

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
24th Navajo Nation Council --- Third Year, 2021

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE S-HILL SAND
AND GRAVEL LEASE TO NAVAJO ENGINEERING AND CONSTRUCTION
AUTHORITY TO EXTRACT SAND AND GRAVEL FROM NAVAJO NATION TRUST
LANDS LOCATED WITHIN THE TSE DAAK'AAN CHAPTER VICINITY, NAVAJO
NATION (SAN JUAN COUNTY, NEW MEXICO)

BE IT ENACTED:

SECTION ONE: AUTHORITY

- A. The Resources and Development Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 500 (A).
- B. The Resources and Development Committee of the Navajo Nation Council has authority to give final approval of all land withdrawals, non-mineral leases, permits, licenses, rights-of-way, surface easements and bonding requirements on Navajo Nation lands and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfers include, renewals, and terminations. 2 N.N.C. § 501 (B) (2).

SECTION TWO. FINDINGS

- A. Navajo Engineering and Construction Authority, P.O. Box 969, Shiprock, New Mexico 87420, has submitted an application subdivided into three parcels for a sand and gravel lease to establish, operate and maintain a sand and gravel pit, aggregate stock pile, construction yard in the vicinity of the Tse Daa Kaan Chapter (San Juan County, New Mexico). The proposed Sand and Gravel Lease is attached as **Exhibit A**.
- B. The proposed Sand and Gravel Lease consists of 36.30 acres, more or less, for Section I; 20.46 acres, more or less, for Section II; and, 60.18 acres, more or less, for Section III, for a total of 116.94 acres, more or less, of Navajo Nation Trust lands more particularly described in attached **Exhibit B**.

- C. The land user consents have been obtained and are attached as **Exhibit C**.
- D. Environmental and archaeological studies and clearances have been completed and are attached hereto and incorporated herein by this reference. The S-Hill Sand and Gravel Mining Lease Biological Evaluation is attached as **Exhibit D**. The Finding of No Significant Impact, Environmental Assessment EA-10-101 is attached as **Exhibit E**. The Cultural Compliance Form NNHPD No. HPD-09-1263 is attached as **Exhibit F**. The Archaeological Inventory is attached as **Exhibit G**.
- E. The Statement of Purpose-NECA's S-Hill Gravel Pit is attached as **Exhibit H**.
- F. The Stormwater Pollution Prevention Plan is attached as **Exhibit I**.
- G. The Mining Plan-NECA's S-Hill Gravel Pit is attached as **Exhibit J**.
- H. The Reclamation Plan-NECA's S-Hill Gravel Pit is attached as **Exhibit K**.
- I. The Tse Daa K'aan Community Chapter supports the approval of the sand and gravel lease. Resolution TDK 2002-01 is attached as **Exhibit L**.
- J. The Navajo Engineering and Construction Authority Board of Directors through Resolution NECA12-3-12, attached as **Exhibit M**, is requesting approval of the sand and gravel lease and requests waiver of the requirement for a Performance and Reclamation Bond.
- K. Executive Official Review Document No. 005866, titled "Approving NEA S-Hill S&G Lease" is attached as **Exhibit N**.


SECTION THREE. APPROVAL

- A. The Resources and Development Committee of the Navajo Nation Council hereby approves the S-Hill Sand and Gravel Lease for a sand and gravel lease on Navajo Nation Trust Lands in the Tse Daa Kaan Chapter vicinity, Navajo Nation (San Juan County, New Mexico) to Navajo Engineering and Construction Authority (NTUA). The location is more particularly described on the survey maps attached as **Exhibit B**.

- B. The Navajo Nation hereby approves the Sand and Gravel Lease subject to, but not limited to, conditions stated in the Sand and Gravel Lease as attached **Exhibit A**.
- C. The Navajo Nation hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to implement the intent and purpose of this resolution.

CERTIFICATION

I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 24th Navajo Nation Council at a duly called meeting held by a teleconference for which a quorum was present and that same was passed by a vote of 5 in favor, and 0 opposed, on this 24th day of March 2021.

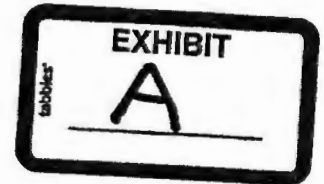


Mark A. Freeland , Pro Tempore
Chairperson
Resources and Development Committee
of the 24th Navajo Nation Council

Motion: Honorable Herman M. Daniels

Second: Honorable Kee Allen Begay, Jr.

Pro Tempore Chairperson Mark A. Freeland not voting.



NAVAJO NATION SAND AND GRAVEL LEASE

THIS AGREEMENT for a Sand and Gravel Lease (Lease) is made and entered into this _____ day of _____, by and between the Navajo Nation, whose address is Post Office Box 1910, Window Rock, Arizona 86515, and NECA, herein called the Lessee and whose address is at _____.

Definitions:

Borrow

Sand & Gravel means: ~~Borrow~~ (Earth), Sand and Natural or Processed Gravel,

Department means the Navajo Nation Minerals Department.

Navajo Nation (Nation) means the Navajo Tribe of Indians.

Secretary means the Secretary of the U.S. Department of the Interior or his/her designated representative.

Performance bond means a surety bond, collateral bond or self-bond or a combination thereof, by which a lessee assures faithful performance of all the requirements this lease and mining and reclamation plan.

Reclamation means those actions taken to restore mined land as required to a post-mining land use approved by the Department.

Resources Committee means the Resources Committee of the Navajo Nation Council.

Slope means average inclination of a surface, measured from the horizontal. Normally expressed as a unit of horizontal distance to vertical distance.

Stabilize means to control movement of soil, or areas of disturbed earth by modifying the geometry of the mass, or by otherwise modifying physical or chemical properties, such as by providing a protective surface coating.

Ton means 2000 pounds.

Water table means the upper surface of a zone of saturation.

The Navajo Nation hereby grants Lessee a Lease right to extract sand and gravel from Sections 5, 6, and 8, Township 29N, Range 17W, ~~Township XXXXX~~ Range ~~XXXXX~~, ~~G&GRM~~, ~~Apache~~ County, State of ~~Arizona~~. The Lease occupies an area of 116.94 NMPM San Juan New Mexico
Page 1 of 7

At the end of the five (5) year term, the lease may be renewed for another five (5) year term at the company's request and at the discretion of the Minerals Department, may be renewed for up to four (4) additional five (5) year terms. The company must give ninety (90) days advance notification to the Minerals Department prior to renewal.

acres, more or less, and the access road right-of-way consists of 0.00 acres, more or less. The location maps and legal descriptions of the Lease and the access road are shown in attached Exhibit "N/A" ~~respectively~~. The Lease shall be subject to the following terms and conditions.

1. The Lease shall be valid for a period of five (5) years effective the date it is approved by the Secretary. This date shall be known as the Effective Date of the Lease.
2. Payments to the Nation by the Lessee:
 - (i) An annual advance royalty for each lease year. The first payment in the amount of Four Thousand dollars (\$ 4,000.00) is due within ten (10) days of the Effective Date. Subsequent annual advance royalty payments are due on or before each anniversary of the Effective Date. The annual advance royalty payment shall be credited against production royalties only during the year for which the advance royalty has been paid.
 - (ii) A royalty at the rates of \$ 2.00 per ton for each ton of material removed and sold from the Lease premises. The royalty payment shall be made on a monthly basis within fifteen (15) days following the month for which the royalty is due.
 - (iii) Annual consideration of \$ N/A for the access road right-of-way. The first payment is due (unless it is paid in lump sum for the entire term of the lease) within ten (10) days of the Effective Date and all subsequent payments shall be made on or before each anniversary of the Effective Date.
 - (iv) The subsequent annual advance payments, the royalty rate and the right-of-way consideration (if not paid in lump sum) shall be subject to annual adjustments on each anniversary of the Effective Date. The adjustments shall be based upon the increase in the Consumer Price Index (CPI), U.S. City Average for All Urban Consumers. The CPI for June 2020 shall be used as the base for all adjustments.
3. Mining and Reclamation Plan: The Lessee shall provide a mining and reclamation plan (Plan) to the Nation and to the U.S. Department of the Interior (DOI). The Lessee shall comply with all the requirements of the approved Plan. Lessee shall obtain the approval of the Nation and the DOI prior to making any changes in the approved Plan. The plan will include the area to mine with drainage control; annual tonnage estimates for the mining area; and the planned reclamation timing to coincide with the mining. As a general rule, slopes will not exceed 5:1 and majority of the revegetation species will be native to the area.
4. Bond: The Lessee shall furnish a performance and reclamation bond for Two-Hundred-Thousand dollars (\$ 200,000.00). The Lessee shall maintain this bond at all times even if the Lease has expired or is terminated. The bond shall only be released with the written consent of the Navajo Nation. The project will be done in three phases and the bond shall cover each separately. The bond may also be

increased by the Navajo Nation and/or the DOI. The Lessee shall request a bond release to DOI only after the Lease has been expired or terminated and Lessee has fulfilled all its obligations, including payments to the Nation and reclamation, under the terms and conditions of this Lease.

5. **Records and Reports:** The Lessee shall maintain accurate records of all sand and gravel material extracted, stockpiled, sold and removed from the Lease and the royalty due and paid to the Navajo Nation. A copy of the records shall be provided to the DOI and the Navajo Nation Minerals Department (P.O. Box 1910, Window Rock, AZ: 86515) on a monthly basis within fifteen (15) days following the sale month. Monthly production reports must be filed even if there was no sale of material.
6. **Method of Payments:** All required payments under Section 2 of this Lease shall be made to the Department, in lawful money of the United States. A copy of the payments shall be provided to the DOI.
7. **Disposition of Minerals and Surface:** The Navajo Nation expressly reserves the right to use, lease or otherwise dispose of the minerals not covered by this Lease and the surface of the lands embraced within this Lease under existing laws and laws hereinafter enacted. Lessor further reserves the right to grant additional leases for the extraction and removal of sand and gravel or for any other purposes from the lands described herein. Such disposition and use shall be subject to the prior rights of the Lessee herein to use of so much of the said surface as is necessary in the extraction and removal of sand and gravel described in accordance with this Lease.
8. **Diligence:** The Lessee shall exercise diligence in the conduct of its mining operation and the land described herein shall not be held for speculative purposes, but in good faith for the extraction of sand and gravel and shall begin operation within one (1) month of the Effective Date and shall continue production thereafter at the rate specified in the plan.
9. **No work shall commence until the mandatory mine health and safety training has been provided to the workers pursuant to 30 CFR, Part 46.** The Lessee shall maintain the required training plan pursuant to the provisions of 30 CFR, Part 46. The Department shall be listed in the training plan if the Lessee wants the Department to conduct the training. The Lessee may contact the Department to arrange for the training.
10. **The Lessee may develop, use and occupy the area under the Lease for the purpose of removing sand and gravel material.** The Lessee may not develop, use or occupy the area under the Lease for any other purpose without the prior written approval of the Nation and the Secretary. Such approval of the Nation may be granted upon conditions or withheld at the sole discretion of the Nation. The Lessee may not develop, use or occupy the area under the permit for any unlawful purpose. Any unlawful use of the land within the Lease shall render the Lease void at the option of the Nation and/or the Secretary.

11. Sand and gravel material shall not be used for projects outside the Nation unless it is expressly authorized by the Resources Committee of the Navajo Nation Council.
12. In all activities conducted by the Lessee within the Navajo Nation, the Lessee shall abide by all laws and regulations of the 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, Parts 162 and 169;
 - b. Title 30, Code of Federal Regulations, Parts 46 and 56;
 - c. The Navajo Nation Mine Safety Code 18 N.N.C. § 401;
 - d. All applicable federal and 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 practice.
 - e. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq., and
 - f. The Navajo Nation Water Code, 22 N.N.C. § et seq., Lessee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
13. The Lessee shall ensure that the air quality of the Nation is not unduly degraded during operations by violating federal and Nation's applicable laws and regulations.
14. The Lessee shall clear and keep clear the lands within the Lease area to the extent compatible with the purpose of the Lease, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during any surface disturbance activities.
15. The Lessee shall at all times during the term of the Lease and at the Lessee's sole cost and expense, maintain the land subject to the Lease and all improvements located thereon and make all necessary reasonable repairs.
16. The Lessee shall obtain prior written permission to cross an existing permit or lease areas, if any, from the appropriate parties.

17. The Lessee shall be responsible for and promptly pay all damages when they are sustained, from actions the Lessee causes.
18. The Lessee shall indemnify and hold harmless the Nation and the Secretary and their respective authorized agents, employees, land users and occupants against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of area under the Lease by the Lessee.
19. The Lessee shall not assign, convey, transfer or sublet in any manner whatsoever, the lease or any interest therein, or in or to any of the improvements on the land subject to the lease, without the prior written consent of the Nation and the Secretary. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Nation may be granted, granted upon conditions or withheld at the sole discretion of the Nation.
20. The Nation may recommend termination of the Lease by DOI for violation of any of the terms and conditions stated herein.
21. At the termination of the Lease, the Lessee 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 from the Nation, the Lessee shall provide the Navajo, at the Lessee's sole cost and expense, with an environmental audit assessment of the premises at least thirty (30) days after completion and notification to the Nation that all required reclamation has been performed.
22. Holding over by the Lessee after the termination of the Lease shall not constitute a renewal or extension thereof or give the Lessee any rights hereunder or in to the land subject to the Lease or to any improvements located thereon.
23. The Nation and the Secretary shall have the right, at any reasonable time during the term of the permit, to enter upon the premises, or any part thereof, to inspect the same and any improvements located therein. The Nation and Secretary have further right to audit all payments due to the Nation.
24. By acceptance of the grant of Lease, the Lessee consents to the full territorial legislative, executive and judicial jurisdiction of the 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 Lessee within the Navajo Nation or which have a proximate (legal) effect on persons or property within the Nation.
25. By acceptance of the grant of the Lease, the Lessee covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Nation on the basis that such jurisdiction is inconsistent with the status of the 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 Lease or to the Nation.

26. Any action or proceeding brought by the Lessee against the Nation in connection with or arising out of the terms and conditions of the Lease shall be brought only in the Courts of the Nation, and no such action or proceeding shall be brought by the Lessee against the Nation in any court of any state.
27. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Nation.
28. Except as prohibited by applicable federal law, the law of the Nation shall govern the performance and enforcement of the terms and conditions contained herein.
29. 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 Lessee, and the term "Lessee" whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.
30. There is expressly reserved to the Nation full territorial legislative, executive and judicial jurisdiction over the area under the Lease and all lands burdened by the Lease, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the area under the Lease and all lands burdened by the Lease shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.
31. The Lessee is required to maintain and submit a certificate issued by an insurance company authorized to do business in the United States, and on the Navajo Nation, certifying that the applicant has a public liability insurance policy in force for the mining and reclamation operations pursuant to this Lease. Such policy shall provide for personal injury and property damage protection in an amount adequate to compensate any person injured or property damaged as a result of the mining and reclamation operations, including the use of explosives. Minimum insurance coverage for bodily injury and property damage shall be \$ 500,000 for each occurrence and \$1,000,000 aggregate.
 - a. The policy shall be maintained in full force during the term of the Lease and the liability period necessary to complete all reclamation requirements under the Plan.

- b. The policy shall include a rider requiring that the insurer notify the Department and DOI whenever substantive changes are made in the policy including any termination or failure to renew.
32. The Lessee shall maintain a minimum 200.00 feet buffer zone with any waters of the Navajo Nation.
33. All employees of the Lessee shall be thoroughly familiar with the Lessee's emergency response plan.
34. The Lessee shall obtain the permission of permittees of existing mineral, oil and gas lease holders, operators and rights-of-way permittees when crossing these leases and rights-of-way.
35. The Lessee shall not extract sand and gravel located in the vicinity of Oil and gas wells, including abandoned wells unless written authorization is obtained from the Navajo Nation and those federal agencies having jurisdiction.

THE NAVAJO NATION

Date

By _____
Jonathan Nez, *President*

**NAVAJO ENGINEERING
CONSTRUCTION AUTHORITY**

8-25-2020
Date

By *Brett Hubbs*
NECA, President



Navajo Engineering & Construction Authority

Phone (505) 210-7070 P.O. Box 969

SHIPROCK, NEW MEXICO 87420

March 18, 2021

Navajo Nation Legislative Branch
Office of Legislative Services
P.O. Box 3390
Window Rock, Az 86515

To: The Executive Director

Reference: Legislation No: 0044-21

Subject: Comments on the referenced Legislation

To Whom it May Concern:

Upon review of Legislation No. 0044-21, the Navajo Engineering & Construction Authority would like to request the following edits and attachments be made part of the review process:

1. Page 1 of the Navajo Nation Sand & Gravel Lease has the following errors at the bottom of the page (see attachment).
 - a. "S&GRM" should read "NMPM"
 - b. "Apache" County should read "San Juan" County
 - c. State of "Arizona" should read "New Mexico"
2. Lastly, Page 13 – Section 7 of the MSGP Storm Water Pollution Prevention Plan (SWPPP) was not signed by the General Manager of the Navajo Engineering & Construction Authority. We have attached a signed copy.

Thank you in advance for incorporating the attached documents as part of Legislation No. 0044-21 so that it may be included in the review process.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "T. Gorsuch", with a long horizontal flourish extending to the right.

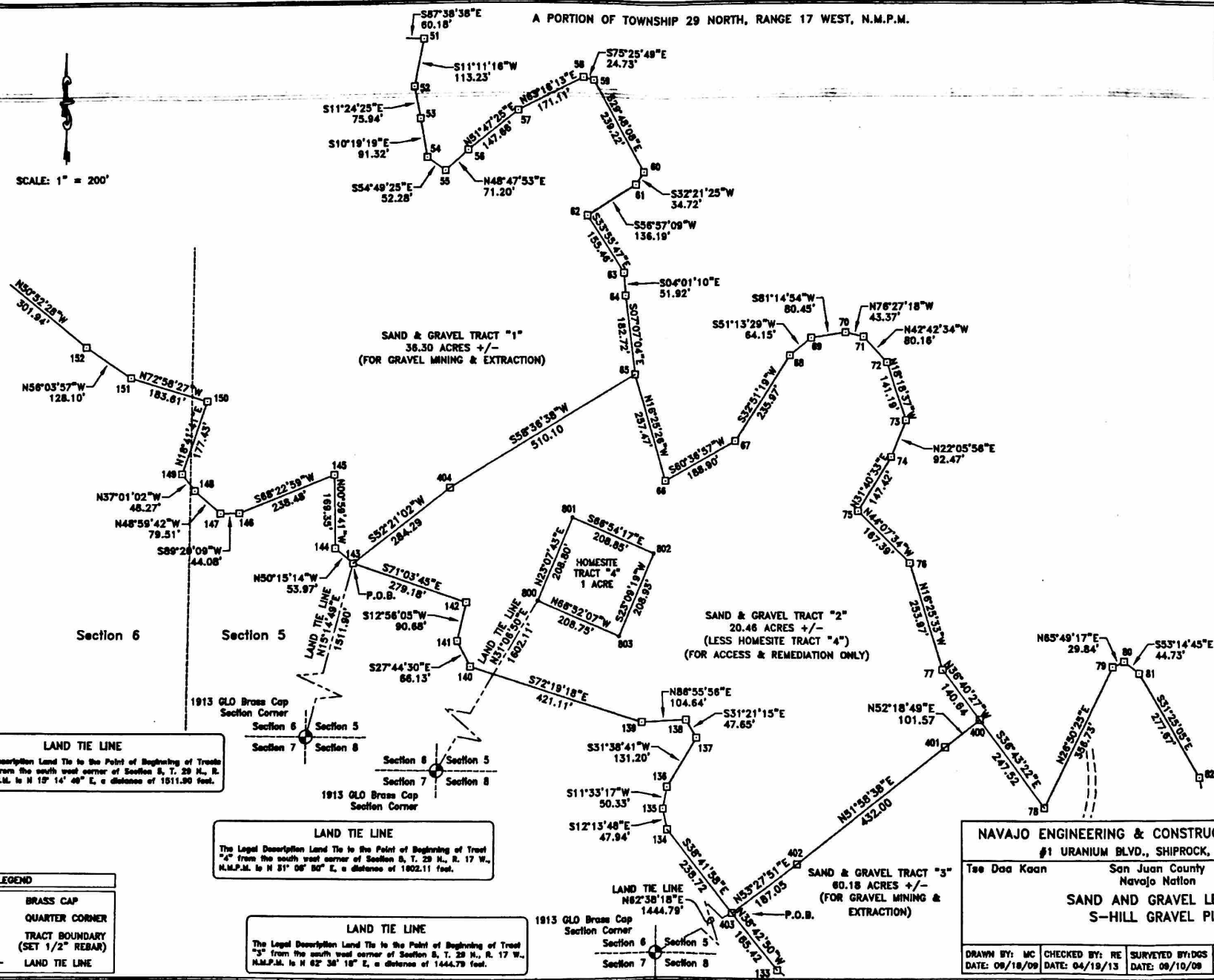
Terry Gorsuch
Manager of Engineering

encl: Page 1 of the Navajo Nation Sand & Gravel Lease
Page 13 – Section 7 of the MSGP Storm Water Pollution Prevention Plan (SWPPP)

cc: Brett Grubbs, General Manager (NECA)

"AN ENTERPRISE OF THE NAVAJO NATION"

