

11. Which chapter will be affected by the project? Kayenta Chapter / Kayenta Township

12. Are supporting chapter resolution attached? Yes No

13. Will chapter receive any payments or benefits from the project?

Yes No If yes, what will be received?

Approved by:

Field Clearance Conducted by:

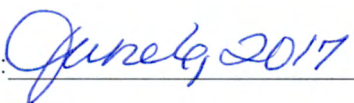
UTAH LAND OFFICE/GLDD

General Land Development Department
(GLDD)



Belinda Chee, Senior Right of Way Agent

(GLDD approval necessary only if the
Field Clearance was conducted by
other than GLDD Office)

Date: 

CONSENT FORM 3 (Waiver of Compensation for damages)

CONSENT TO USE
NAVAJO TRIBAL LANDS

TO WHOM IT MAY CONCERN:

I, _____, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona, to permit:

ARIZONA DEPARTMENT OF TRANSPORTATION
205 South 17th Avenue MD612E
Phoenix, Arizona 85007

To use a portion of my land use area for the following purpose(s):

Laguna Creek Bridge Replacement Project. Arizona Department of Transportation (ADOT), Temporary Construction Easement across the lands of the Navajo Nation Trust Land within Kayenta Township of Kayenta Chapter on US 163 at Mile Post 396 for Laguna Creek Bridge Replacement Project. On two (2) Parcels: Parcel No. 1 in Section 1, Township 38 North, Range 19 East, and Section 36, Township 39 North, Range 19 East, Gila and Salt River Meridian, Navajo County, within Kayenta Township of Kayenta Chapter, Navajo Reservation, Arizona, 2.95 acres/128,250 square feet, more or less, and Parcel No. 2 in Section 1, Township 38 North, Range 19 East, and Section 31, Township 39 North, Range 20 East, and of Section 36, Township 39 North, Range 19 East, Gila and Salt River Meridian, Navajo County, within Kayenta Township of Kayenta Chapter, Navajo Reservation, Arizona, 8.74 acres/380,694 square feet, more or less. And total of 11.69 acres/508,944 square feet, more or less.

As shown on the map showing the location of the proposed project attached.

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

Remarks: *No grazing Permit Holder in Kayenta Township area.*

Date

X _____
Land User Signature / Thumbprint

Census No. _____
Permit No. _____

Address: _____
Phone No. _____

Witness: _____

6-6-17
Date

Jerry Begay
Jerry Begay, Grazing Committee of Inscription House Chapter

District No. 08

ACKNOWLEDGEMENT OF FIELD AGENT

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

Belinda Chee
Field Agent Signature
Belinda Chee, Senior Right of Way Agent

Ed McCool



From: Charlene Mullis <CMullis@azdot.gov>
Sent: Friday, March 02, 2018 11:52 AM
To: Ed McCool
Subject: US163 Laguna Creek Bridge - TCE Project

Mr. McCool,

Per our conversation, ADOT is asking for the valuation to be waived and the compensation amount set by the Minerals Department of \$16,824.80 to be lowered to \$2,500 for the temporary construction easement needed to replace the bridge. The term of the temporary easement will be for 2 years.

I appreciate your assistance with this project.

Charlene Mullis
Contract ADOT R/W Project Coordinator
LPA (Local Public Agency) R/W Coordinator
R/W Tribal Liaison
205 S. 17th Ave MD 612E
Phoenix, AZ 85007
602.712.2166
AZDOT.GOV



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RESOURCES AND DEVELOPMENT COMMITTEE

Regular Meeting

March 21, 2018

ROLL CALL

VOTE TALLY SHEET:

Legislation # 0085-18: An Action Relating to Resources and Development Committee; Approving a temporary construction easement for the term for two years to the State of Arizona Department of Transportation for the Laguna Creek Bridge Replacement Project Within Kayenta Township, Kayenta Chapter, Navajo Nation. *Sponsor: Honorable Nathaniel Brown*

MAIN MOTION: Walter Phelps **S:** Leonard Pete **V:** 4-0-1 (CNV)

YEAS: Benjamin Bennett; Jonathan Perry; Leonard Pete and Walter Phelps

NAYS: NONE

NOT VOTING: Alton Joe Shepherd (Presiding)

EXCUSED: Davis Filfred:

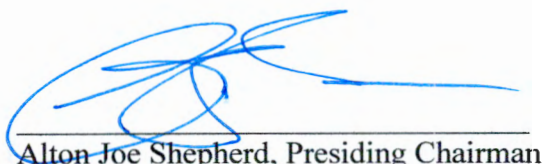
AMENDMENT # 1: Walter Phelps S: Benjamin Bennett Vote: 4-0-1 (CNV)

YEAS: Benjamin Bennett; Jonathan Perry; Leonard Pete and Walter Phelps

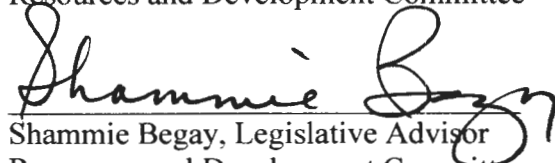
NAYS: NONE

NOT VOTING: Alton Joe Shepherd (Presiding)

EXCUSED: Davis Filfred:



Alton Joe Shepherd, Presiding Chairman
Resources and Development Committee



Shammie Begay, Legislative Advisor
Resources and Development Committee