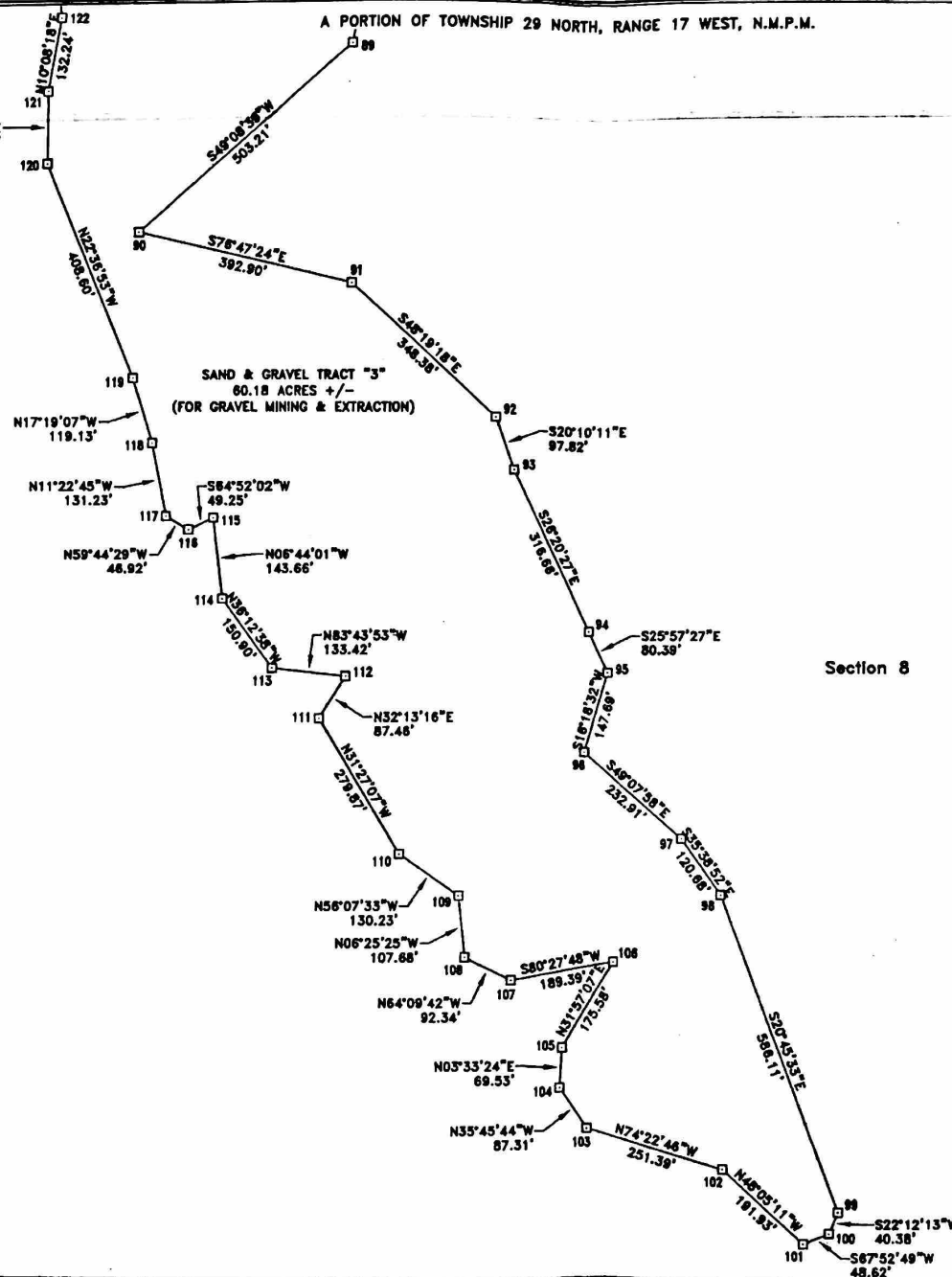
SCALE: 1" = 200'



DRAWN BY: MC DATE: 08/18/08	CHECKED BY: RE DATE: 04/19/13	SURVEYED BY: DGS DATE: 08/10/08	Drawing Name: SHILL BOUNDARY MAP	Sheet 20F5
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A PORTION OF TOWNSHIP 29 NORTH, RANGE 17 WEST, N.M.P.M.

SCALE: 1" = 200'

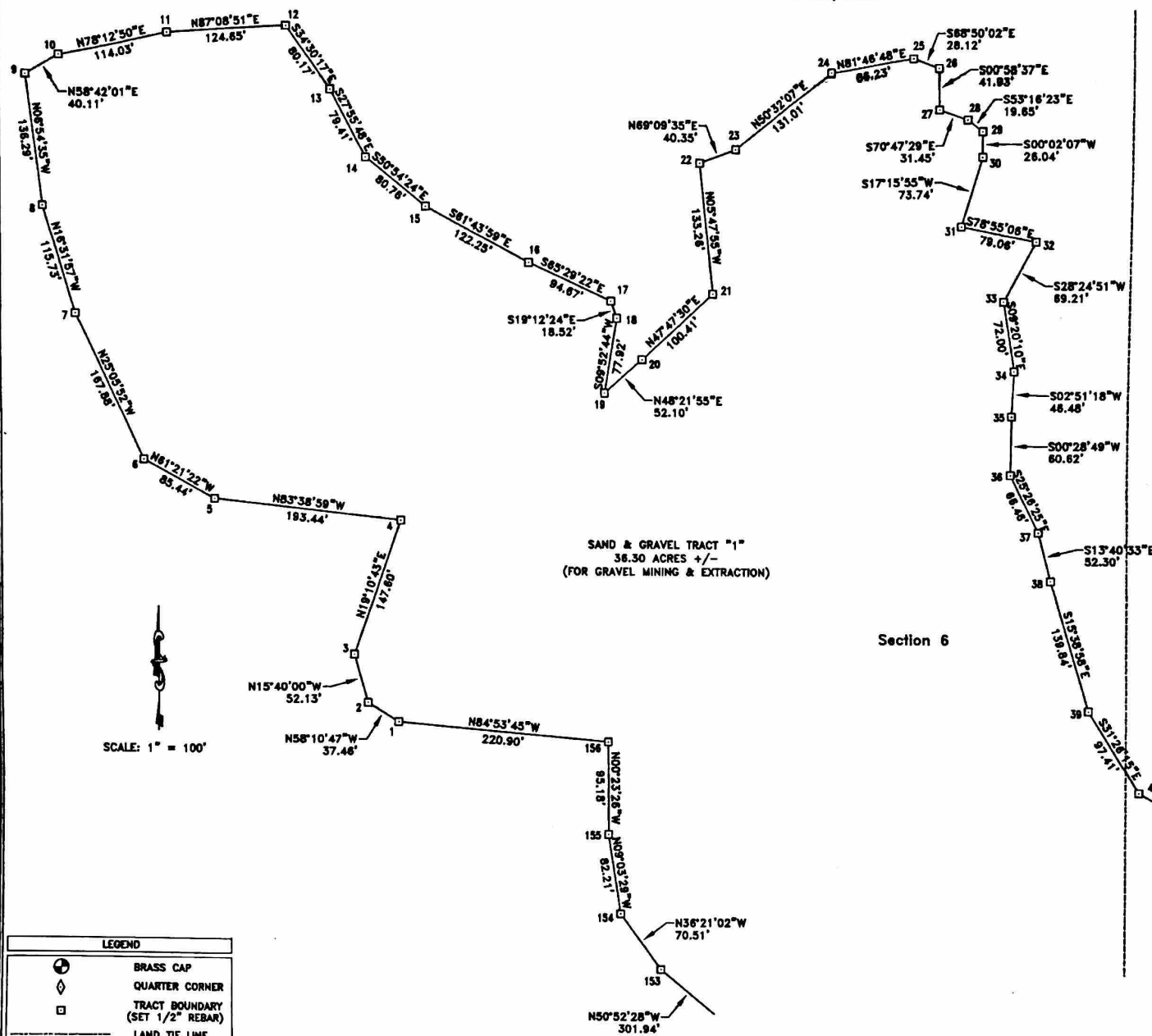


Section 8

LEGEND	
	BRASS CAP
	QUARTER CORNER
	TRACT BOUNDARY (SET 1/2" REBAR)
	LAND TIE LINE

NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY				
#1 URANIUM BLVD., SHIPROCK, NM 87420				
Tse Daa Koon		San Juan County		New Mexico
		Navajo Nation		
SAND AND GRAVEL LEASE				
S-HILL GRAVEL PIT				
DRAWN BY: MC	CHECKED BY: RE	SURVEYED BY: DGS	Drawing Name:	Sheet
DATE: 08/18/08	DATE: 04/19/13	DATE: 08/10/08	SHILLBOUNDARYMAP	40FS

A PORTION OF TOWNSHIP 29 NORTH, RANGE 17 WEST, N.M.P.M.



ENGINEER'S CERTIFICATION

I, Danny Lee, Arizona Professional Engineer No. 49683, do hereby certify that I am employed by Navajo Engineering and Construction Authority (NECA); that this map was prepared by me or under my direct supervision, and is based on an actual field survey performed during September of 2009, and that this map and survey are true and correct to the best of my knowledge and belief.

Subscribed and sworn to before me this _____ day of _____, 2013.

James Henry, Notary Public

ENGINEER'S NOTES:

1. This map depicts a right-of-way easement survey and is not a boundary survey.
2. Interior and exterior section lines are referenced to found BLM section corners as noted. Section lines are protracted from found corners using BLM township plats and are estimates of the true land division lines.
3. The Basis of Bearing for this map was derived from a Global Positioning System (G.P.S.) survey.

NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY				
#1 URANIUM BLVD., SHIPROCK, NM 87420				
Tee Daa Kaan		San Juan County		New Mexico
		Navajo Nation		
SAND AND GRAVEL LEASE				
S-HILL GRAVEL PIT				
DRAWN BY: MC	CHECKED BY: RE	SURVEYED BY: DGS	Drawing Name:	Sheet
DATE: 09/18/09	DATE: 04/19/13	DATE: 09/10/09	SHILLBOUNDARYMAP	10FS

A PORTION OF TOWNSHIP 29 NORTH, RANGE 17 WEST, N.M.P.M.

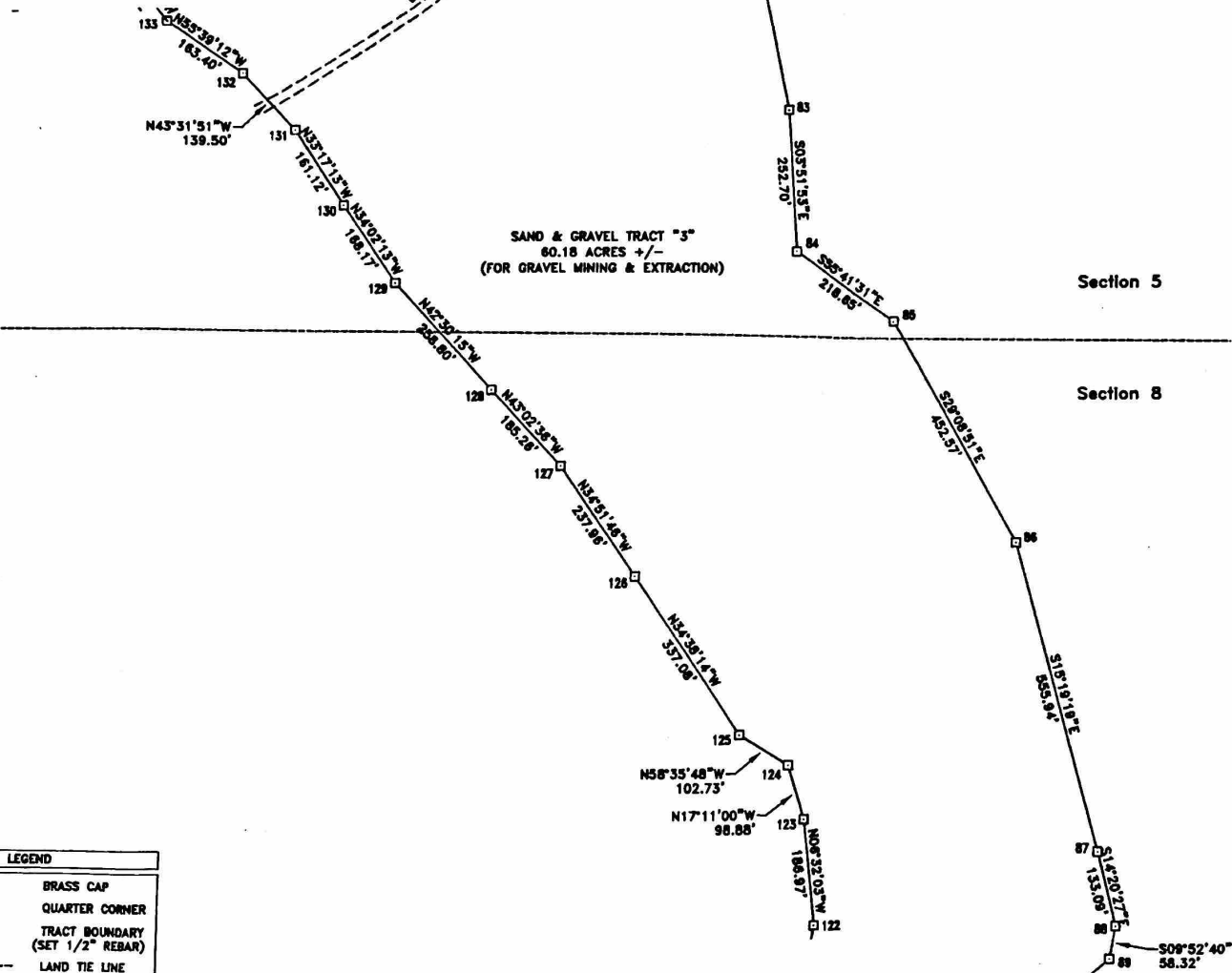
SCALE: 1" = 200'

Existing Gravel Road

SAND & GRAVEL TRACT "3"
60.18 ACRES +/-
(FOR GRAVEL MINING & EXTRACTION)

Section 5

Section 8



LEGEND	
	BRASS CAP
	QUARTER CORNER
	TRACT BOUNDARY (SET 1/2" REBAR)
	LAND TIE LINE

NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY			
#1 URANIUM BLVD., SHIPROCK, NM 87420			
Tse Daa Kaan	San Juan County	New Mexico	
	Navajo Nation		
SAND AND GRAVEL LEASE			
S-HILL GRAVEL PIT			
DRAWN BY: MC	CHECKED BY: RE	SURVEYED BY: DOS	Drawing Name:
DATE: 09/18/09	DATE: 04/18/13	DATE: 09/10/09	SHILLBOUNDARYMAP
			Sheet 30FS

**SAND AND GRAVEL LEASE TRACT "1"
FOR GRAVEL MINING & EXTRACTION**

A tract of land located south of the Navajo Reservation community of Shiprock situated in Section 5, Section 6, and Section 8, Township 28 North, Range 17 West N.M.P.M., on the Navajo Nation, County of San Juan, State of New Mexico, being more particularly described by metes and bounds as follows, to wit: Beginning at point "143" for the Point of Beginning of the tract herein described, whence the southwest corner of said Section 5 (a 1913 GLO Brass Cap found in place) bears N15°14'49"E a distance of 1511.80 feet; Thence, from the Point of Beginning, point "143", N50°15'14"W a distance of 53.97 feet to point "144"; Thence, N00°59'41"W a distance of 169.35 feet to point "145"; Thence, S88°22'59"W a distance of 238.48 feet to point "146"; Thence, S89°20'09"W a distance of 44.08 feet to point "147"; Thence, N48°58'42"W a distance of 79.51 feet to point "148"; Thence, N37°01'02"W a distance of 48.27 feet to point "149"; Thence, N18°41'41"E a distance of 177.43 feet to point "150"; Thence, N72°58'27"W a distance of 183.61 feet to point "151"; Thence, N56°03'57"W a distance of 128.10 feet to point "152"; Thence, N50°52'28"W a distance of 301.94 feet to point "153"; Thence, N36°21'02"W a distance of 70.51 feet to point "154"; Thence, N09°03'29"W a distance of 82.21 feet to point "155"; Thence, N00°23'28"W a distance of 95.18 feet to point "156"; Thence, N84°53'45"W a distance of 220.90 feet to point "1"; Thence, N58°10'47"W a distance of 37.48 feet to point "2"; Thence, N15°40'00"W a distance of 52.13 feet to point "3"; Thence, N19°10'43"E a distance of 147.80 feet to point "4"; Thence, N83°38'59"W a distance of 193.44 feet to point "5"; Thence, N61°21'22"W a distance of 85.44 feet to point "6"; Thence, N25°05'52"W a distance of 167.88 feet to point "7"; Thence, N18°31'57"W a distance of 115.73 feet to point "8"; Thence, N08°54'35"W a distance of 136.29 feet to point "9"; Thence, N58°42'01"E a distance of 40.11 feet to point "10"; Thence, N78°12'50"E a distance of 114.03 feet to point "11"; Thence, N87°08'51"E a distance of 124.65 feet to point "12"; Thence, S34°30'17"E a distance of 80.17 feet to point "13"; Thence, S27°55'48"E a distance of 79.41 feet to point "14"; Thence, S50°54'24"E a distance of 80.76 feet to point "15"; Thence, S61°43'59"E a distance of 122.25 feet to point "16"; Thence, S65°29'22"E a distance of 94.67 feet to point "17"; Thence, S19°12'24"E a distance of 18.52 feet to point "18"; Thence, S09°52'44"W a distance of 77.92 feet to point "19"; Thence, N48°21'35"E a distance of 52.10 feet to point "20"; Thence, N47°47'30"E a distance of 100.41 feet to point "21"; Thence, N05°47'55"W a distance of 133.26 feet to point "22"; Thence, N69°09'33"E a distance of 40.35 feet to point "23"; Thence, N50°32'07"E a distance of 131.01 feet to point "24"; Thence, N81°46'48"E a distance of 88.23 feet to point "25";

Thence, S68°50'02"E a distance of 28.12 feet to point "26"; Thence, S00°58'37"E a distance of 41.93 feet to point "27"; Thence, S70°47'29"E a distance of 31.45 feet to point "28"; Thence, S53°16'23"E a distance of 19.85 feet to point "29"; Thence, S00°02'07"W a distance of 28.04 feet to point "30"; Thence, S17°15'55"W a distance of 73.74 feet to point "31"; Thence, S78°55'08"E a distance of 79.08 feet to point "32"; Thence, S28°24'51"W a distance of 69.21 feet to point "33"; Thence, S09°20'10"E a distance of 72.00 feet to point "34"; Thence, S02°51'18"W a distance of 48.48 feet to point "35"; Thence, S00°28'49"W a distance of 60.82 feet to point "36"; Thence, S25°26'25"E a distance of 66.46 feet to point "37"; Thence, S13°40'33"E a distance of 52.30 feet to point "38"; Thence, S15°38'58"E a distance of 139.64 feet to point "39"; Thence, S31°28'13"E a distance of 97.41 feet to point "40"; Thence, S61°22'10"E a distance of 58.36 feet to point "41"; Thence, N87°20'24"E a distance of 111.05 feet to point "42"; Thence, N02°51'11"E a distance of 69.25 feet to point "43"; Thence, N50°33'48"E a distance of 29.98 feet to point "44"; Thence, N82°32'03"E a distance of 80.29 feet to point "45"; Thence, N05°55'04"E a distance of 140.59 feet to point "46"; Thence, N23°30'18"E a distance of 56.57 feet to point "47"; Thence, N42°37'42"E a distance of 82.37 feet to point "48"; Thence, N81°58'14"E a distance of 72.26 feet to point "49"; Thence, S85°10'44"E a distance of 29.44 feet to point "50"; Thence, S87°38'38"E a distance of 60.18 feet to point "51"; Thence, S11°11'16"W a distance of 113.23 feet to point "52"; Thence, S11°24'25"E a distance of 75.94 feet to point "53"; Thence, S10°19'19"E a distance of 91.32 feet to point "54"; Thence, S54°49'25"E a distance of 52.28 feet to point "55"; Thence, N48°47'53"E a distance of 71.20 feet to point "56"; Thence, N51°47'25"E a distance of 147.66 feet to point "57"; Thence, N63°18'13"E a distance of 171.11 feet to point "58"; Thence, S75°25'49"E a distance of 24.73 feet to point "59"; Thence, S28°48'08"E a distance of 239.22 feet to point "60"; Thence, S32°21'25"W a distance of 34.72 feet to point "61"; Thence, S56°57'09"W a distance of 136.19 feet to point "62"; Thence, S33°55'47"E a distance of 155.46 feet to point "63"; Thence, S04°01'10"E a distance of 51.92 feet to point "64"; Thence, S07°07'04"E a distance of 182.72 feet to point "65"; Thence, S58°38'18"W a distance of 510.10 feet to point "66"; Thence, S52°21'02"W a distance of 284.28 feet to the point and place of beginning, point "143"; Containing 36.30 acres, more or less.

**SAND AND GRAVEL LEASE TRACT "2"
FOR ACCESS & REMEDIATION ONLY**

A tract of land located south of the Navajo Reservation community of Shiprock situated in Section 5, Township 28 North, Range 17 West N.M.P.M., on the Navajo Nation, County of San Juan, State of New Mexico, being more particularly described by metes and bounds as follows, to wit: Beginning at point "143" for the Point of Beginning of the tract herein described, whence the southwest corner of said Section 5 (a 1913 GLO Brass Cap found in place) bears N15°14'49"E a distance of 1511.80 feet; Thence, from the Point of Beginning, point "143", S71°03'45"E a distance of 278.18 feet to point "142"; Thence, S12°58'05"W a distance of 90.68 feet to point "141"; Thence, S27°44'30"E a distance of 66.13 feet to point "140"; Thence, S72°18'18"E a distance of 421.11 feet to point "139"; Thence, N86°55'56"E a distance of 104.64 feet to point "138"; Thence, S31°21'15"E a distance of 47.65 feet to point "137"; Thence, S31°58'41"W a distance of 131.20 feet to point "136"; Thence, S11°33'17"W a distance of 50.35 feet to point "135"; Thence, S12°13'48"E a distance of 47.94 feet to point "134"; Thence, S38°41'58"E a distance of 238.72 feet to point "1403"; Thence, N53°27'51"E a distance of 187.05 feet to point "1402"; Thence, N51°58'38"E a distance of 432.00 feet to point "1401"; Thence, N52°23'18'49"E a distance of 101.57 feet to point "1400"; Thence, N36°40'27"W a distance of 140.84 feet to point "1399"; Thence, N16°25'33"W a distance of 253.97 feet to point "1398"; Thence, N44°07'34"W a distance of 167.39 feet to point "1397"; Thence, N31°40'33"E a distance of 147.42 feet to point "1396"; Thence, N22°05'56"E a distance of 92.47 feet to point "1395"; Thence, N18°18'37"W a distance of 141.19 feet to point "1394"; Thence, N42°42'34"W a distance of 80.16 feet to point "1393"; Thence, N78°27'18"W a distance of 43.37 feet to point "1392"; Thence, S81°14'54"W a distance of 80.45 feet to point "1391"; Thence, S51°13'29"W a distance of 84.15 feet to point "1390"; Thence, S32°51'10"W a distance of 235.97 feet to point "1389"; Thence, S60°38'57"W a distance of 188.90 feet to point "1388"; Thence, N16°25'26"W a distance of 257.47 feet to point "1387"; Thence, S58°38'38"W a distance of 510.10 feet to point "1386"; Thence, S52°21'02"W a distance of 284.28 feet to the point and place of beginning, point "143"; Containing 20.48 acres, more or less.

**SAND AND GRAVEL LEASE TRACT "3"
FOR GRAVEL MINING & EXTRACTION**

A tract of land located south of the Navajo Reservation community of Shiprock situated in Section 5 and Section 8, Township 28 North, Range 17 West N.M.P.M., on the Navajo Nation, County of San Juan, State of New Mexico, being more particularly described by metes and bounds as follows, to wit: Beginning at point "403" for the Point of Beginning of the tract herein described, whence the southwest corner of said Section 5 (a 1913 GLO Brass Cap found in place) bears N62°38'18"E a distance of 1444.79 feet; Thence, from the Point of Beginning, point "403", N53°27'51"E a distance of 187.05 feet to point "402"; Thence, N51°58'38"E a distance of 432.00 feet to point "401"; Thence, N52°18'49"E a distance of 101.57 feet to point "400"; Thence, S36°43'22"E a distance of 247.52 feet to point "399"; Thence, N26°50'25"E a distance of 356.73 feet to point "398"; Thence, N85°49'17"E a distance of 28.84 feet to point "397"; Thence, S53°14'45"E a distance of 44.73 feet to point "396"; Thence, S31°25'05"E a distance of 277.67 feet to point "395"; Thence, S12°26'13"E a distance of 608.75 feet to point "394"; Thence, S03°51'53"E a distance of 252.70 feet to point "393"; Thence, S55°41'31"E a distance of 218.65 feet to point "392"; Thence, S29°08'51"E a distance of 452.57 feet to point "391"; Thence, S15°19'19"E a distance of 555.94 feet to point "390"; Thence, S14°20'27"E a distance of 133.09 feet to point "389"; Thence, S08°52'40"W a distance of 58.32 feet to point "388"; Thence, S49°08'39"W a distance of 503.21 feet to point "387"; Thence, S76°47'24"E a distance of 392.90 feet to point "386"; Thence, S48°18'18"E a distance of 348.38 feet to point "385"; Thence, S20°10'11"E a distance of 97.82 feet to point "384"; Thence, S26°20'27"E a distance of 316.86 feet to point "383"; Thence, S25°57'27"E a distance of 80.39 feet to point "382"; Thence, S16°18'32"W a distance of 147.68 feet to point "381"; Thence, S48°07'58"E a distance of 232.91 feet to point "380"; Thence, S33°58'52"E a distance of 120.88 feet to point "379"; Thence, S20°45'33"E a distance of 586.11 feet to point "378"; Thence, S22°12'13"W a distance of 40.38 feet to point "377"; Thence, S67°52'49"W a distance of 48.62 feet to point "376"; Thence, N48°05'11"W a distance of 191.93 feet to point "375"; Thence, N74°22'48"W a distance of 251.39 feet to point "374"; Thence, N35°45'44"W a distance of 87.31 feet to point "373"; Thence, N03°33'24"E a distance of 69.53 feet to point "372"; Thence, N31°57'07"E a distance of 175.58 feet to point "371"; Thence, S80°27'48"W a distance of 189.39 feet to point "370"; Thence, N64°09'42"W a distance of 92.34 feet to point "369"; Thence, N06°25'25"W a distance of 107.68 feet to point "368"; Thence, N58°07'33"W a distance of 130.23 feet to point "367"; Thence, N31°27'07"W a distance of 279.67 feet to point "366"; Thence, N32°13'18"E a distance of 87.46 feet to point "365";

Thence, N83°43'53"W a distance of 133.42 feet to point "364"; Thence, N38°12'38"W a distance of 150.90 feet to point "363"; Thence, N08°44'01"W a distance of 143.66 feet to point "362"; Thence, S84°52'02"W a distance of 49.25 feet to point "361"; Thence, N59°44'29"W a distance of 46.92 feet to point "360"; Thence, N11°22'45"W a distance of 131.23 feet to point "359"; Thence, N17°18'07"W a distance of 119.13 feet to point "358"; Thence, N22°38'53"W a distance of 408.80 feet to point "357"; Thence, N00°10'14"E a distance of 127.42 feet to point "356"; Thence, N10°08'18"E a distance of 132.24 feet to point "355"; Thence, N06°32'03"W a distance of 166.87 feet to point "354"; Thence, N17°11'00"W a distance of 98.86 feet to point "353"; Thence, N58°35'48"W a distance of 102.73 feet to point "352"; Thence, N54°58'14"W a distance of 337.08 feet to point "351"; Thence, N34°51'46"W a distance of 237.96 feet to point "350"; Thence, N43°02'36"W a distance of 185.28 feet to point "349"; Thence, N42°30'15"W a distance of 258.80 feet to point "348"; Thence, N34°02'13"W a distance of 168.17 feet to point "347"; Thence, N33°17'15"W a distance of 161.12 feet to point "346"; Thence, N43°31'51"W a distance of 139.50 feet to point "345"; Thence, N55°39'12"W a distance of 163.40 feet to point "344"; Thence, N38°42'50"W a distance of 185.42 feet to the point and place of beginning, point "403"; Containing 60.18 acres, more or less.

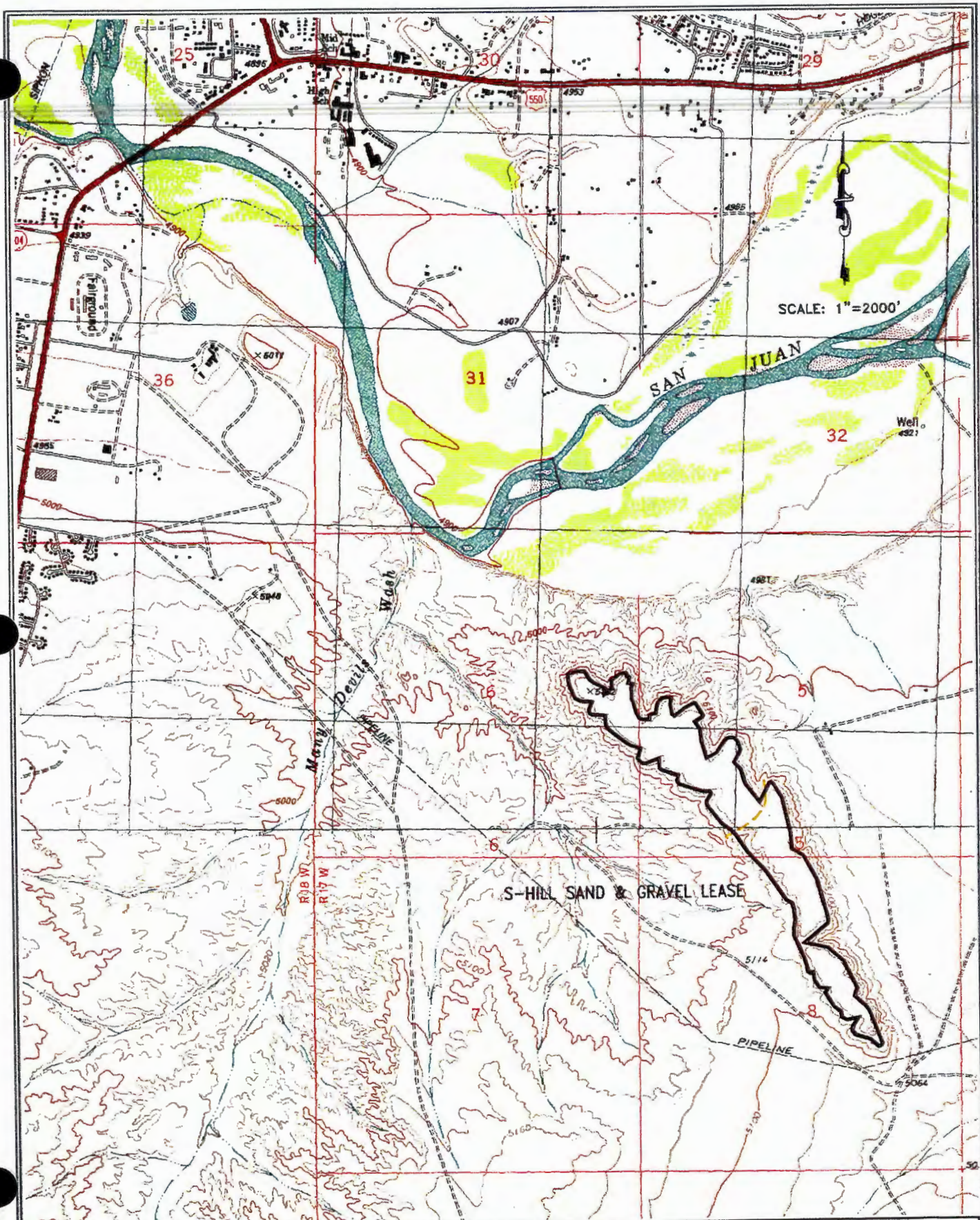
HOMESITE TRACT "4"

A tract of land located south of the Navajo Reservation community of Shiprock situated in Section 5, Township 28 North, Range 17 West N.M.P.M., on the Navajo Nation, County of San Juan, State of New Mexico, being more particularly described by metes and bounds as follows, to wit: Beginning at point "800" for the Point of Beginning of the tract herein described, whence the southwest corner of said Section 5 (a 1913 GLO Brass Cap found in place) bears N31°06'50"E a distance of 1602.11 feet; Thence, from the Point of Beginning, point "800", N23°07'43"E a distance of 208.80 feet to point "801"; Thence, S88°54'17"E a distance of 208.85 feet to point "802"; Thence, S23°09'18"W a distance of 208.83 feet to point "803"; Thence, N68°52'07"W a distance of 208.75 feet to the point and place of beginning, point "800"; Containing 1.00 acres, more or less.

TOTAL OF 3 PARCELS LESS TRACT 4 = 116.94 ACRES.

NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY
#1 URANIUM BLVD., SHIPROCK, NM 87420
Tse Daa Kaan San Juan County New Mexico
Navajo Nation
**SAND AND GRAVEL LEASE
S-HILL GRAVEL PIT**

DRAWN BY: MC CHECKED BY: RE SURVEYED BY: DGS Drawing Name: Sheet
DATE: 09/18/09 DATE: 04/19/13 DATE: 09/10/09 SKILLBOUNDARYMAP 5075



Sheet: 1 of 1	Drawn by: WC	Checked by: RE	Quadrangle Names:	NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY
Name: S HILL QUAD OVERLAY	Date: 01/21/13	Date: 01/21/13	Shiprock & Sulphur Springs	P.O. BOX 969 SHIPROCK, NEW MEXICO 87420 (505)368-5151

FIELD CLEARANCE CHECKLIST



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

1. Project Identification

Applicant: The Navajo Engineering and Construction Authority,
P.O. Box 969, Shiprock, New Mexico
 Type of Project: Sand and Gravel Lease
 Purpose: to excavate and crush source material as needed for Navajo Nation roads
and community projects
 Location: Hogback / Tse'Daa Kaan Chapter, the NAVAJO NATION, San Juan
County, NM

Identification Number (s): Shiprock S-Hill

2. Amount of Land Affected: 116.94 Acres.

3. Land Status: Trust XX

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

	Names:	Census Number	Type of Land Use Right
1.	<u>Sarah J Frank</u>	<u>---</u>	<u>Grazing/#12-3647</u>
2.	<u>Harry Jim</u>	<u>---</u>	<u>Grazing/#12-3647</u>
3.	<u>---</u>	<u>---</u>	<u>---</u>
4.	<u>---</u>	<u>---</u>	<u>---</u>

5. Are all Land Users that have claims to the affected lands as shown in the BIA Branch of Land Operations records included in the list in Item 4? yes

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

ACKNOWLEDGEMENT

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

2-13-20
Date

Kenneth Johnson
Grazing Committee or Land Board Member

12
District Number

CONSENT TO USE NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, SARAH J. FRANK, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs to permit The Navajo Engineering and Construction Authority (NECA) and Its Assigns of P.O. Box 969, Shiprock, New Mexico 87420 to use a portion of my Grazing area for the following purposes Sand and Gravel Mining Lease on the Navajo Trust Lands for a duration of twenty-five years, subject to renewal every five years. NECA proposes to mine approximately 96.48-acres and use 20-46 for remediation only located south of Shiprock and Tse Daa T'aan Chapters, Navajo Nation, San Juan County, New Mexico and access road right of 2.5-miles as shown on the map that shows the location of the proposed project.

My consent is given subject to the receipt of Two Hundred per Acre, the area consists of 116.94-acres, which I acknowledge as good and adequate compensation for the diminishment in value of my land use right as a result of the above referenced project as proposed.

REMARKS: The area of land will be subdivided into 3 sections, NECA proposed to pay the surface damage compensation of \$7,796.00 per section to be divided between the land users and payable as NECA moves from one section to the next.

02-22-2020

DATE

Sarah J. Frank
GRAZING PERMITTEE SIGNATURE
(OR THUMBPRINT)

CENSUS NO.

12-3647
PERMIT NO.

PHONE NO.

P.O. Box Shiprock, NM 874020
ADDRESS (P.O. BOX, CITY, STATE, ZIP)

SOCIAL SECURITY NO.

WITNESS:

[Signature]

2-24-20

DATE

Kenneth Johnson
GRAZING PERMITTEE SIGNATURE
(OR THUMBPRINT)

12
District No.

ACKNOWLEDGEMENT OF FIELD AGENT

I acknowledge that the contents of this consent form was ☒ read ☒ or fully explained to the grazing permit holder ☐ Navajo or ☐ English. (check where applicable)

[Signature]
Field Agent Signature

CONSENT TO USE NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Harry Jim, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs to permit The Navajo Engineering and Construction Authority (NECA) and Its Assigns of P.O. Box 969, Shiprock, New Mexico 87420 to use a portion of my Grazing area for the following purposes Sand and Gravel Mining Lease on the Navajo Trust Lands for a duration of twenty-five years, subject to renewal every five years. NECA proposes to mine approximately 96.48-acres and use 20-46 for remediation only located south of Shiprock and Tse Daa T'aan Chapters, Navajo Nation, San Juan County, New Mexico and access road right of 2.5-miles as shown on the map that shows the location of the proposed project.

My consent is given subject to the receipt of Two Hundred per Acre, the area consists of 116.94-acres, which I acknowledge as good and adequate compensation for the diminishment in value of my land use right as a result of the above referenced project as proposed.

REMARKS: The area of land will be subdivided into 3 sections, NECA proposed to pay the surface damage compensation of \$7,796.00 per section to be divided between the land users and payable as NECA moves from one section to the next.

02-21-2020
DATE

[Signature]
GRAZING PERMITTEE SIGNATURE
(OR THUMBPRINT)

CENSUS NO.

12-3647
PERMIT NO.

PHONE NO.

P.O. Box Shiprock, NM 874020
ADDRESS (P.O. BOX, CITY, STATE, ZIP)

SOCIAL SECURITY NO.

WITNESS:

2-24-20
DATE

[Signature]
GRAZING PERMITTEE SIGNATURE
(OR THUMBPRINT)

12
District No.

ACKNOWLEDGEMENT OF FIELD AGENT

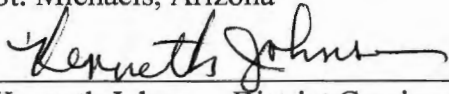
I acknowledge that the contents of this consent form was read ☒ or fully explained to the grazing permit holder ☐ Navajo or ☐ English. (check where applicable)

[Signature]
Field Agent Signature

February 12, 2020

To: General Land Development Department
Division of Natural Resources
The Navajo Nation
St. Michaels, Arizona

From:



Kenneth Johnson, District Grazing Committee Member
Hogback / Tse'Daa Kaan Chapter

RE: CONSENT TO ISSUE A SAND AND GRAVEL LEASE TO THE NAVAJO ENGINEERING
AND CONSTRUCTION AUTHORITY TO USE APPROXIMATELY 116.94 ACRES OF
THE NAVAJO TRUST LANDS

The Navajo Engineering and Construction Authority (NECA), Post Office Box 969, Shiprock, New Mexico (NM), 87420, proposes to submit an application for a Sand and Gravel Lease consisting of approximately 116.94 acres, more or less, and 2.5-mile access road, on the Navajo Trust Lands for a duration of twenty-five years, subject to Lease renewal every five year, located in Section 5, 6 & 8; T-29-N; R-17-W; NMPM, San Juan County, New Mexico.

The NECA proposes to divide the 116.94 into three sections. Source material will be excavated and crushed from Section 1 and 3 as needed for upcoming road and community projects. Section 2 is for remediation only.

Site visit to that particular area of the Navajo Trust Land determined that there are two Individuals with land use grazing rights and their annual Tally Count is up-to-date, therefore, surface damage compensation is recommended for the above-referenced proposed project area. The area be reclaimed and reseeded upon completion of each section.

If you have any questions, regarding the land use consent, I can be contacted at (505) 609-6096.

Thank you.

**S-HILL SAND AND GRAVEL MINING LEASE BIOLOGICAL EVALUATION
TSE DAA KAA CHAPTER, NEW MEXICO**

An Application for a Mine Lease in Indian Country

Navajo Nation Department of Fish and Wildlife, Window Rock, Arizona



A Biological Evaluation and Field Survey for ESA Threatened and Endangered Species,
Navajo Nation Species of Concern Listing and Wetlands Determination

Tse Daa Kaan Chapter
P.O. Box 1288
Shiprock, New Mexico 87420

April 30, 2010

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

TABLE of CONTENTS
S-HILL SAND AND GRAVEL PROJECT

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5.0 Findings and Determination of Effect / Mitigation.....	4
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References

Figure 1. S-Hill Sand and Gravel Project Map

Figure 2. Shiprock, New Mexico National Wetlands Inventory Map

Appendix A Navajo Department of Fish & Wildlife NESL Data Response Letter.

**S-HILL SAND AND GRAVEL PROJECT
HOGBACK CHAPTER, NEW MEXICO
A Biological Evaluation & Wetlands Determination.**

1.0 INTRODUCTION

The Hogback Chapter proposes to construct S-Hill Sand and Gravel Mining Lease southeast of Shiprock, New Mexico. The proposed sand and gravel project would supply sand and gravel to various construction projects in Northern Navajo Agency and the rest of the Navajo Indian Reservation in northwestern New Mexico. This Federal approval action will present a mining lease on Indian trust land to Bureau of Indian Affairs and Navajo Nation for approval.

A five year mining lease is proposed, starting in the spring-summer of 2010. The mining lease operators would begin construction and operations as soon as the mining lease is approved.

2.0 DESCRIPTION OF THE PROPOSED ACTION AND PROJECT LOCATION

2.1 Description of the Proposed Action

Tse Daa Kaan Chapter (formerly Hogback Chapter) of Hogback, New Mexico, proposes to construct the S-Hill Gravel Pit, southeast of Shiprock, on the south side of the San Juan River. The chapter proposes to acquire a mining lease to provide the source material for various infrastructure projects, including highway construction, government buildings, schools, pipeline construction, and other community projects in the Four Corners region. The proposed S-Hill Sand and Gravel Pit would encompass 117.94 acres of Navajo Indian trust land. Figure 1 shows the proposed project location.

The 117.94 acre site will be used for a sand and gravel pit, crushing operation and aggregate stockpile area. A five year lease is proposed. Upon completion of the project, Tse Daa Kaan Chapter will reclaim and reseed the site with native vegetation in accordance with a *Tse Daa Kaan Mining and Reclamation Plan* (NECA, 2010). The reclamation plan would contain a seed mixture as developed in consultation with the Navajo Division of Natural Resources. The property will be used for approximately five years. The topsoil stockpiling will begin on the site as soon as the mining lease is approved.

A new access road will not be required. The existing BIA Route N 5072 will be maintained to serve the proposed pit operations. The access road would not be upgraded or widened, nor will the existing right of way be altered. The existing road is used by the local residents; constructed by the BIA for the former pit operators.

2.2 Location The tract is located on USGS topographic maps entitled *Shiprock and Sulphur Springs, New Mexico 7.5 Minute Quadrangle*. See Figure 1. Waypoint descriptions were established in the center of the proposed lease at the following descriptions:

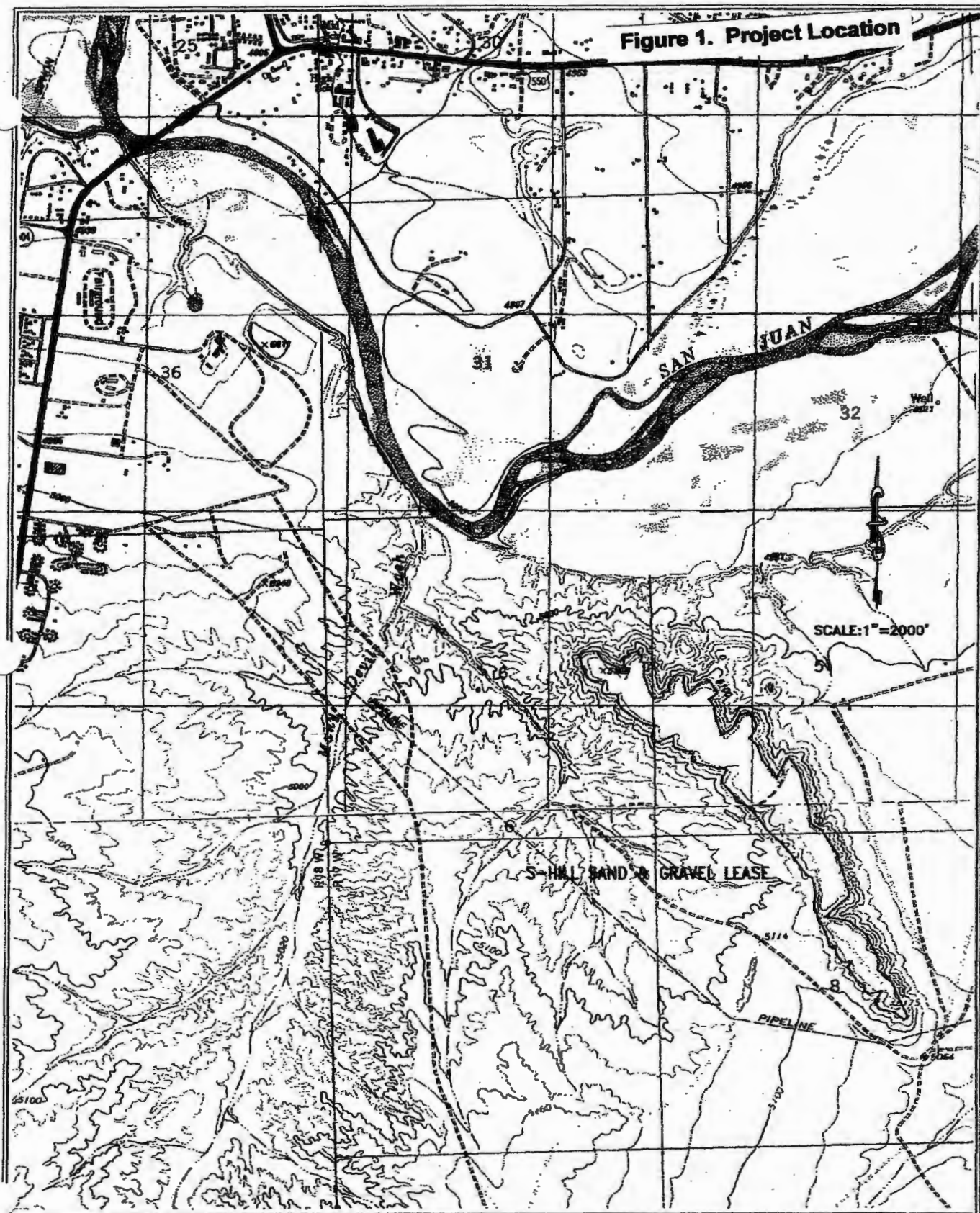
1. USGS NAD 27 Waypoint: Latitude 36° 45' 09" North, and Longitude 108° 39' 37" West.
2. USGS NAD 27 UTM coordinates at 4,069,773 N, 708,871 E, Zone 12.
3. Legal Description: SW ¼ Section 5 Township 29 North and Range 17 West, NMPM.

The proposed sand and gravel pit area is in Tse Daa Kaan Chapter, at an elevation of 5,164 feet msl, south of the San Juan River, between Many Devils Wash and the Chaco River.

3.0 FEDERAL ESA AND NAVAJO ENDANGERED SPECIES LIST

On December 08, 2009, a data response letter regarding Federal listed threatened and endangered species and Navajo Tribal species of concern list was received from the Natural Heritage Program, Navajo Department of Fish and Wildlife. See Appendix A for the data response consultation. In the interim of the NHP

Figure 1. Project Location



Sheet: 1 of 1	Drawn by: MC	Checked by: RE	Quadrangle Names:
Navajo Hill topography	Date: 09/29/09	Date: 09/30/09	Shiprock & Sulphur Springs

NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY
P.O. BOX 989 SHIPROCK, NEW MEXICO 87420 (505)368-5151

consultation and response, field surveys of the proposed area were conducted: November 13, 2009, January 27, 2010, April 6-9, 2010, and April 14-15, 2010. ~~A complete pedestrian survey for the Mesa Verde cactus was conducted during the April 6-15, 2010 surveys.~~ Field surveys were conducted to determine condition of existing wildlife habitat, impacts of human activity and current land use. These field surveys were also conducted in the project area with respect to the species habitat: cover, roosting, nesting activity, forage condition, and wetlands resources in regard the Federal ESA listing and Navajo NESL species of concern.

4.0 METHOD OF SURVEY

The Navajo Department of Fish and Wildlife's website was consulted. The *Biological Resource Land Clearance Policy and Procedures (BRLCP&P)* and *Chapter Land Use Planning Website* were reviewed.

With respect to the federal Endangered Species Act (ESA) listing and Navajo NESL species of concern listing, biological resource field surveys of the proposed sand and gravel pit were conducted November 13, 2009, January 27, 2010, April 6-9, 2010, and April 14-15, 2010. Complete pedestrian surveys for the Mesa Verde cactus were conducted between April 6, 2010 and April 15, 2010.

Prior to the field surveys, on April 6, 2010, Mr. Ron Everson and Mr. Ramsey Yazzie, Engineers with Navajo Engineering and Construction Authority (NECA) of Shiprock, New Mexico, showed the Denali ESA field team cacti locations east of the NECA property, along the Many Devils Wash. Small colonies of cacti locations were viewed afield. The exercise help the field survey team calibrate recognition of the Mesa Verde cactus in natural settings on the Mancos shale and clays.

The project boundaries were land surveyed by the NECA land survey team. More than 200 land survey stakes were posted along the parameter of the project, along the sides of the mesa, at approximately five meters below the mesa ridge.

During the April surveys at S Hill, Leonard Robbins, Environmentalist of Denali Environmental Services, Jeremy Begay and Shane Wero, Archaeologist with Dinetahdoo Cultural Resources Management of Farmington, New Mexico, conducted biological resource field surveys within the proposed project area. The proposed project area was surveyed by walking parallel transects individually spaced five meters apart. Each transect would cover approximately fifteen meters. The temporary transects were established by using alternating wooden stakes, flagged with florescent lavender and florescent green flagging ribbon. The entire project area of 117.94 acres was field surveyed.

Specifically for raptor nesting locations, a zone of influence of one quarter mile was established outside the perimeter of the proposed tract. The zone of influence was used during the field surveys. Where accessible the zone of influence was covered by walking, scoping from a distance and driving (wind-shield reconnaissance). Field surveys were conducted to determine condition of existing wildlife habitat, impacts of human activity and current land use. These field surveys were conducted in the project area with respect to species presence, species habitat: shelter, cover, roosting, nesting activity, forage condition, scat and watering locations. The property was field checked for wetlands during the field surveys. The proposed gravel pit is not likely to encounter any natural springs or wetland habitat.

The following equipment was used for the field survey: a ten-power binoculars, GPS Garmin Map 76, compass, and 7.5 minute topographic maps. From elevated knolls on the mesa, binoculars were used to scope the adjoining property. GPS Garmin Map 76 was used to reaffirm the map latitude and longitude point locations as described in § 2.0.

Field guide books to *Birds of Western North America* (Sibley, 2003), *A Field Guide to Western Birds* (Peterson,

R.T., 1990), and Peterson Field Guide Western Reptiles and Amphibians (Stebbins, R.C., 1985) were used for fauna identification, and *Flowering Plants of New Mexico* (DeWitt, 1999) for flora identification. Samples of individual plant species were collected and later identified.

The concepts of the 1987 Wetland Delineation Manual, developed and used by the Army Corps of Engineers, were used in this survey. The Shiprock, New Mexico National Wetlands Inventory Map (USFWS, 1984) was reviewed for wetlands resources. The map was used to search for wetland resources in the rights of way for the proposed project.

5.0 FINDINGS AND DETERMINATION OF EFFECT

5.1 Desert Shrub Ecosystem Flora and Fauna / Shiprock and Sulfur Springs, New Mexico Quadrangle ESA and NESL Species of Concern.

The S-Hill Sand and Gravel Pit is located in the Great Basin Desertscrub Ecosystem. The biome evolved from cold-temperate desert lands. The desert scrub biome is characterized by cold, harsh winters, low precipitation and great extremes in both daily and seasonal temperatures. Landform is of mesa top, capped with alluvial deposits. Species diversity is characteristically low in plant communities of this biome, largely dominated by shadscale *Atriplex confertifolia* (Turner, R.M., Brown, Editor, 1994). See the plant listing of the mesa attached to this BE.

The central portion of the proposed tract is completely disturbed and devoid of natural vegetation from previous mining operations. Annual plants make up most of the vegetation on the disturbed site. The natural ecosystem is persistent outside the previously mined area. Perennial grasses, although widely scattered in this shadscale community, are represented by Galleta *Hilaria jamesii*, Indian rice grass *Achnatherum hymenoides*, Blue grama *Bouteloua gracilis*, Squirrelltail *Sitanion hystrix*, Ring muhly *Muhlenbergia torreyi* and Alkali sacaton *Sporobolus airoides* (Turner, R.M., Brown, Editor, 1994).

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

A distinct fauna of the Great Basin Desertscrub include the whitetail antelope ground squirrel *Ammospermophilus leucurus*, whitetail prairie dog *Cynomys gunnisoni*, Great Basin pocket mouse *Perognathus parvus*, Ord's kangaroo rat *Dipodomys ordii*, and the montane vole *Microtus montanus*. Other mammals include the coyote *Canis latrans* and black-tailed jackrabbit *Lepus californicus* (Turner, R.M., Brown, Editor, 1994).

Several birds are characteristic of the Great Basin Desertscrub – horned lark *Eremophila alpestris*, sage thrasher *Oreoscoptes montanus*, and sage sparrow *Amphispiza belli* (Turner, R.M., Brown, Editor, 1994).

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

NESL species of concern with potential to occur on the Shiprock and Sulphur Springs, New Mexico 7.5 Minute Quadrangles (NDF&W, 2009) containing the proposed sand and gravel pit boundaries include the following fauna and flora species:

5.1.1 Mesa Verde Cactus *Sclerocactus mesae-verde* (NESL G2, ESA T)

5.1.2	Western Burrowing Owl	<i>Athene cunicularia</i> (NESL G4, MBTA)
5.1.3	Northern Leopard Frog	<i>Rana pipiens</i> (NESL G2)
5.1.4	American Pronghorn Antelope	<i>Antilocapra americana</i> (NESL G3)
5.1.5	Golden Eagle	<i>Aquila chrysaetos</i> (NESL G3, MBTA, EPA)
5.1.6	Bluehead Sucker	<i>Catostomus discobolus</i> (NESL G4)
5.1.7	Belted Kingfisher	<i>Ceryle alcyon</i> (NESL G4, MBTA)
5.1.8	Mountain Plover	<i>Charadrius montanus</i> (NESL G 4, ESA T, MBTA)
5.1.9	Yellow-billed Cuckoo	<i>Coccyzus americanus</i> (NESL G2, MBTA, ESA C)
5.1.10	Mottled Sculpin	<i>Cottus bairdi</i> (NESL G4)
5.1.11	Yellow Warbler	<i>Dendroica petechia</i> (NESL G4, MBTA)
5.1.12	Banner-tail Kangaroo Rat	<i>Dipodomys spectabilis</i> (NESL G4)
5.1.13	Southwest Willow Flycatcher	<i>Empidonax traillii estimus</i> (NESL G2, ESA E, MBTA)
5.1.14	Peregrine Falcon	<i>Falco peregrinus</i> (NESL G4, MBTA, ESA delisted from endangered)
5.1.15	Roundtail Chub	<i>Gila robusta</i> (NESL G 2)
5.1.16	Bald Eagle	<i>Haliaeetus leucocephalus</i> (NESL G 3, ESA E)
5.1.17	Black-footed Ferret	<i>Mustela nigripes</i> (NESL G 2, ESA E)
5.1.18	Colorado Pike Minnow	<i>Ptychocheilus lucius</i> (NESL G 2, ESA T)
5.1.19	Kit Fox	<i>Vulpes macrotis</i> (NESL G 4)
5.1.20	Razorback Sucker	<i>Xyrauchen texanus</i> (NESL G 2, ESA E)

Federal agencies are required to consult with the USFWS on any proposed action which may affect federally listed threatened or endangered species or species proposed for listing. Field surveys were conducted by biologist from Denali Environmental Services. The NDF&W NHP *Navajo Nation Endangered Species List Species Account Book* was reviewed (NDF&W, 2006). The following sections address the potential for federally listed and other special status species to occur in the project area. Table 1 summarizes the potential for federally listed species (ESA) and special status species (NESL) to occur in the proposed project area.

5.1.1 Mesa Verde Cactus *Sclerocactus mesae-verde* (NESL G2, ESA T)

5.1.1 Direct and Indirect Effects

The Mesa Verde Cactus is not present on the proposed project area, as no sightings of the cacti were present on the mesa. Surface soils and parent substrate on S-Hill Mesa is covered with alluvium material, such as sand, silt, gravel and cobblestone (3 to 15 inches in diameter). The alkaline / sodium in sparse shale and adobe clays associated with the Mancos Shale, Fruitland and Menefee Formations (4,000 to 5,550 feet elevation) are absent on S-Hill Mesa. The proposed project area does not contain appropriate geologic substrate for this specie. Complete pedestrian surveys for the Mesa Verde cactus were conducted between April 6, 2010 and April 15, 2010.

5.1.2 Mitigation Measures

No mitigation is recommended for the Mesa Verde Cactus.

5.1.2 Western Burrowing Owl *Athene cunicularia* (NESL G4, MBTA)

5.1.1 Direct and Indirect Effects

The Western Burrowing Owl is not present on the proposed project area. No sightings or field indicators of the owl (scat or borrowing) are present. Abandoned prairie dog mounds would harbor the owl, as the owl would leave fresh scat around the prairie dog mounds. No owls were located during the April 06–15, 2010 field surveys. Owl surveys were performed on the proposed project area, as well as the vicinity properties. A

Table 1. Habitat descriptions and presence of USFWS listed (ESA) Threatened (T), Endangered (E), or Candidate (C) species and Navajo Nation species (NESL) potential to occur on the project area.

SPECIES	STATUS	HABITAT ASSOCIATIONS	PRESENCE
Mesa Verde cactus <i>Sclerocactus mesaeverdae</i>	NESL G2 ESA T	Highly alkaline soils in sparse shale or adobe clay badlands of the Mancos and Fruitland Formations (4,000 to 5,500 ft.)	NP
Western Borrowing Owl <i>Athene cucularia</i>	NESL G4 MBTA	Grassland communities (6,200-6,400 ft.). Prairie dog colonies have decimated by Disease	NP
Northern Leopard Frog <i>Lithobates (Rana) pipiens</i>	NESL G2	No suitable habitat for this specie on S-Hill Mesa	NP
American Pronghorn <i>Antilocarpa americana</i>	NESL G3	Open grassland with year-around prairie dog colonies.	NP
Golden Eagle <i>Aquila Chrysaetos</i>	NESL G3 MBTA, EPA	No suitable nesting habitat for the eagle on S-Hill Mesa. May forage when small mammal populations favorable. Hunts open country.	NP
Bluehead Sucker <i>Catostomus discobolus</i>	NESL G4	No suitable habitat for this specie on S-Hill Mesa	NP
Belted Kingfisher <i>Ceryle alcyon</i>	NESL G4 MPTA	No suitable habitat for this specie on S-Hill Mesa. May occur along the San Juan River.	NP
Mountain Plover <i>Charadrius montanus</i>	NESL G4 ESA T MBTA	Habitat suitable but species is not present or suspected to occur within the project area	NP
Yellow-billed cuckoo <i>Coccyzus americanus</i>	NESL G2 ESA C MBTA	Breeds in riparian woodlands with dense understory vegetation.	NP
Mottled Sculpin <i>Cottus bairdi</i>	NESL G4	No suitable habitat for this specie on S-Hill Mesa	NP
Yellow Warbler <i>Dendroica petechia</i>	NESL G4 MBTA	Favors wetlands/riparian habitats, esp. willows and alders, open woodland in proximity to surface water.	NP
Banner-tail Kangaroo Rat <i>Dipodomys spectabilis</i>	NESL G4	Desert shrub habitat is suitable, species is not suspected to occur within the project area.	NS
Southwest Willow Flycatcher <i>Empidonax traillii eximius</i>	NESL G2	Breeds/nests in dense, shrubby riparian habitats, usually in close	NP

	ESA E MBTA	proximity to surface water or saturated soils.	
Peregrine Falcon <i>Falco peregrinus</i>	NESL G4 ESA delisted	Nesting cliff habitat is not present on S-Hill Mesa. Raptor may forage in the vicinity.	NS
Roundtail Chub <i>Gila robusta</i>	NESL G2	No suitable habitat for this specie on S-Hill Mesa	NP
Bald Eagle <i>Haliaeetus leucocephalus</i>	NESL G3 ESA E	No suitable habitat for this specie on S-Hill Mesa. Common along San Juan river during the winter.	NP
Black-footed Ferret <i>Mustela nigripes</i>	NESL G2 ESA E	No suitable habitat for this specie on S-Hill Mesa. Area prairie dog colonies have been decimated by disease.	NP
Colorado Pike Minnow <i>Ptychocheilus lucius</i>	NESL G2 ESA T	No suitable habitat for this specie on S-Hill Mesa. Favors large rivers with strong currents, deep pools, and quiet backwaters.	NP
Kit fox <i>Vulpes macrotis</i>	NESL G4	Favors rodent colonies of the Desert grassland and Great Basin Desert Shrub.	NP
Razorback sucker <i>Xyrauchen texanus</i>	NESL G2 ESA E	Favors medium to large rivers with silty to rocky substrates. Prefers strong currents and deep pools.	NP

K – Known, documented observation within project area; S – Suitable habitat and species suspected to occur within the project area; NS – Habitat suitable but species is not suspected to occur within the project area; NP – Habitat not present and species unlikely to occur within the project area.

nocturnal creature, the owl also forages during early morning and late evening hours, feeding on small rodents. The owl remains in abandoned prairie dog burrows during the day. The owl consumes many rodents. No sign of the owl (scat or burrowing) is present at the proposed project area or vicinity properties.

5.1.2 Mitigation Measures

No mitigation is recommended for the Western Burrowing Owl.

5.1.3 Northern Leopard Frog *Rana pipiens* NESL G2

5.1.1 Direct and Indirect Effects

The Northern Leopard Frog is not present on the proposed project area. No sightings or field indicators of the Leopard Frog are present on the proposed project area. The specie is found in a variety of habitats – grassland, brush land, woodland, and forest, ranging high into the mountains. The specie frequents springs, slow flowing streams, marshes, bogs, ponds, canals, and reservoirs, usually where there is permanent water and growth of cattails or other aquatic vegetation. The specie may forage far from water in damp meadows (Stebbins, R. C., 1985). No suitable wetland habitat for the Northern Leopard Frog was found on the proposed S Hill Mine site. Previous and existing land uses of the property have rendered the tract unsuitable for Leopard Frog habitat.

5.1.2 Mitigation Measures

No mitigation is recommended for the Northern Leopard Frog.

5.1.4 American Pronghorn Antelope *Antilocapra americana* NESL G3

5.1.1 Direct and Indirect Effects

No antelopes were observed during the field surveys. Although occasionally sighted in the Chaco Canyon area, 45 miles south, the antelope is not present in the proposed project area. Indirectly the pronghorn antelope would be served mitigation as the reclamation seed mixture would contain a high percentage of shrubs, forbs and grasses.

5.1.2 Mitigation Measures

No direct mitigation is recommended for the Pronghorn.

5.1.5 Golden Eagle *Aquila chrysaetos* NESL G3, EPA

5.1.1 Direct and Indirect Effects

The eagle nests on steep cliffs, normally adjacent to foraging habitat of desert grasslands or desert scrub, that provide primary prey of prairie dogs, cotton tail and jack rabbits (NNHP, 2001). Nests are reused and tend to become a huge mass of sticks and debris. Golden Eagle foraging habitat is present within the proposed project area. Small mammals, such as prairie dogs, jackrabbits, cottontail rabbits, field mice, gophers, etc., would be of marginal abundance. No Golden Eagles were observed during the field surveys. No Golden Eagle nest sites are located on the proposed lease area.

5.1.2 Mitigation Measures

No direct mitigation is recommended for this species.

5.1.6 Bluehead Sucker *Catostomus discobolus* NESL G4

5.1.1 Direct and Indirect Effects

The Bluehead Sucker is not present on S-Hill Mesa. The species are unlikely to be present in the proposed project area due to the absence of water and aquatic habitat. Suitable species habitat is not found within the proposed project area.

5.1.2 Mitigation Measures

No mitigation measures are recommended for the Bluehead Sucker.

5.1.7 Belted Kingfisher *Ceryle alcyon* NESL G4, MBTA

5.1.1 Direct and Indirect Effects

The Belted Kingfisher is not present on S-Hill Mesa. The species are unlikely to be present in the proposed project area due to the absence of water and aquatic habitat. Suitable species habitat is not found within the proposed project area.

5.1.2 Mitigation Measures

No mitigation measures are recommended for the Kingfisher.

5.1.8 Mountain Plover *Charadrius montanus* NESL G 4, ESA T, MBTA

5.1.1 Direct and Indirect Effects

The Mountain Plover is not present on S-Hill Mesa. The species was not sighted during field surveys. Suitable habitat may be present, however the species is not found on the proposed project area.

5.1.2 Mitigation Measures

No mitigation measures are recommended for the Mountain Plover.

5.1.9 Yellow-billed Cuckoo *Coccyzus americanus* NESL G2, MBTA, ESA C

5.1.1 Direct and Indirect Effects

The Yellow-billed Cuckoo is not present on S-Hill Mesa. The species are unlikely to be present in the proposed project area due to the absence of wetland and riparian habitat. Suitable species habitat is not found within the proposed project area.

5.1.2 Mitigation Measures

No mitigation measures are recommended for the Yellow-billed Cuckoo.

5.1.10 Mottled Sculpin *Cottus bairdi* (NESL G4)

5.1.1 Direct and Indirect Effects

The Mottled Sculpin is not present on S-Hill Mesa. The species are unlikely to be present in the proposed project area due to the absence of water and aquatic habitat. Suitable species habitat is not found within the proposed project area.

5.1.2 Mitigation Measures

No mitigation measures are recommended for the Mottled Sculpin.

5.1.11 Yellow Warbler *Dendroica petechia* (NESL G4, MBTA)

5.1.1 Direct and Indirect Effects

The Yellow Warbler is not present on S-Hill Mesa. The species are unlikely to be present in the proposed project area due to the absence of water and aquatic habitat. Suitable species habitat is not found within the proposed project area.

5.1.2 Mitigation Measures

No mitigation measures are recommended for the Yellow Warbler.

5.1.12 Banner-tail Kangaroo Rat *Dipodomys spectabilis* NESL G4, not listed under the Federal ESA

5.1.1 Direct and Indirect Effects

The Banner-tail Kangaroo Rat is not listed as a NESL species in this region. The species is not listed on the NESL east of the Chuska Mountains in New Mexico. The NESL candidate status applies only to populations in Arizona (NNHP, 2006).

5.1.2 Mitigation Measures

No mitigation measures are recommended for this species.



United States Department of the Interior

Bureau of Indian Affairs
Navajo Region
P. O. Box 1060
Gallup, New Mexico 87305



MC 620: Division of Environmental, Cultural & Safety Management

JUL 21 2010


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

Dear Mr. Robbins:

The Environmental Assessment (EA), **EA-10-101**, for the Tse Daa Kaan Chapter proposed five-year S-Hill Sand and Gravel Mining Lease on Navajo Tribal Trust land located southeast of Shiprock, San Juan County, New Mexico, has been reviewed in the Division of Environmental, Cultural and Safety Management, Navajo Regional Office. The Tse Daa Kaan Chapter proposes to excavate sand and gravel from an alluvial terrace on the S-Hill Mesa located south of the San Juan River between Many Devils Wash and the Chaco River. The mesa, which is approximately 300± feet wide, 100 feet high and more than one mile long, has an alluvial cap (deposit) of river cobble stone and gravel, at an average deposition of ten feet. Approximately 117.94 acres is proposed to be mined. A new access road will not be required. An existing road, BIA Route N5072 will be the access road. The sand and gravel will be used for future construction projects, i.e., highways, buildings, infrastructure, etc. A Finding of No Significant Impact (FONSI) has been determined for the proposed action. It will not have a significant impact on the quality of the natural and human environment. An environmental impact statement for the proposed project is not required. **Note: This FONSI is not the approval to begin mining operations. Such approval must be obtained through the BIA Real Estate Services.**

If you have questions, you may contact Ms. Harrilene J. Yazzie, Regional NEPA Coordinator, at (505) 863-8287.

Sincerely,


Acting Regional Director, Navajo

Enclosure

**FINDING OF NO SIGNIFICANT IMPACT
ENVIRONMENTAL ASSESSMENT DOCUMENT, EA-10-101
S-HILL SAND AND GRAVEL MINING LEASE**

TSE DAA KAAK CHAPTER

**Location: Shiprock & Sulphur Springs, NM, Quadrangles, USGS 7.5 Minute Series Maps
Sections 5, 6 & 8, T29N, R17W, NMPM
Tse Daa Kaan Chapter, San Juan County, New Mexico**

The proposed action is approval of sand and gravel lease by the Bureau of Indian Affairs (BIA) for the establishment of a sand and gravel operation on Navajo Tribal Trust land located southeast of Shiprock, San Juan County, New Mexico. The Tse Daa Kaan Chapter proposes to excavate sand and gravel from an alluvial terrace on the S-Hill Mesa located south of the San Juan River between Many Devils Wash and the Chaco River. The mesa, which is approximately 300± feet wide, 100 feet high and more than one mile long, has an alluvial cap (deposit) of river cobble stone and gravel, at an average deposition of ten feet. Approximately 117.94 acres is proposed to be mined. A new access road will not be required. An existing road, BIA Route N5072 will be the access road. The sand and gravel will be used for future construction projects, i.e., highways, buildings, infrastructure, etc. The project is sponsored by the Tse Daa Kaan Chapter, P.O. Box 1288, Shiprock, New Mexico 87420.

The project environmental assessment (EA) was reviewed in the Division of Environmental, Cultural and Safety Management, Navajo Regional Office. Based on the environmental assessment, and the mitigation measures specified in the document, it is determined that the proposed project will not have a significant impact on the natural and human environment. Therefore, in accordance with the National Environmental Policy Act, Section 102 (2) (C), an environmental impact statement will not be required.

The following references, incorporated in the project environmental assessment, serve as the bases for this decision:

1. Agency and public involvement was solicited, and environmental issues relative to the proposed project were identified. Alternative courses of action and mitigation measures were developed in response to environmental concerns and issues.
2. The EA disclosed the environmental consequences of the proposed action, alternate site location, and the "no action" alternatives.
3. In compliance with the Endangered Species Act, informal consultation was held with the Navajo Nation Department of Fish and Wildlife (NNDFW), Natural Heritage Program (NHP). The NNDFW provided a list of species of concern known to occur within one mile (Mesa Verde cactus) and three miles (Western burrowing owl) of the project site and with potential to occur on the *Shiprock, NM, U.S.G.S. 7.5-Minute Quadrangle* containing the project boundaries. The proposed project is in an *Area 1: Highly Sensitive Wildlife Resources* area (December 8, 2009,

Letter from the NNDFW). The NNDFW issued Biological Resources Compliance Form (BRCF), NNDFW Review No. 09DANL10 indicating conditional approval (with memo) of the proposed project. The operator shall comply with the avoidance/mitigation measures and the conditions of compliance stated in the BRCF (EA-Appendix D).

4. Potential impacts to flood plains and wetlands by the proposed project have been evaluated in accordance with Executive Orders 11988 and 11990 respectively. No flood plains are found in the project area. No wetlands or riparian habitat are found in the project area (EA, Part 3.1.8 & 3.1.9.).

5. Livestock Grazing- the new surface disturbance associated with the proposed project would result in an approximate direct, short-term loss of grazing resources during construction activities. Long-term impacts will be minimized by reseeding and monitoring the project area disturbance for proper stand germination (EA, Part 4.1.11).

6. Water Resources – the proposed project site drains toward the north. Surface water eventually flows north to the San Juan River. The primary discharges of these drainages occur during spring snow thaw and during occasional intense summer thundershowers in late summer. Flow is erratic and fluctuates widely both seasonally and annually. Torrential thunderstorms can produce flood-stage flows within minutes. The west portion of the S-Hill Mesa will drain toward Many Devils Wash, while the east portion will drain toward the San Juan River (EA, Part 3.1.7.). The proposed action would temporarily expose the land and the disturbed surface would be a potential sediment source entering local washes. Slight alteration in project area drainage patterns may also lead to an increase in sediment transport. These increases in sediment transport would persist for several years until the disturbed areas stabilize (successfully revegetated). The operator has filed with the USEPA a Notice of Intent for storm water discharges associated with construction activities. A Storm Water Pollution Prevention Plan (SWPPP) has been created and will be filed with the USEPA (EA, Part 4.1.7.).

7. In compliance with the National Historic Preservation Act of 1966, as amended, Section 106 and 36 CFR 800.9 (b), a cultural resource inventory was conducted on the project site by Complete Archaeological Service Associates (CASA). The Navajo Nation Historic Preservation Department (NNHPD) issued Cultural Resources Compliance Form (CRCF), NNHPD No. HPD-09-1263 indicating "No historic properties affected" (EA-Appendix C-CRCF).

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.

8. RCRA, Subtitle C, Hazardous Waste and Subtitle D, Non-Hazardous Solid Waste – the proposed project area is undeveloped. There are no hazardous waste sites on or near the proposed project site. No hazardous materials will be used or left on the project site. No non-hazardous solid waste sites occur on or adjacent to the proposed project site. Solid waste shall be disposed on a periodic basis (EA, Part 4.1.6.).

9. CERCLA & TSCA Sites- there are no CERCLA or TSCA sites on the proposed project area (EA, Part 4.1.6.).

10. Air Resources – the air quality of the project area will temporarily be directly impacted with pollution from equipment exhaust emissions and dust which would discontinue at the completion of the project. Impacts to air quality attributable to this project would be low and short-term. Air quality would not be compromised during crushing operations; dust control will be provided by spray bars on the processing equipment. Water trucks will control dust in the excavation area, as well as the stockpile and traffic areas. The major haul road will be watered down during truck haulage. Application for a water permit will be made to the Navajo Water Management Branch. The operator shall comply with air quality requirements of the Navajo Nation during operations of the gravel pit (EA, Part 1.1.). Immediate surface reclamation of disturbed areas will be part of the mining sequence (EA, Part 4.1.1.).

11. Noxious Weeds- the operator shall implement Best Management Practices to prevent the introduction of non-native, invasive plants to the project area. The operator shall consult with the Navajo Nation Department of Agriculture (NND) regarding management and control of noxious weeds. The Navajo Nation Environmental Protection Agency (NNEPA) Pesticide Enforcement and Development Program may be contacted regarding pesticide and herbicide applicators.

12. Cumulative and secondary effects on soil, water, air, noise, vegetation, cultural resources, and wildlife resources (species and habitat) were considered, and the proposed mitigation measures were found to be acceptable. Upon completion of the project, the area shall be reclaimed and reseeded with native species in accordance with the Mining and Reclamation plan (EA, Part 4.1.9.2.). The proposed action would not have any noticeable cumulative impacts on air and water resources, visual resources, or local flora and fauna and ecosystems. The impacts of the proposed action would be minimal in its contribution to the cumulative combination of previous human disturbances in the area (EA, Part 4.2.).

13. In accordance with Executive Order 12898 on Environmental Justice, impacts to minority and low-income populations and communities have been considered by the Regional NEPA Coordinator, as have impacts to Indian Trust Resources. The proposed action is considered a positive action in regard to the general socioeconomics of the community as the action will further upgrade the capability of the community (EA, Part 4.2.).

The proposed project, supported by Resolution of the Tse Daa Kaan Community Chapter (EA-Appendix B), would allow the mining of sand and gravel, aggregate crushing, processing and stockpiling at the site. The materials would be used in road, building, and infrastructure construction projects.


Regional NEPA Coordinator

7/24/18
Date

RECEIVED
Jan 05, 2010

CULTURAL RESOURCES COMPLIANCE FORM

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

ROUTING: COPIES TO

NM

SHPO

XX

REAL PROPERTY MGT/330

CASA

NNHPD NO. **HPD-09-1263**

OTHER PROJECT NO.

CASA 09-91

PROJECT TITLE: Cultural Resource Inventory, S-Hill Gravel Pt, Navajo Nation Lands, Southeast of Shiprock, San Juan County, New Mexico

LEAD AGENCY: BIA/NR

SPONSOR: Anita Hayes, Manager, Tse Daa Kaan Chapter, PO Box 1288, Shiprock, New Mexico 87420

PROJECT DESCRIPTION: The proposed undertaking will involve the expansion of an existing gravel pit on S-Hill. A total of 117.94-acres was surveyed for the gravel pit, this includes previously utilized areas. Ground disturbance will be intensive and extensive with the use of heavy equipment.

LAND STATUS: Navajo Tribal Trust

CHAPTER: Tse Daa Kaan (Hogback)

LOCATION: T.29N R.17W - Sec. 5, 6, & 8; Shiprock & Sulphur Spring Quadrangles, San Juan County, New Mexico
NMPM

PROJECT ARCHAEOLOGIST: Laurens C. Hammack

NAVAJO ANTIQUITIES PERMIT NO.: B09633

DATE INSPECTED: 11/03-06/09

DATE OF REPORT: 11/13/09

TOTAL ACREAGE INSPECTED: 117.94-ac

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

LIST OF CULTURAL RESOURCES FOUND:

(7) Isolated Occurrences (IO)

LIST OF ELIGIBLE PROPERTIES:

None

LIST OF NON-ELIGIBLE PROPERTIES:

(7) IO's

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) 871-7148.

FORM PREPARED BY: Tamara Billie

FINALIZED: December 2, 2009

Notification to

Proceed Recommended:

Yes XX No

Conditions:

Yes No XXAlan S. Downer, Navajo Nation
Historic Preservation Officer

Date

Navajo Region Approval:

Yes l No

BIA-Regional Director

Date



1. HPD REPORT NO.	2. (FOR HPD USE ONLY)	3. RECIPIENTS ACCESSION NO.
4. TITLE OF REPORT: Cultural Resource Inventory S-Hill Gravel Pit, Navajo Nation Lands, Southeast of Shiprock, San Juan County, New Mexico .		5. FIELDWORK DATES November 3 and 6, 2009
Author(s): Laurens C. Hammack		6. REPORT DATE: November 13, 2009
7. CONSULTANT NAME AND ADDRESS: Gen'l Charge: Laurens C. Hammack Org. Name: Complete Archaeological Service Associates Org. Address: P.O. Box 1777 Cortez CO 81321 Phone: (970) 565-9229		8. PERMIT NO. B09633
		9. CONSULTANT REPORT NO. CASA 09-91.
10. SPONSOR NAME AND ADDRESS: Ind. Responsible: Anita Hayes, Manager Org. Address: Tse Daa Kaan Chapter P.O. Box 1288 Shiprock, New Mexico 87420 Phone: (505) 368 1599		11. SPONSOR PROJECT NO.
12. AREA OF EFFECT: 117.94 ac AREA SURVEYED: 117.94 ac		
13. LOCATION (MAP ATTACHED):		
a. Chapter: Tse Daa Kaan	e. Land Status: Navajo Tribal Trust	
b. Agency: Shiprock	f. UTM Center: Zone 12 (see continuation sheet)	
c. County: San Juan	g. Area: Sections 5, 6, and 8.T29N, R17W NMPM, San Juan County, New Mexico (see continuation sheet)	
d. State: New Mexico	h. 7.5' Map Name(s): Shiprock, N.Mex.1983 Sulphur Spring N.Mex.-1966/1979	
14. REPORT /X/ OR SUMMARY (REPORT ATTACHED) // OR PRELIMINARY REPORT //		
a. Description of Undertaking: The project consists of the expansion of an existing gravel pit on S-Hill, a narrow, gravel-covered mesa top, southeast of Shiprock. A total of 117.94 acres was surveyed for the proposed pit which includes the previously utilized area. Access is by an existing, wide gravel road which was not inventoried		
b. Existing Data Review: HPD on 11/12/09 with no sites previously recorded within a 500-ft radius of the proposed pit. A portion of the gravel pit was inventoried for New Mexico Highway Department Project F-031-1(23) on US 666 in 1980 (Hoagland 1980). No sites were recorded within the 36.42 acres surveyed.		
c. Area Environmental & Cultural Setting: The proposed pit is located on S-Hill, a narrow, elongated mesa bordering the lower terraces and flood plain of the San Juan River to the north. At an elevations of 5162-ft on the northwest edge of the mesa to 5175-ft on the southeast edge, a sparse desert scrub vegetation of shadscale, prickly-pear cactus, and grasses along with russian thistle is present throughout. Tamarisk and rabbitbrush grow in portions of the existing gravel pit. Track roads border the entire edge of S-Hill and cut across the mesa top throughout. Extensive deposits of gravel and large cobbles surface along the mesa edge (Figure 3) with a thin sand cover present in the central portions of the proposed pit. Entire mesa top pock-marked by old gravel test pits. There is a single one acre homesite lease within the western half of the survey parcel which contains an uninhabitable single-wide mobile-home, a small ramada, and several inoperable vehicles. S-Hill is named for a large S made of white-painted cobbles which is located on the northwest edge of the mesa.		
d. Field Methods: One person walking a series of parallel north/south 15 meter wide transects across the mesa top with one person walking around the entire edge of the mesa.		
15. CULTURAL RESOURCE FINDINGS:		
a. Location/Identification of Each Resource: No sites, 7 isolated finds (all recent cobble cairns) -see continuation sheet for details.		
b. Evaluation of Significance of Each Resource (above): Isolated finds are not considered significant or eligible.		
16. MANAGEMENT SUMMARY (RECOMMENDATIONS): A determination of "no historic properties affected" is recommended for the S-Hill Gravel Pit at the locations described in this report.		
17. CERTIFICATION: SIGNATURE: <u>Laurens C. Hammack</u> DATE: 11/13/09		
General Charge Name: Laurens C. Hammack		
SIGNATURE: <u>Laurens C. Hammack</u> DATE: 11/13/09		
Direct Charge Name: Laurens C. Hammack		

Continuation Sheet

Item 13f UTM Locations (all Zone 12):

northwest edge of mesa: E 708200/N 4070230
center of mesa E 709210/N 4069440
southeast edge of mesa E 709770/N 4068400

Item 13g Area of pit

portions of the NE, NW, SE; SW 1/4, NE 1/4; W 1/2, NW 1/4, NE 1/4 and E 1/2, NE 1/4, NW 1/4 Section 8; portions of the S 1/2, SW 1/4 and S 1/2 NW 1/4, SW 1/4 Section 5; and NE 1/4, SE 1/4 Section 6, T29N, R17W, NMPM, San Juan County, New Mexico.

Item 14c Area Cultural Setting

Background information on the prehistory of the Shiprock area is sketchy at best with only one large scale project undertaken in the immediate area. A 195 acre parcel was inventoried for the Shiprock UMTRA (Uranium Mill Tailings Remediation Project) in 1983 by DCA (Powers 1983). Only 5 sites were recorded with all but one, reflecting relatively recent (mid-20th century) Navajo occupations. The one prehistoric site was an artifact scatter consisting of 18 lithic artifacts and four sherds (three corrugated sherds and one Mancos B/w sherd). In addition 12 isolated finds were located. This UMTRA Project is located less than 1/2 mile northwest of the proposed gravel pit. The majority of the inventories in the area have been conducted for individual homesite leases and IHS waterline projects with very few sites being found. Anasazi occupations are present however, they are located mainly on gravel terraces immediately above the San Juan River.

Item 15a Location and Identification of Each Resource

Isolated Find Descriptions

IF No. 1:

Location: NW, NE, SE Section 8, T29N, R17W, San Juan County, New Mexico (Figure 2).
UTM Location: Zone 12, E 70764/N 4068407
Map Reference: Sulphur Spring, N. Mex. 1966/1979
Cultural/Temporal
Affiliation: Recent Navajo
Description: Prominent cairn constructed of rounded cobbles located on eastern edge of ridge (Figure 4).
Cairn measures 2 by 2 by 1 meters.

IF No. 2:

Location: SW, SW, NE Section 8, T29N, R17W, San Juan County, New Mexico (Figure 2).
UTM Location: Zone 12, E 709466/N 4068704
Map Reference: Sulphur Spring, N. Mex. 1966/1979
Cultural/Temporal
Affiliation: Recent Navajo
Description: Small pile of cobbles on south edge of mesa measuring 1.5 by 1.0 meters and 10-15 cm high.

IF No. 3:

Location: NE, SW, NE, Section 8, T29N, R17W, San Juan County, New Mexico (Figure 2).
UTM Location: Zone 12, E 709573/N 4068815
Map Reference: Sulphur Spring, N. Mex. 1966/1979
Cultural/Temporal
Affiliation: Recent Navajo
Description: Pile of cobbles measuring 2 by 1 meters and averages 50 cm high and is located on north edge of mesa.

IF No. 4:

Location: NW, NW, NE Section 8, T29N, R17W, San Juan County, New Mexico (Figure 2).
UTM Location: Zone 12, E 70934/N 4069165
Map Reference: Sulphur Spring, N. Mex. 1966/1979
Cultural/Temporal
Affiliation: Recent Navajo
Description: Collapsed cairn consisting of a pile of cobbles measuring 3 by 3 meters on north side of mesa.

IF No. 5:

Location: NW, NW, NE Section 8, T29N, R17W, San Juan County, New Mexico (Figure 2).
UTM Location: Zone 12, E 709416/N 4069239
Map Reference: Sulphur Spring, N. Mex. 1966/1979
Cultural/Temporal
Affiliation: Recent Navajo
Description: Small cobble pile on northern edge of mesa measuring 1 by 1 meters and 30 cm high.

IF No. 6:

Location: SE, SE, SW Section 5, T29N, R17W, San Juan County, New Mexico (Figure 2).
UTM Location: Zone 12, E 709290/N 4069477
Map Reference: Sulphur Spring, N. Mex. 19866/1979
Cultural/Temporal
Affiliation: Recent Navajo
Description: Two collapsed cairns on north edge of mesa located two meters apart. Cairns measure 2 by 1 meters and are less than 30 cm high.

IF No. 7:

Location: SW, NE, SE Section 6, T29N, R17W, San Juan County, New Mexico (Figure 2).
UTM Location: Zone 12, E 708285/N 4070064
Map Reference: Shiprock, N. Mex. 1983
Cultural/Temporal
Affiliation: Recent Navajo
Description: Collapsed cairn or cobble pile on southern edge of mesa measuring 1 by 1 meter and 50cm high.

References

Hoagland, Steven R.

- 1980 Archaeological Clearance Investigation of Surfacing Pit 78-15-S Extension for NMSHD Project F-031-1(23), US 666, 7.2 miles south of the San Juan River Bridge-North. Letter report, Museum of New Mexico, Santa Fe.

Powers, Margaret A.

- 1983 An Archaeological Survey of the Shiprock Uranium Tailings Project Area, San Juan County, New Mexico. San Juan County Archaeological Research Center and Library, Division of Conservation Archaeology, Contributions to Anthropology Series, No. 727, Bloomfield.

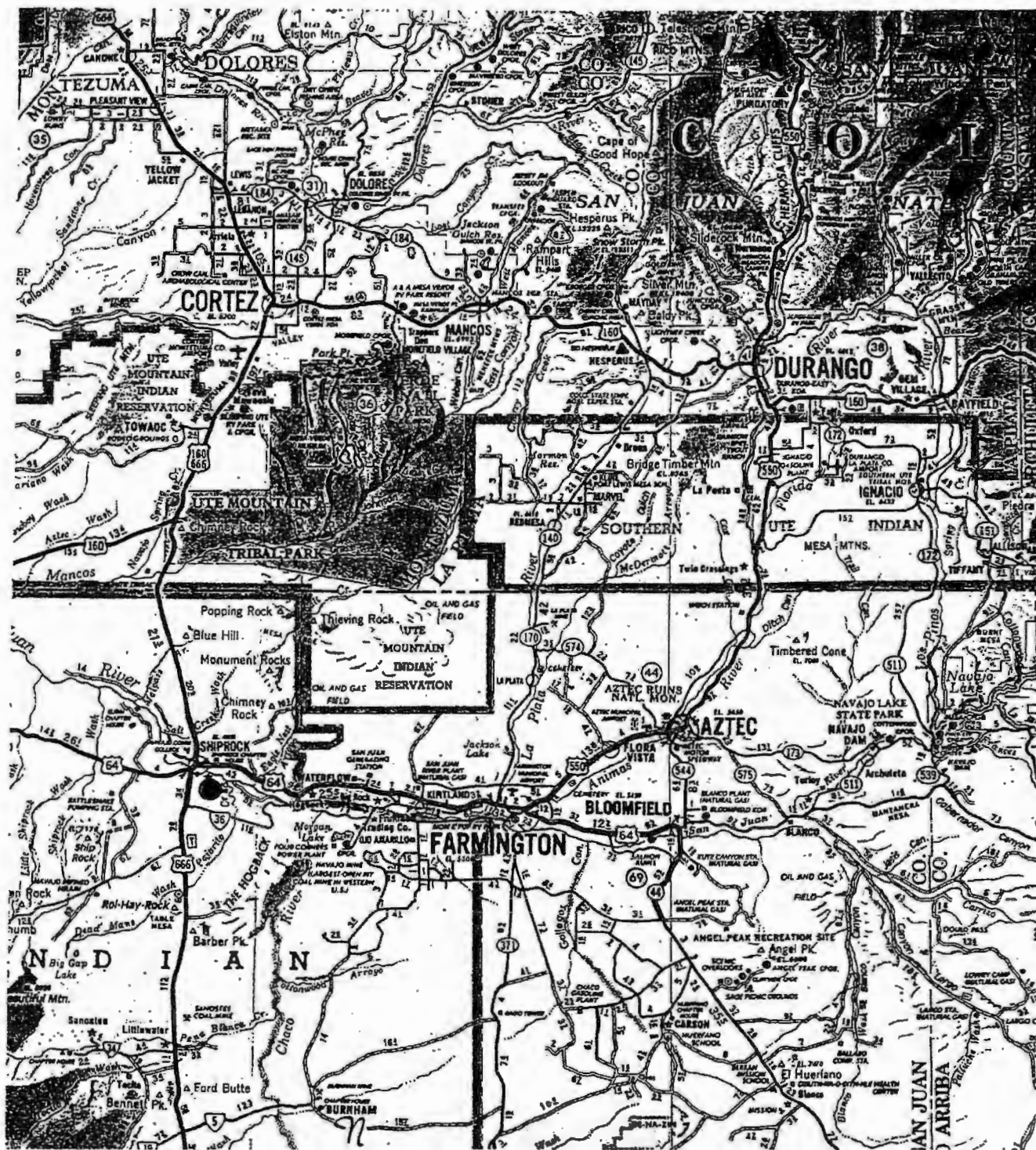


Figure 1. Project location map, northwestern New Mexico.

SHIPROCK, N.MEX.

SW/4 CHIMNEY ROCK 15' QUADRANGLE
N3645-W10837.5/7.5

1983

NEW MEXICO

SULPHUR SPRING, N. MEX.

N3637.5-W10837.5/7.5

1966

PHOTOREVISED 1979

QUADRANGLE LOCATION

32

Well
4521

MC

Chaco

4

existing haul road

S-Hill Gravel Pit

5114

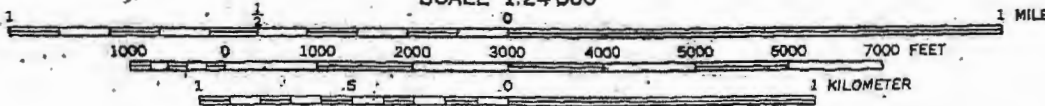
PIPELINE

5100

5050

SCALE 1:24 000

NORTH



CONTOUR INTERVAL 20 FEET
DOTTED LINES REPRESENT 10-FOOT CONTOURS
NATIONAL GEODETIC VERTICAL DATUM OF 1929

Figure 2. Location map, S-Hill Gravel Pit with survey parcel outlined in black. Numbers indicate isolated finds and the square is an existing homesite lease. Hatched area is the previously utilized portion of the proposed pit.

S-Hill Gravel Pit



Figure 3. Portion of survey parcel, looking east along south side of mesa. Vehicle located at east edge of mesa.



Figure 4. Isolated find No.1, cobble cairn at east edge of mesa.

STATEMENT OF PURPOSE

NECA's S-HILL GRAVEL PIT

Navajo Engineering and Construction Authority (NECA) is applying for a Sand and Gravel lease to operate a gravel pit on the "S-Hill." The term of the Sand and Gravel lease will be for a period of 5 years.

The proposed gravel pit is located on the south side of the San Juan River, between Many Devils Wash and the Chaco River, on what is known locally as the "S-Hill." S-Hill is located in sections 5,6 and 8, township 29 north, range 17 west. The location is on top of a mesa which has been partially mined in the past. Access to the parcel will be on an existing graded gravel road (N5072). This property has sparse vegetation. Upon completion, the site, including areas previously mined, will be reclaimed and reseeded with a native seed mix.

There are no active or inactive oil or gas wells within the proposed lease boundaries. The northern boundary of the proposed lease area is 2600 feet horizontally from the San Juan River at the closest point.

S-Hill is an alluvial terrace with sparse vegetation, approximately 116.94 acres in size and lies within the Tse Daa Kaan Chapter management area, in San Juan County, New Mexico.

Because of the sparse vegetation on the site, the impacts to grazing will be minimal. NECA's reclamation and reseeded of the land upon completion will result in equal or better vegetation than what presently exists.

An active homesite is contained within the sand and gravel lease area in an area that was previously mined. NECA will take measures to allow the occupants of the homesite unlimited, safe access to their property and the area immediately surrounding it. NECA will ensure that the occupants of the homesite are not unreasonably impacted by NECA's operations by maximizing dust and sound control measures.

Access to areas being actively mined will be limited by fencing to prevent unauthorized access by people and livestock to areas where mining, aggregate processing and stockpiling are taking place.

Temporary erosion controls will be installed and maintained in accordance with the Stormwater Pollution Prevention Plan for the site. A stormwater permit will be obtained from the USEPA for the site. Stripping and stockpiling of the topsoil will be performed as needed before crushing operations begin, when the need for gravel is determined. It is expected that aggregate crushing, dispensation, and stockpiling will begin when NECA receives an order for materials, most likely when there is a sizeable road project in the area. We expect that aggregate crushing, processing, and stockpiling operations will be somewhat intermittent over a 25-year term, subject to renewal every 5-years of the mining lease, as sales of aggregates and projects in the area require. We also expect that hauling of aggregates from the location will be intermittent, governed by sales. In general, we expect that hours of operation as needed, Monday through Friday, with the normal shift being 8-hours per day.

From visual observations at the location and the depth of the sand and gravel layers from the previously mined area, we estimate that there could be as much as one million tons of recoverable sand and gravel on the site. We expect the depth to vary as we move across the site. The sand and gravel on site will be mined out subject to the demand for sand gravel products in the area.

During mining and aggregate production activities, dust control will be provided by spray bars on processing equipment and water trucks for excavation operations, stockpile and traffic areas within the lease area. When hauling occurs, the access roads on which the trucks travel will be watered as needed to control dust. Water for dust control will come from the San Juan River, a source that will be permitted by the Navajo Nation Department of Water Resources. NECA will comply with air quality requirements of the Navajo Nation during all operations of the S-Hill gravel pit.

Turning east from US 491 at mile post 90, access to the gravel pit will be on an existing graded gravel road. After traveling 2.5 miles, route N5072 would bisect the parcel before it continues on to area residences. Signs will be posted on the existing gravel road and US 491 warning of truck traffic when hauling is taking place. The existing gravel access road will be graded and maintained when the gravel pit is operating. Truckers will be instructed to be considerate of local traffic.

Solid waste will be placed in dumpsters to be disposed of at a licensed landfill by a qualified waste hauler. No hazardous materials will be used on the site.

At times, fuel and petroleum products may be stored on site. Waste oil will not be stored on site. Fuel and petroleum product storage will be contained within an area surrounded by an earthen berm. The enclosed area and berm will be covered with an impermeable liner to prevent contamination of the soil with the petroleum products. The enclosed area will be sufficient in size to contain at least twice the contents of the largest tank or container in containment. A standard spill kit containing absorbent materials, empty containers, and a shovel will be maintained at the site. Spills of petroleum products will be handled according to NECA's standard policies regarding cleanup and disposal of contaminated soils, which require that contaminated soils be removed and transported to a licensed disposal facility, Envirotech of Farmington.

Upon completion of mining and removal of aggregates from the area, NECA will reclaim and reseed the site with native vegetation. Reclamation will be in accordance with the NECA's reclamation plan for the S-Hill gravel pit, which will be reviewed and approved by the Navajo Nation EPA. Prior to topsoil replacement and seeding, the disturbed areas will be graded to minimize erosion, with no slopes steeper than 4 to 1. Drainage from the terrace flows naturally towards Many Devils Wash, the Chaco River and the San Juan River and that natural Drainage will be maintained. Since the existing access road provides access to area residents, it will remain after reclamation.

MSGP Stormwater Pollution Prevention

Plan for:

TSE DA KAAAN, S-HILL GRAVEL PIT

SHIPROCK, NEW MEXICO 87420

SWPPP Contact(s):

NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY

CHRISTINE PADILLA / LEE B.

ROY P.O. BOX 969

SHIPROCK, NEW MEXICO, 87420

PHONE: 505-368-5151

FAX: 505-368-3078

SWPPP Preparation Date:

09/05/2017

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SECTION 1: FACILITY DESCRIPTION AND CONTACT INFORMATION.

1.1 Facility Information.

Name of Facility: **S-HILL Gravel Pit**

Street: 2.5 miles east of NM 491 on NR 5072/NR 7052.

City: Shiprock

State: NM

ZIP Code: 87420

County: San Juan

NPDES ID: N/A

Primary Industrial Activity SIC code: **1442**

Sector and Subsector: **J1**

Latitude/Longitude

Latitude:

36.7501° N (decimal degrees)

Longitude:

108.6589° W (decimal degrees)

Method for determining latitude/longitude (check one):

☐ USGS topographic map

☒ Other (please specify): Google Earth

Horizontal Reference Datum (check one):

☒ NAD 27

☐ NAD 83

☐ WGS 84

Is the facility located in Indian country?

☒ Yes

☐ No If yes, name of Reservation, or if not part of a Reservation, indicate "not applicable.": Navajo

Are you considered a "federal operator" of the facility?

Federal Operator – an entity that meets the definition of "operator" in this permit and is either any department, agency or instrumentality of the executive, legislative and judicial branches of the Federal government of the United States, or another entity, such as a private contractor, operating for any such department, agency, or instrumentality.

☐ Yes

☒ No

Estimated area of industrial activity at site exposed to stormwater: **116.94 acres**

Discharge Information

Does this facility discharge stormwater into a municipal separate storm sewer system (MS4)? ☐ Yes ☒ No

Name(s) of surface water(s) that receive stormwater from your facility: Chaco Wash, Many Devils Wash

Does this facility discharge industrial stormwater directly into any segment of an "impaired water" (see definition in 2015 MSGP, Appendix A)? ☐ Yes ☒ No

Does this facility discharge industrial stormwater into a receiving water designated as a Tier 2, Tier 2.5 or

Tier 3 water (see definitions in 2015 MSGP, Appendix A)? ☐ Yes ☒ No

Are any of your stormwater discharges subject to effluent limitation guidelines (ELGs) (2015 MSGP Table 1-1)? ☐ Yes ☒ No

1.2 Contact Information/Responsible Parties.

Facility Operator(s):

Name: Christine Padilla, Brett Grubbs

Address: P.O. Box 969

City, State, Zip Code: Shiprock, New Mexico 87420

Telephone Number: 505-368-5151

Email address: Christine@navajo.net : Brett@navajo.net

Fax number: 5053683078

Facility Owner / Contractor - Crusher Plant

Name: Navajo Engineering and Construction

Authority Address: P.O. Box 969, #1 Uranium Blvd.

City, State, Zip Code: Shiprock, New Mexico 87420

Telephone Number: 505-368-5151

Email address: www.navajo.net

SWPPP Contact(s):

SWPPP Contact Name (Primary): Lee B. Roy

Telephone number: 5053683025 / 9282051180

Email address: Lee@navajo.net

Fax number: 5053683075

SWPPP Contact Name (Backup): Christine Padilla

Telephone number: 5053683057

Email address: Christine@navajo.net

Fax number: 5053683078

1.3 Stormwater Pollution Prevention Team.

Staff Names	Individual Responsibilities
Ammerson Barber Project Coordinator	An overview of what is in the SWPPP.
Christine Padilla Superintendent / Crushing Manager	Responsible for the storage and handling of chemicals and materials that could become contaminants in stormwater discharges and conduct inspections. Also on ordering items for Crusher facilities.
Brett Grubbs Manager of Engineering	Responsible for the design.
Lee B. Roy NECA Environmental Field Officer, SPCC	<p>Spill response procedures, good housekeeping, maintenance requirements, and material management practices;</p> <p>The location of all controls on the site required by this permit, and how they are to be maintained Routine facility inspections and Quarterly visual assessment of stormwater discharges.</p> <p>For the industrial activities identified in a list the potential pollutants or pollutant constituents (e.g., motor oil, fuel, battery acid, and cleaning solvents).</p> <p>Industrial materials, residue or trash that may have or could come into contact with stormwater Leaks or spills from industrial equipment, drums, tanks and other containers.</p> <p>Offsite tracking of industrial or waste materials, or sediment where vehicles enter or exit site. Control measures needing replacement, maintenance or repair.</p> <p>Conduct inspections.</p>

James Redhorse NECA CPESC Environmental Compliance Manager	The proper procedures to follow with respect to the permit's pollution prevention requirements, NPDES and MSGP. Also inspect at least quarterly (i.e. once each calendar quarter), or in some instances more frequently (e.g. monthly)
---	---

1.4 Site Description.

Temporary erosion controls will be installed and maintained in accordance with the stormwater pollution prevention plan for the site. A stormwater permit will be obtained from the USEPA for the site. Stripping and stockpiling of the topsoil will be performed as needed before crushing operations begin, when the need for gravel is determined. It is expected that aggregate crushing, processing, and stockpiling will begin when NECA receives an order for materials, most likely when there are sizeable road projects in the area.

1.4 Site Description.

During mining and aggregate production activities, dust control will be provided by spray bars on processing equipment and water trucks for excavation operations, stockpile and traffic areas within the lease area. When hauling occurs, the access roads on which the trucks travel will be watered as need to control dust. Water for dust control will come from the San Juan River, a source that will be permitted by the Navajo Nation Department of Water Resources.

During mining and aggregate production activities, dust control will be provided by spray bars on processing equipment and water trucks for excavation operations, stockpile and traffic areas within the lease area. When hauling occurs, the access roads on which the trucks travel will be watered as need to control dust. Water for dust control will come from the San Juan River, a source that will be permitted by the Navajo Nation Department of Water Resources.

1.5 General Location Map.

See Attachment A.

1.6 Site Map.

See Attachment B.

SECTION 2: POTENTIAL POLLUTANT SOURCES.

2.1 Potential Pollutants Associated with Industrial Activity.

Industrial Activity	Associated Pollutants
----------------------------	------------------------------

Sand and Gravel

Sediment and air quality from stack emissions:

Rainwater that falls in and around mining operations can become contaminated with sediments, oil, grease and other materials. Runoff from gravel piles may also be caustic. If not properly managed, this contaminated water can harm the environment, pollute creeks and lakes, and even contaminate drinking water.

Keep used oil separate from other wastes. • Have separate storage containers for antifreeze, solvents or other fluids that could accidentally be mixed with used oil. • Use large drum funnels or fill tubes when filling used oil drums. Store funnels on a drip pan to collect dripping oil. • Clean spills on a floor with a rag or mop that can be wrung-out and reused. A biodegradable soap and water solution may be used to clean up oil sheens.

Label or mark storage containers with the words "Used Oil" and keep them in good condition. • Inspect storage areas regularly. Fix leaks immediately or move the oil to another container. • If containers are exposed to rain, keep them closed except when adding or removing used oil

2.2 Spills and Leaks.**Areas of Site Where Potential Spills/Leaks Could Occur**

Location	Discharge Points

Description of Past Spills/Leaks

Date	Description	Discharge Points

2.3 Unauthorized Non-stormwater Discharges Documentation.

None at this time

2.4 Salt Storage.

None at Site

2.5 Sampling Data Summary.

Until production starts.

SECTION 3: STORMWATER CONTROL MEASURES.

3.1 Non-numeric Technology-based Effluent Limits (BPT/BAT/BCT)

None at this time

3.1.1 Minimize Exposure.

Implementing the use of silt fence and wattles as needed to conditions.

3.1.2 Good Housekeeping.

Good housekeeping entails keeping the site clean and reducing water and air-borne pollutants. Best management practices include effective control of solid waste, sanitary waste, petroleum, hazardous waste and material storage.

Material delivery, handling and storage can generate significant pollution. The site superintendent needs to ensure best management practices are followed to minimize or eliminate the discharge of material pollutants to the storm drain system or watercourse.

3.1.2 Good Housekeeping (cont'd).

Fuels, oils and other petroleum products (e.g., forming oils and compounds; fertilizers; pesticides) or any other hazardous or toxic compounds should be stored under cover and not allowed to come in contact with stormwater on the site. On-site storage should meet all local, state and federal secondary containment rules and regulations. Additionally, local ordinances may require fencing and security measures for storage of these products. Do not store hazardous chemicals, drums, or bagged materials directly on the ground. Place these items on a pallet and under cover in secondary containment. Do not store incompatible materials, such as chlorine and ammonia in the same temporary containment facility. • Solid waste management procedures and practices are designed to minimize or eliminate the discharge of pollutants to the drainage system or to watercourses as a result of the creation, stockpiling or removal of construction site wastes. • Construction projects should be designed and implemented to minimize the amount of wasted materials. • Materials should be purchased with minimal packaging. • Solid waste management procedures and practices must be implemented on all construction projects that generate solid wastes. Solid wastes that are commonly found on construction and demolition sites include but are not limited to: • Construction wastes (e.g., lumber, wood sheeting products, steel and metal scraps, sawdust, pipe and electrical cuttings, non-hazardous equipment parts, polystyrene (Styrofoam), wall board, miscellaneous types of insulation, roofing materials, empty containers and other materials used to transport and package construction materials). • Landscaping vegetation waste and landscape plant containers. • Packaging materials. • Litter, including food containers, beverage cans, coffee cups, paper bags, plastic wrappers and smoking materials, including litter generated by the public.

3.1.3 Maintenance.

Fuel and petroleum products may be stored on site. Waste oil will not be stored on site. Fuel and petroleum products storage will be contained within an area surrounded by an earthen berm. The enclosed area and berm will be covered with an impermeable liner to prevent contamination of the soil with the petroleum products. The enclosed area will be sufficient in size to contain at least twice the contents of the largest tank or container in containment. A standard spill kit containing absorbent materials, empty containers, and a shovel will be maintained at the site. Spills of petroleum products will be handled according to NECA's standard policies regarding cleanup and disposal of contaminated soils, which require that contaminated soils be removed and transported to a licensed disposal facility, Envirotech of Farmington. Spill kit will be available on site.

3.1.4 Spill Prevention and Response.

See Attached Copy of SPCC Plan

3.1.5 Erosion and Sediment Controls.

Temporary erosion controls will be installed and maintained in accordance with the stormwater pollution prevention plan for the site. BMP wattles will be used as site conditions permits.

3.1.6 Management of Runoff.

Slit fence and wattles usage at the time of clearing and grubbing and continued use for the life of the pit usage.

3.1.8 Dust Generation and Vehicle Tracking of Industrial Materials.

During mining and aggregate production activities, dust control will be provided by spray bars on processing equipment and water trucks for excavation operations, stockpile and traffic areas within the lease area. When hauling occurs, the access roads on which the trucks travel will be watered as need to control dust. Water for dust control will be provided, the source that will be permitted by the Navajo Nation Department of Water Resources for dust control. Usage of a vehicle tracking pad or equivalent for equipment hauling to and from the site will be located at (36.7506 N, 108.6585 W) and (36.7503 N, 108.6579 W) on N7052.

3.2 Sector-Specific Non-Numeric Effluent Limits.

Slit fence and wattles usage at the time of clearing and grubbing and continued use for the life of the pit usage.

3.3 Numeric Effluent Limitations Based on Effluent Limitations Guidelines.

Regulated Activity	40 CFR Part/Subpart	Effluent Limit
Mine dewatering discharges at crushed stone, construction sand and gravel, or industrial sand mining facilities	Part 436, Subparts B, C, or D	See Part 8.J.9

3.4 Water Quality-based Effluent Limitations and Water Quality Standards.

Use of silt fence and wattles and other BMPs as needed.

SECTION 4: SCHEDULES AND PROCEDURES.

4.1 Good Housekeeping.

Construction and landscaping material waste should be recycled and reused as much as possible.

- Landscaping vegetation should be shredded and used as mulch when possible.
- Materials from demolished structures should be recovered for reuse or recycling when possible. Note: Any separating of recoverable materials for reuse or recycling must occur on the property of origin. Solid waste cannot be removed to another location for sorting or separating without a permit from the Navajo Nation Department of Natural Resources and NNEPA Solid Waste Management Program.
- Salvage or recycle useful vegetation debris, packaging or surplus building materials when practical. For example, trees and shrubs from land clearing can be converted into wood chips, and then used as mulch on graded areas. Recycle wood pallets, cardboard boxes and construction scraps.
- Provide dumpsters of sufficient size and number to contain the solid waste generated by the project. Dumpsters should be covered at all times and be properly serviced.
- Provide trash receptacles in the permittee's yard, field trailer areas and at locations where workers congregate for lunch and break periods.
- Locate solid waste storage areas at least 50 feet from drainage facilities and watercourses and should not be located in areas prone to flooding or ponding of water.
- Collect construction debris and litter from work areas within the construction limits of the project site on a daily basis and place in watertight dumpsters, regardless of whether the litter was generated by the permittee, the public or others.
- Empty dumpsters weekly from the site. Dispose of the contents in accordance with Navajo Nation solid waste regulations. While demolition and construction debris typically do not emit a lot of odors, food waste from workers can cause an odor problem and attract public complaints.
- Properly dispose of the waste at a permitted solid waste transfer station or a permitted sanitary or demolition landfill.
- Do not place collected litter and debris in or next to drain inlets, stormwater drainage systems or watercourses.
- Prohibit littering on the project site and perform periodic litter removal from the area to reduce public nuisance concerns from airborne and waterborne litter.
- To prevent clogging of the storm drainage system, litter and debris removal from drainage grates, trash racks, and ditch lines should be a priority.
- Remove construction debris and waste from the site as necessary to maintain a safe environment and to avoid public nuisance issues related to airborne and waterborne trash or vectors.

4.2 Maintenance.

As needed in the
field

4.3 Spill Prevention and Response Procedures.

See Attachment H

4.4 Erosion and Sediment Control.

Per 2015 MSGP Part 5.2.5.1: Polymers and/or other chemical treatments will not to be used.

4.5 Employee Training.

Name	Date Training Completed

4.6 Inspections and Assessments.

Date Grading Activity Initiated	Description of Activity	Description of Stabilization Measure and Location	Date Grading Activity Ceased (Indicate Temporary or Permanent)	Date When Stabilization Measures Initiated

4.6.1 Routine Facility Inspections.

The NECA is responsible for the establishment of individual aggregate gradations and proportions for mix designs (within the limits established by the contract documents), which are then submitted to the Department for approval prior to use. The NECA is responsible for performance of all process control activities for all aggregate and aggregate combinations during production, handling, stockpiling, blending, mixing and placing operations.

The NECA performs or causes to be performed all inspections and tests necessary to provide and maintain an adequate process control system. An adequate process control system is one that provides that all aggregates or aggregate combinations submitted for acceptance will conform to contract requirements whether manufactured or processed by the Contractor, or procured from sub-contractors or vendors.

Class I and Class II Aggregates are composed of crushed limestone or dolomite. Additional testing is performed on concrete produced with Class I and Class II Aggregates to determine if acceptable levels of concrete freeze/thaw resistance are provided. The freeze/thaw testing is intended to reduce the risk of the occurrence of premature "D-Cracking". Class I and Class II Aggregates are intended for use in "on-grade" concrete slabs such as Portland cement concrete pavement. Prequalification to produce Class I and Class II Aggregate is granted to a quarry on a bed-by-bed basis for each distinct bed in the quarry face. "Official Quality" sampling and testing is also required. The acceptance of Class I and Class II Aggregate is contingent upon production being from approved beds and in compliance with "Official Quality" requirements.

Design, construct and maintain detention basins to capture sediment. • Use interceptor dikes, swales or berms to direct stormwater away from areas prone to erosion or to convey runoff to the detention basin. • Inspect and maintain the erosion prevention and sediment control structures to ensure their effectiveness. • Revegetate disturbed areas as soon as possible. • Prevent spills of oil, grease and gasoline in vehicle and equipment maintenance activities. • Maintain appropriate spill containment equipment and train employees how to use it. • Use mulches, geotextiles and other measures to prevent erosion.

Routine Facility Inspections

For routine facility inspections to be performed at your site, this SWPPP must include a description of the following:

1. Person(s) or positions of person(s) responsible for inspection.

SWPPP Contact Name (Primary): Lee B. Roy

Telephone number: 5053683025 /
9282051180

Email address: Lee@navajo.net

Fax number: 5053683075

SWPPP Contact Name (Backup): Christine Padilla

Telephone number: 5053683057

Email address:

Christine@navajo.net Fax

number: 5053683078

4.6.2 Quarterly Visual Assessment of Stormwater Discharges.

For quarterly visual assessments to be performed at your site, this SWPPP must include a description of the following:

1. Person(s) or positions of person(s) responsible for assessments.

SWPPP Contact Name (Primary): Lee B. Roy

Telephone number: 5053683025 /
9282051180

Email address: Lee@navajo.net

Fax number: 5053683075

SWPPP Contact Name (Backup): Christine Padilla

Telephone number: 5053683057

Email address: Christine@navajo.net

Fax number: 5053683078

4.6.3 Exception to Routine Facility Inspections and Quarterly Visual Assessments for Inactive and Unstaffed Sites.

☒ This site is inactive and unstaffed, and has no industrial materials or activities exposed to stormwater, in accordance with the substantive requirements in 40 CFR 122.26(g) (4) (iii) as signed and certified in Section 7 below.

4.7 Monitoring.

Check the following monitoring activities applicable to your facility:

☐ Quarterly benchmark monitoring

- ☐ Effluent limitations guidelines monitoring
- ☒ **State- or tribal-specific monitoring**
- ☐ Impaired waters monitoring
- ☐ Other monitoring required by EPA

For each type of monitoring checked above, this SWPPP must include the following information: **State- or tribal-specific monitoring**

Inactive and unstaffed sites exception (if applicable)

☒ **This site is inactive and unstaffed, and has no industrial materials or activities exposed to stormwater, in accordance with the substantive requirements in 40 CFR 122.26(g) (4) (iii) as signed and certified in Section 7 below. Substantially identical discharge point (outfall) exception**

- Location of each of the substantially identical discharge points: **S-Hill Shiprock, NM Gravel Pit**
- List the general industrial activities conducted in the drainage area of each discharge point: **grading and ground disturbance.**
- List the control measures implemented in the drainage area of each discharge point: **wattles or silt fence** ☐ List the exposed materials located in the drainage area of each discharge point that are likely to be significant contributors of pollutants to stormwater discharges: **by-products of gravel production.**
- An estimate of the runoff coefficient of the drainage areas (low=under 40%; medium=40 to 65%; high =above 65%): **low less than 40%.**
- Why the discharge points are expected to discharge substantially identical effluents: **ground disturbance from gravel production.**

SECTION 5: DOCUMENTATION TO SUPPORT ELIGIBILITY CONSIDERATIONS UNDER OTHER FEDERAL LAWS.

5.1 Endangered Species.

See Attachment D

5.2 Historic Properties.

See Attachment E

SECTION 6: CORRECTIVE ACTIONS.

See Attachment F

SECTION 7: SWPPP CERTIFICATION.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name: Brett Grubbs

Title: ~~Manager of Engineering~~

GENERAL MANAGER

Signature: Brett Grubbs

Date: 3-18-21

SECTION 8: SWPPP MODIFICATIONS.

SWPPP ATTACHMENTS

Attach the following documentation to the SWPPP:

Attachment A – General Location Map

Attachment B – Site Map

Attachment C – 2015 MSGP

Attachment D – Endangered Species.

Attachment E – Historic Properties.

***Attachment F – Grading and Stabilization
Activities Log***

Attachment G – Stormwater Training Log

Attachment H – SPCC

MINING PLAN –

NECA's S-HILL GRAVEL PIT

Navajo Engineering and Construction Authority (NECA) has applied for a Sand and Gravel Lease lease for a period of 25 years, subject to renewal every five years to produce sand and gravel at a new gravel pit, located within the Tse Daa K'aan Chapter in San Juan County, New Mexico. The gravel pit is situated on an alluvial mesa near the confluence of the San Juan River, Chaco River, and Many Devils Wash. Access to the site is on an existing graded gravel road (N5072) that bisects the mesa. Around 1989, the proposed mining site was partially mined for sand and gravel. The previously mined area will accommodate stockpiling, processing of aggregates, equipment and material storage, intermittent production of asphalt and concrete utilizing aggregates from the site and other activities related to production of materials for construction projects. Aggregates will not be washed on site. Water for dust control will come from the San Juan River, a permitted source.

The proposed mining lease area is approximately 116.94 acres in size and contains sparse vegetation. The gravel pit site is composed of soil that is cobbly sandy loam and allowing runoff to course in all directions; which, ultimately drains into the San Juan River directly or through Many Devils Wash or Chaco River.

Personnel working on the site will be required to take part in a 24 hour MSHA training session or an 8 hour refresher course before beginning work, depending on whether they have been through MSHA training previously. NECA will provide MSHA training for their personnel.

The property will be fenced for safety and security to prevent unauthorized access by people and livestock to areas where mining, aggregate processing and stockpiling are taking place. All fencing, with the exception of those existing, will be removed after reclamation activities are complete.

Temporary erosion controls will be installed and maintained in accordance with our Stormwater Pollution Prevention Plan. Topsoil stripping and stockpiling of the unmined area will be performed as needed, before crushing operations begin, when the need for additional gravel is determined. It is expected that aggregate crushing, processing, and stockpiling will begin upon receipt of a purchase order for materials, or when there is a sizeable road project in the area. We expect that aggregate crushing, processing, and stockpiling operations will be somewhat intermittent over the 5 year term of the mining lease, as sales of aggregates and projects require. We also expect that hauling of aggregates from the location will be intermittent, governed by

sales. In general, we expect that hours of operation as needed, Monday through Friday, with the normal shift being 8 hours per day.

The mining lease is separated into 3 parcels. Parcel 1, which is the stage 1 mining area, is to be used for gravel mining and extraction. Parcel 2, is to be used for access to parcel 1, and remediation only. No mining or extraction will take place in Parcel 2. Parcel 2 is the area that was previously mined, but not reclaimed, so NECA will reclaim this area when they are performing reclamation on other areas. Reclamation of parcel 2 will be limited to leveling and grading of waste piles and reseeding. Reclamation of parcel 2 will be coordinated with the homesite lease occupant, and controlled by their washes for that area, which surrounds their homesite lease. Parcel 3, which is the stage 2 mining area, is to be used for gravel mining and extraction. The Sequence of Mining drawing shows the location of the parcels.

From visual observations at the location and the depth of the sand and gravel layers from previously mined areas, we estimate that there could be as much as one million tons of recoverable sand and gravel remaining on the site. We expect the depth to vary as we move across the site. Excavation will be undertaken in two stages. The first stage will resume where the previous activity concluded and mine to the northwestern end of the mesa. The second stage, starting south of N5072, will move in a south-easterly direction to the property limit. It is our intention to maintain an earthen berm along the mesa edge for safety purposes and as part of our storm water plan. This earthen berm will be smoothed into the final grade upon completion. The final grade of the area yet to be mined upon completion will be the bottom of the existing alluvial layer, with minor grading to minimize erosion. This final grade cannot be determined until the alluvial material is removed. No slopes will be steeper than 4 to 1. We doubt that the remaining sand gravel will be mined out over the 5 year term of the mining lease. However, this is subject to the demand for sand and gravel products in the area. Although it is not possible to provide an exact list of the equipment that will be used in the gravel pit operation during the 5-year term of the lease, we will describe the size and type of equipment that we expect to use. The crushing spread will most likely consist of the following equipment:

- Cat 980 or equivalent size loader
- Primary crusher
- Conveyor line to secondary crusher
- Secondary crusher
- Conveyor line to screen
- Vibrating screening plant
- Conveyors to radial stackers (as many as 4 conveyor lines) Radial stackers at product stockpiles (as many as 4)
- Generator trailer
- Control van
- Water tank for dust control system

4000 gallon water truck

Removal of topsoil and overburden will most likely include the following equipment:

2 each Cat 623 scrapers
5000 gallon water wagon

Gravel hauling will most likely include the following equipment:

Cat 966, 950, or 930 loader
Truck tractor and belly-dump or end-dump trailer units as required
4000 gallon water truck for dust control
Cat 14G or 140G blade for road maintenance

We are unable to accurately predict what the annual tonnage to be mined will be. Sales of aggregates will be dependent upon the number of road projects in the area. If the average BIA road project requires approximately 80,000 tons of aggregates, and BIA has an average-sized project in the area about every 5 years, that would be an average of 16,000 tons per year. What would actually happen is that one year there would be 80,000 tons of sales and for 4 years there would be little or nothing sold.

At NECA's Shiprock Gravel Pit, we last produced aggregates in 2007, and produced around 247,000 tons. Some of that material was used on BIA road projects on N5000 and N13 and on NMDOT's US 491, but approximately 43,000 tons of that material still remains in stockpiles.

Aggregates would not be produced until there is a project lined up, and those are few and far between. Based on NECA's past experience, we know that it will take 20 years or more for the recoverable aggregates on the S-hill to be depleted, so NECA will be renewing the permit every 5 years for the foreseeable future.

All material leaving the sand and gravel lease area will be run over a scale to be weighed. Scale tickets will be tallied by NECA and monthly summaries of material removed or sold by NECA will be provided to the Navajo Nation Minerals Department along with payment for royalties.

The location of the crusher and stockpiles is flexible and will be determined by the crushing subcontractor each time that production begins, depending on mining progress across the site. An emergency evacuation plan will be developed by the crushing subcontractor for each crushing set up. The crushing spread will be located as far as possible from the homesite lease to minimize noise. The topsoil will be stockpiled in an out of the way location, just outside the area to be mined. That location will be determined by the crushing subcontractor just prior to beginning

mining of a particular area. The topsoil will be stockpiled by scrapers, so it will be a long pile somewhat wider than a scraper at the top, with side-slopes no steeper than 3 to 1.

Since we will be mining alluvial deposits on top of a mesa, blasting will not be required.

Contour maps are attached that show the existing topography and estimated final surface contours. Please keep in mind that the final contour map is based on an estimate of the depth of the gravel deposit (approximately 10'). The final contours may change based on the actual depth and gradient of the alluvial deposits, however the grade of slopes and drainage patterns will remain as stated within this mining plan. The final contour will be the bottom of the alluvial deposits. The differences between the present topography and final surface are demonstrated in the attached maps. In general, we expect the top of the mesa to be lowered by no more than 10 feet by removing the layer of alluvial material.

During mining and aggregate processing activities, dust control will be provided by spray bars on processing equipment and water trucks for excavation operations, stockpile and traffic areas within the lease area. When hauling occurs, the access roads on which the trucks travel will be watered as needed to control dust. Water for dust control will come from the San Juan River, a source permitted by the Navajo Nation Department of Water Resources. NECA will comply with air quality requirements of the Navajo Nation during all operations of the "S" Hill gravel pit.

Access to the gravel pit will be from US 491 and N5072. Route 5072 is an existing graded gravel road that enters the gravel pit from the west, a distance of approximately 2.5 miles after departing US 491. This road is a BIA road that serves a home-site east of the proposed gravel pit. Signs will be posted on N5072 and US 491 warning of truck traffic when hauling is taking place. The existing gravel access road will be graded and maintained when the gravel pit is operating. Employees and truckers will be instructed to be considerate of local traffic.

Solid waste will be placed in dumpsters to be disposed of at a licensed landfill by a qualified waste hauler. No hazardous materials will be used on the site.

At times, fuel and petroleum products may be stored on site. Waste oil will not be stored on site. Fuel and petroleum product storage on site will be contained within an area surrounded by an earthen berm. The enclosed area and berm will be covered with an impermeable liner to prevent contamination of soil with petroleum products. The enclosed area will be sufficient in size to contain at least twice the contents of the largest tank or container in the containment. A standard spill kit containing absorbent materials, empty containers, and a shovel will be maintained at the site. Spills of petroleum products will be handled according to NECA's standard policies regarding cleanup and disposal of contaminated soils, which require that contaminated soils be removed and transported to a licensed disposal facility, Envirotech of Farmington.

Upon completion of mining and removal of aggregates from the area remaining to be mined, NECA will reclaim and reseed the site with native vegetation. Reclamation will be in accordance with NECA's reclamation plan for the "S" Hill Gravel Pit, which will be reviewed and approved by the Navajo Nation EPA. Prior to topsoil replacement and seeding, the disturbed areas will be graded to minimize erosion, which no slopes steeper than 4 to 1. The final grade will be the bottom of the alluvial layer. This will result in a gently rolling surface that will minimize run-off and allow for natural percolation of precipitation, which will result in improved vegetation. There will be no "impoundment" of water. The mining of this mesa top will not leave a "pit", but a gently rolling surface. The underlying material will allow the precipitation to percolate into the soil, rather than run off. If standing water is observed after completion of reclamation, those areas will be regraded to eliminate the standing water. Upon completion of reclamation, the area will be suitable for limited livestock grazing, as it was in the past.

Drainage from the mesa flows naturally to Many Devils Wash or Chaco River and that natural drainage will be maintained. The existing access road leading into the gravel pit will remain after reclamation, since it is a BIA route and used by nearby area residents.

A copy of a site map is attached.

RECLAMATION PLAN

NECA's S-HILL GRAVEL PIT

The proposed gravel pit is situated on an alluvial terrace with sparse vegetation that slopes away from the San6 Juan River, yet, Chaco River, Many Devils wash, and, eventually, the San Juan River receives the drainage. The gravel pit site is approximately 116.94-acres in size. New roads are not required to access the property.

The areas to be mined will be stripped of six inches of topsoil, which will be stockpiled along the perimeter of the property closest to the area to be mined and replace upon completion of mining. The topsoil will be stockpiled in an out of the way location, just outside the area to be mined. That location will be determined by the crushing subcontractor just prior to beginning mining of a particular area. The topsoil will be stockpiled by scrapers, so it will be a long pile somewhat wider than a scraper at the top, with sideslopes no steeper than 4 to 1. The topsoil will be sprayed with water using water trucks equipped with spray bars and compacted by construction equipment traffic during construction of the stockpiles to prevent erosion. Temporary erosion control measures, as outlined in the Storm Water Pollution Prevention Plan (SWPPP), will be installed on the downhill side of stockpiles to prevent movement of topsoil from the site.

Topsoil will not be removed from previously mined areas before being used for aggregate stockpiles and processing, asphalt or concrete production. Aggregates will not be washed on site.

At times, fuel and petroleum products may be stored on site. Waste oil will not be stored on site. Fuel and petroleum products stored on site will be contained within an area surrounded by an earthen berm. The enclosed area and berm will be covered with an impermeable liner to prevent contamination of soil with petroleum products. The enclosed area will be sufficient in size to contain at least twice the contents of the largest tank or container in the containment. A standard spill kit containing absorbent materials, empty containers, and a shovel will be maintained on site. Spills of petroleum products will be handled according NECA's standard policies regarding cleanup and disposal of contaminated soils, which require that contaminated soils be removed and transported to a licensed disposal facility, Envirotech of Farmington.

If an asphalt hot plant is used on site, it would be temporary. The ground surface under the rotary drum dryer and tanks containing petroleum products for the hot plant are covered with an impermeable liner to prevent contamination of the ground surface. This is detailed in the standard Spill Prevention Control and Countermeasure plan for the hot plant.

Upon completion of mining and removal of aggregates from the area remaining to be mined, the disturbed areas of the site will be graded to minimize erosion, leaving no slopes steeper than 4-to-1. Drainage from the terrace flows naturally towards Many Devils Wash, Chaco River and San Juan River and, that natural drainage will be maintained. The topsoil will be replaced in mined areas. The ground surface will be ripped to loosen areas compacted by traffic. Areas to be reclaimed will be ripped and processed to provide a surface capable of supporting vegetation. The existing access road through the gravel pit will remain since it provides the only access route to the nearby residences. The site will be disked and seeded using the specifications contained in Section 625 of FP-03, a copy of which is attached. The seed mix will be obtained from the BIA

Shiprock Agency Natural Resources, since they have the ability to tailor the seed mix to the existing plants in the area and they are located nearby. There will be no watering of the site. The seed will be allowed to

Reclamation Plan - S-Hill Gravel Pit Page 1 of 2 germinate when natural moisture is sufficient to maintain growth. The success of the revegetation will be determined by acceptance of the Navajo Nation EPA, who will perform the final certification of reclamation.

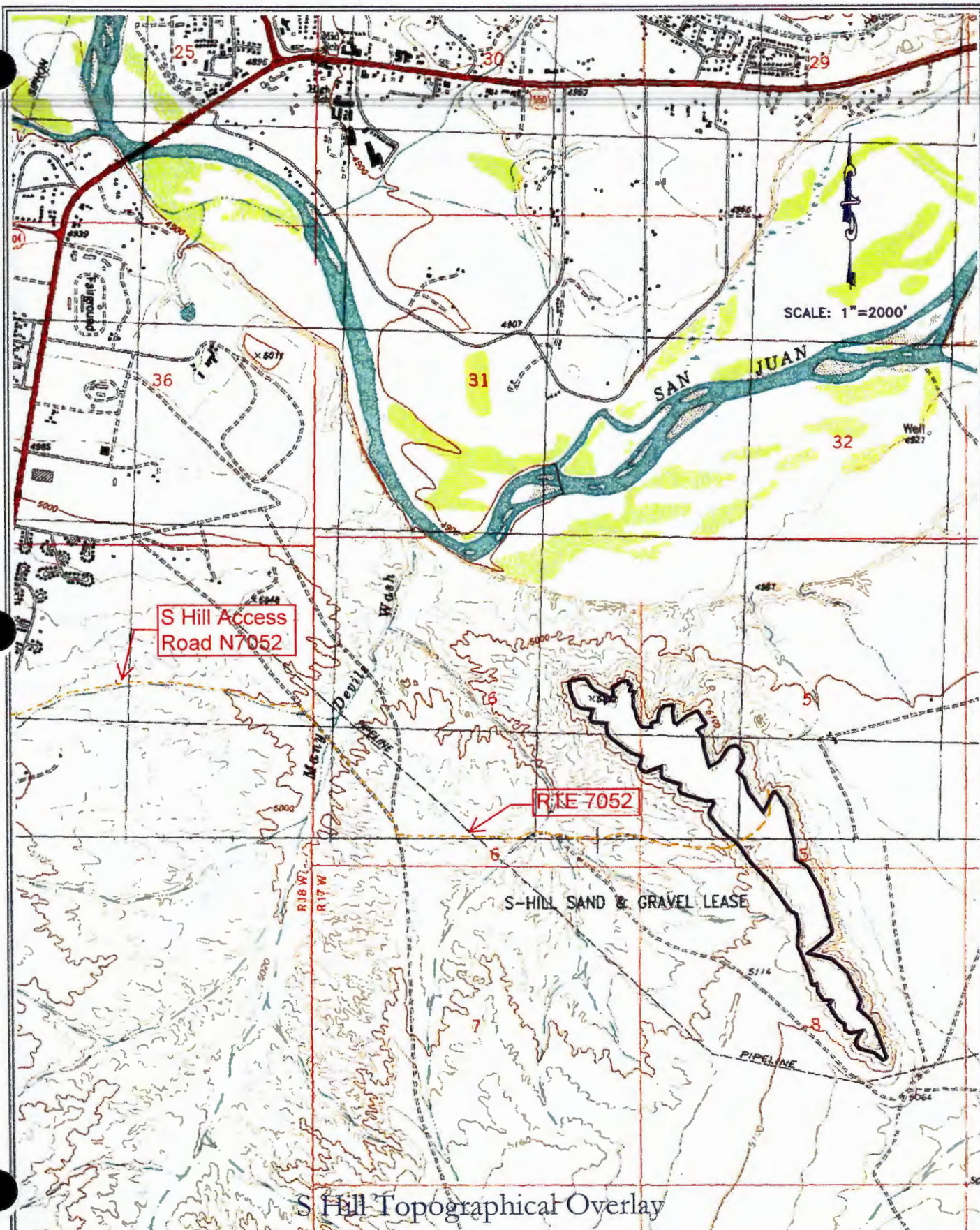
Upon completion of reclamation, the area will be suitable for limited livestock grazing, as it was in the past. In the mining plan, we stated that the final grade would be the bottom of the alluvial layer. This will result in a gently rolling surface that will minimize run-off and allow for natural percolation of precipitation, which will result in improved vegetation.

There will be no "impoundment" of water. The mining of this mesa top will not leave a "pit", but a gently rolling surface. The underlying material will allow the precipitation to percolate into the soil, rather than run off. If standing water is observed after completion of reclamation, those areas will be regraded to eliminate the standing water.

Protection of the ground surface from spills of petroleum products is covered by the Spill Prevention Control and Countermeasure Plan for the hot plant. Prevention of erosion is covered by the Storm Water Pollution Prevention Plan. Temporary erosion control measures installed under the SWPPP will be left in place until the seeding and reclamation is complete. Dust control on the site will be maintained by water trucks equipped with spray bars. The fencing, with the exception of the one on site, will be removed after reclamation activities.

The site is approximately 116.94 acres in size, and we expect to disturb most of that area. The Sand and Gravel Lease has been requested for a period of five (5) years, and extensions of the lease in the future are likely, depending on the demand for sand and gravel products, and, as a result, the length of time that it will take to mine the gravel. We expect reclamation to take place when the Sand and Gravel Lease ends or the gravel is completely extracted and removed from the site. A copy of the location map for the gravel pit is attached.

According to the standard terms and conditions that will be attached to the Navajo Nation Resources Committee Resolution, and, eventually, the Mining Lease, final certification of reclamation will be by the Navajo Nation Environmental Protection Agency.



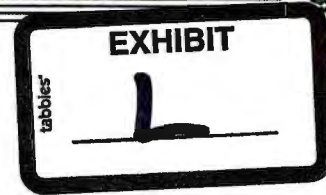
Sheet: 1 of 1	Drawn by: WC	Checked by: RE	Quadrangle Names:	NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY
Name: S HILL QUAD OVERLAY	Date: 01/21/13	Date: 01/21/13	Shiprock & Sulphur Springs	P.O. BOX 969 SHIPROCK, NEW MEXICO 87420 (505)368-5151



Resolution of the Tse Daa K'ân Community Chapter



TDK 2002-01



SUPPORTING, RECOMMENDING, AND REQUESTING THE RESOURCES AND DEVELOPMENT COMMITTEE OF THE NAVAJO NATION COUNCIL TO APPROVE THE SHIPROCK "S-HILL" SAND AND GRAVEL LEASE CONSISTING OF APPROXIMATELY 116.94 ACRES, MORE OR LESS, INCLUDING 3.5 MILES OF EXISTING ACCESS ROAD, ON THE NAVAJO TRUST LANDS TO THE NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY TO ESTABLISH, OPERATE AND MAINTAIN THE SHIPROCK "S-HILL" GRAVEL PIT, LOCATED SOUTHSIDE OF THE SAN JUAN RIVER FROM THE TSE DAA K'AAN CHAPTER, NAVAJO NATION, SAN JUAN COUNTY, NEW MEXICO.

WHEREAS;

1. The Tse Daa K'ân Community Chapter is a *Local Governance Certified Chapter* of the Navajo Nation Transportation and Community Development Committee per Resolution TDCJN-16-07 and has the authority to enact upon the Navajo Nation Local Governance Act, 26 N.N.C. subsection 102 *et. seq.*; AND
2. Enactment of the Local Governance Act allows the Tse Daa K'ân to be recognized as a local governmental authority and is delegated to have certain authorities and responsibility with respect to local matters consistent with the Navajo Nation Laws (including *custom and tradition*) and to make appropriate recommendations to the Navajo Nation, Counties, and State Governmental agencies; AND
3. The Tse Daa K'ân Community Chapter has the authority to enact upon all social and economic needs of its Community, also is delegated and authorized with the responsibility to plan, implement, and monitor all Chapter activities that benefit the Community; AND
4. The Tse Daa K'ân Community Chapter supports the application for Sand and Gravel Lease for the Navajo Engineering and Construction Authority, P.O. Box 969, Shiprock, New Mexico, 87420, to establish, operate (extract and crush source material), and maintain a gravel pit known as the "S Hill" on the South side of the San Juan River, between Many Devils' Wash and Chaco River within the Tse Daa K'ân Community Chapter vicinity, Navajo Nation, San Juan County, New Mexico; AND
5. The proposed Sand and Gravel Lease consists of approximately 116.94 acres (more or less), including 3.5 miles of Existing Access Road, on the Navajo Nation Trust Lands located in Sections 5 and 6, T29-N, R-17-E, N.M.P.M., Hogback Chapter Community, Navajo Nation, San Juan County, New Mexico. A map showing the location is hereto attached as EXHIBIT "A", and made a part hereof; AND
6. The Navajo Engineering and Construction Authority proposes to use the Sand and Gravel Leased area and the existing access road for a period of twenty-five years, subject to Lease renewal every five years. The affected Land User Grazing Permittee(s) signatures have been obtained, and is hereto attached as EXHIBIT

"B". The disturbed area, including the previously mined area, will be reclaimed and reseeded with native seed mix upon completion of the project.; AND

7. The Tse Daa K'aan Community Chapter hereby supports and recognizes this land withdrawal for community development, which may include, but is not limited to, the following purpose: housing, education, economic development, healthcare facilities, public use, or governmental use. Industrial development is not supported for this area.

NOW, THEREFORE, BE IT RESOLVED THAT:

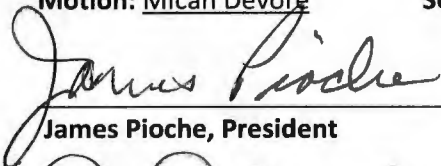
1. The Tse Daa K'aan Community Chapter hereby respectfully supports, recommends, and requests the Resources and Development Committee of the Navajo Nation Council to approve the Shiprock "S-Hill" Sand and Gravel Lease with the existing access road for the Navajo Engineering and Construction Authority to establish, operate (extract and crush source material), and maintain the Shiprock "S-Hill" gravel pit.


CERTIFICATION

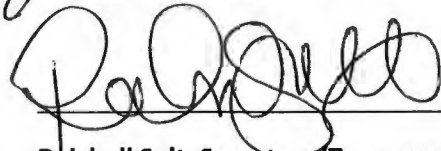
We, hereby certify that the foregoing resolution was duly considered by the Tse Daa K'aan Community Chapter at a duly called chapter meeting at Tse Daa K'aan (Navajo Nation) New Mexico, at which a quorum of chapter membership was present and the same was passed by a vote of 19 in Favor, 0 Opposed and 9 Abstained on this 13th day of February 2020.

Motion: Micah Devore

Second: Wayne Begay


James Pioche, President


Matthew Tso, Vice President


Reichell Salt, Secretary/Treasurer

NECA12-3-12

**RESOLUTION OF THE
NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY
BOARD OF DIRECTORS**

**Requesting the Resources and Development Committee of the Navajo Nation
Council to Approve a Sand and Gravel Lease for Navajo Engineering and
Construction Authority (NECA) for the S-Hill, in the Vicinity of the Tse Daa K'aan
Chapter, San Juan County, New Mexico; and to Waive the Requirement for a
Performance and Reclamation Bond**

WHEREAS:

1. The Navajo Engineering and Construction Authority (NECA) was created as a wholly owned enterprise of the Navajo Nation. 5 N.N.C., 1971, for the purpose of engaging in the general engineering and construction business for and on behalf of the Navajo Nation, and to provide employment and training opportunities for members of the Navajo Nation, 5 N.N.C., 1972(a), as amended; and
2. The NECA Board of Directors has the authority and responsibility for the management and operation of NECA, 5 N.N.C., 1972(b)(1), as amended; and
3. NECA has applied to the Navajo Nation and the Bureau of Indian Affairs for a Sand and Gravel Lease for the S-Hill, which is located on the South side of the San Juan River, East of Shiprock, within the Tse Daa K'aan Chapter; and
4. The proposed Sand and Gravel Lease is for 117.94 acres, more or less, of Navajo Nation Trust Land as described in the maps and other supporting documentation contained in the Sand and Gravel Lease application; and
5. The Tse Daa K'aan Chapter will consider a resolution supporting the Sand and Gravel Lease; and
6. The Navajo Nation has required that the Lessee provide a performance and reclamation bond to assure that reclamation requirements contained in the sand and gravel lease are carried out; and
7. The requirement to provide a performance and reclamation bond results in the Navajo Nation furnishing a bond to itself, and results in additional cost to NECA and the Navajo Nation; and
8. NECA as a Tribal Enterprise will continue to conduct business within the boundaries of the Navajo Nation in accordance with all laws and regulations, thereby assuring that reclamation of the leased area will be carried out; and

9. NECA has an excellent record of past experience with managing and reclaiming sand and gravel leases with the Navajo Nation and the Bureau of Indian Affairs; and

10. It is in the best interest of the Navajo Engineering and Construction Authority (NECA) that the Sand & Gravel Lease be issued.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Engineering and Construction Authority Board of Directors requests that the Resources and Development Committee of the Navajo Nation approve a Sand & Gravel Lease for NECA for the S-Hill, in the vicinity of the Tse Daa K'aan Chapter, San Juan County, New Mexico, subject to the terms and conditions of the Sand and Gravel Lease.

2. The Navajo Engineering and Construction Authority Board of Directors further requests that the Resources and Development Committee of the Navajo Nation Council waive the requirement for a Performance and Reclamation Bond

3. The Navajo Engineering and Construction Authority Board of Directors further authorizes the General Manager of NECA, the President of the NECA Board of Directors, and the NECA General Counsel to do any and all things necessary and proper to accomplish the purposes and intent of this resolution.

4. The Navajo Engineering and Construction Authority Board of Directors further directs the General Manager of NECA to do any and all things necessary to comply with the terms and conditions of the Sand and Gravel Lease, including the reclamation requirements.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Board Of Directors of the Navajo Engineering and Construction Authority, at a duly called meeting at Scottsdale, AZ. at which a quorum was present and that same was passed by a vote of 5 in favor, 0 opposed, and 0 abstention this 14th day of December, 2012.



Pete Ken Atcitty, President, Board of Directors
Navajo Engineering and Construction
Authority

MOTION: Jonathan Nez

SECOND: Diandra Benally

VOTE: 5 IN FAVOR, 0 OPPOSED, 0 ABSTENTION



Document No. 005866

Date Issued: 04/27/2016

EXECUTIVE OFFICIAL REVIEW

Title of Document: Approving NECA S-HILL S&G Lease Contact Name: CARLTON, RICHARD J

Program/Division: DIVISION OF NATURAL RESOURCES

Email: richardcarlton@frontier.com Phone Number: 928-871-8588

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

- ☐ **Business and Industrial Development Financing, Veteran Loans, (i.e. Loan, Loan Guarantee and Investment) or Delegation of Approving and/or Management Authority of Leasing transactions**
- | | | | | |
|------------------------------------|-------|-------------|--------------------------|--------------------------|
| 1. Division: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Office of the Attorney General: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

- ☐ **Fund Management Plan, Expenditure Plans, Carry Over Requests, Budget Modifications**
- | | | | | |
|-------------------------------------|-------|-------------|--------------------------|--------------------------|
| 1. Office of Management and Budget: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Office of the Controller: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Office of the Attorney General: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

- ☐ **Navajo Housing Authority Request for Release of Funds**
- | | | | | |
|------------------------------------|-------|-------------|--------------------------|--------------------------|
| 1. NNEPA: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Office of the Attorney General: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

- ☐ **Lease Purchase Agreements**
- | | | | | |
|------------------------------------|-------|-------------|--------------------------|--------------------------|
| 1. Office of the Controller: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| (recommendation only) | | | | |
| 2. Office of the Attorney General: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

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

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

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

- ☐ **Relinquishment of Navajo Membership**
- | | | | | |
|------------------------------------|-------|-------------|--------------------------|--------------------------|
| 1. Land Department: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Elections: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Office of the Attorney General: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ Land Withdrawal or Relinquishment for Commercial Purposes

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

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

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

☐ Rights of Way

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

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

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

☐ Assignment of Mineral Lease

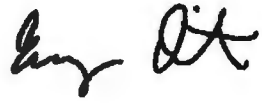
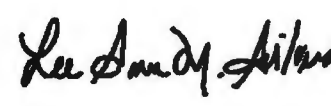


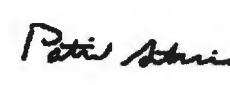
1. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. DNR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. DOJ	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

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

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

☒ OTHER: Approving NECA S-111 S&G Lease

1. NLD	<i>IMD</i>	Date: <i>8/24/16</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Minerals	<i>Alfred J. Jarama</i>	Date: <i>5/3/16</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. HPD		Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. F&W		Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5. Water Resources	<i>Tracy H. Long</i>	Date: <i>8/25/17</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. DNR		Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
7. NNEPA		Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
8. OPVP		Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
9. Legislative		Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
10. DOJ	<i>(10)</i>	Date: <i>8/24/17</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

(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	1. No comments.	1. No Reply	10-May-2017	
Lec Anna Martinez EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. Please contact our office regarding the Clean Water Act Section 401. Being that the project is close proximity to the San Juan River, our office requires a consultation for this project. Please contact us at (928) 871-7690 or at lamartinez@navajo-nsn.gov, thank you.	1. No Reply	22-May-2017	
Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. See linked document EOR002748#2. The doc is in response to the most recent review and remains valid for this review.	1. No Reply	08-May-2017	
Pam Maples EPA (Navajo Land Title Data System - Windowrock AZ)	Storage Tanks Program - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. It would take considerably less time to process these requests if there was a distinct and consistent place in the packet for coordinates.!!	1. No Reply	05-May-2017	
Patrick Antonio EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Supervisor	Navajo Nation Environmental Protection Agency	Approved	1. CONDITIONAL : Requires coverage under the federal Multi-Sector General Permit (Sector J) for storm water discharges from industrial facilities. A Notice of Intent	1. No Reply	04-May-2017	

(NOI)
submitted to
USEPA and a
storm water
pollution
prevention plan
developed prior
to NOI
submission. For
active mining
activities and
earth-
disturbing
activities
conducted prior
to active mining
activities.

Richard Begay Navajo Nation Historic Preservation Department
(Navajo Land Title Data System - Windowrock AZ)
Approved 1. CRCF HPD-09-1263 1. No Reply 31-May-2017

Roll M Begay

Robert Allan DNR Deputy Director (Navajo Land Title Data System - Windowrock AZ)
Approved 1. SUBJECT TO the following: 1) concerns of NNF&WD, 2015 letter; 2) correction of typographic errors appearing in lease indenture; and, 3) clarification of Paragraphs 18, 24, and 25 of lease indenture. 1. No Reply 16-May-2017

Robert O. Allan

Yolanda Barney EPA Water System Supervisor (Navajo Land Title Data System - Windowrock AZ)
Navajo Nation Environmental Protection Agency
Approved no comments No Reply 04-May-2017

Yolanda Barney

Tier 2 Document Voting Results

User Name	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
(

Bidtah N. Becker (FBFA)	FBFA Users Team	FBFA Action	Approved	no comments	No Repl y	10-Jul- 2017
				2 I am providing this comment because at the time I reviewed this document, there was an uploaded letter from Department of Fish and Wildlife (DFW) from 2014 that appeared to contradict DFW's sufficient determinatio n on this document. I consulted with DFW and DFW confirmed that this document, number 5866, is sufficient. The proposed action is a sand and gravel operation. DFW indicated that it has found the document sufficient based on the May 24, 2016 letter from NECA indicating that it will not allow spoil or soil to spill over the edge of the mesa where the sand and gravel operation is proposed to occur. In addition, NECA	2 No Repl y	

B.N. Becker

confirms that it will utilize the existing access road and will not widen the road. NECA's confirmation of these two actions are necessary in order to protect the habitat of the Mesa Verde Cactus, a threatened species. DFW requested that NECA's May 24, 2016 letter be included in the 164 review package and was uploaded to the Electronic System. GLLD needs to ensure that NECA's May 24, 2016 letter be printed out and included in the package that is delivered to DOJ. Thank you.

Richard Begay NNHP (Navajo Land Title Data System - Windowrock AZ)	Navajo Nation Historic Preservation Officer	Historic Preservation Department	Approved	no comments	No Reply	31-May-2017
Ronnie Ben EPA (Navajo Land Title Data System - Windowrock AZ)	Underground Injection Control - Reviewer	Navajo Nation Environmental Protection Agency	Approved	no comments	No Reply	02-Jun-2017
			2	Conditional Approval. NNEPA will request a	2 No Reply	

Roll M. Begay

Noi he



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



DOJ
8/25/17 124pm
DATE / TIME
<input type="checkbox"/> 7 Day Deadline
DOC #: 005866 #2
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: Aug 25, 2017 ENTITY/DIVISION: DNR
CONTACT NAME: Stevie or Michelle DEPARTMENT: GDDO
PHONE NUMBER: x6447 E-MAIL: steviehudson@frontier.com
TITLE OF DOCUMENT: NECA S-HILL Sand and Gravel Lease

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 8.25.17 1:37p REVIEWING ATTORNEY/ADVOCATE: Tim Chis 9.6.17
DATE/TIME OUT OF UNIT: 8.30.17 @ 9:30 am RJ

DOJ ATTORNEY / ADVOCATE COMMENTS

~ Document is legally sufficient after some corrections were made.

REVIEWED BY: (PRINT)	DATE / TIME	SURNAMED BY: (PRINT)	DATE / TIME
Tim Chis	8/28/17	Blackhat	8/24/17 4:00pm
DOJ Secretary Called: Stevie	for Document Pick Up on 8.30.17 at 8:45	By: RJ	
PICKED UP BY: (PRINT)	DATE / TIME:		

NNDJ/DRRF-July 2013

COMPLETED

Navajo Land Title Data System (NLTD)
Navajo Land Title, Navajo Land Title Data System - Windowrock AZ
 Document Information

Document Information	
Document Name:	005_1003_0005556.rtf
Revision:	3
Version:	3
Document Desc:	Michelle Horsie NLD (Navajo Land Title Data System - Windowrock AZ)
Document Author:	Pending
Document Status:	104 Review Process
Document Type:	05-Jun-2017
Effective Date:	05-Jun-2017
Expires:	Never
Uploaded From:	Navajo Land Title Data System (NLTD) Phase 1: Plan for Quality Management System
	Step 1007: 005_1003_0005556
	Task 1: Upload and Manage Documents
Size:	14 6880 KB
Date Uploaded:	04-May-2017
Modified By:	Project Management Team

See Document Distribution List below

Tier 1 Document Voting Results						
User Name (Facility)	Job Title	Department	Vote Cast	Comments	Reply	Vote Date
Eugenia Robinson EPA (Navajo Land Title Data System - Windowrock AZ)	Asst and Toxic - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1 No comments	1	10-May-2017
Lay Anna Abriñanes EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1 Please contact our office regarding the Clean Water Act Section 401. Being that the project is close proximity to the San Juan River, our office requires a consultation for this project. Please contact us at (928) 873-7890 or at lamartinez@navajo-nm.gov. Thank you.	1	22-May-2017
Pam Myakka FSW (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Fish and Wildlife	Approved	1 See linked document EUM0221667. The due is in response to the email received and revision will be for this review.	1	08-May-2017
Pam Mayles EPA (Navajo Land Title Data System - Windowrock AZ)	Seepage Tanks Program - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1 It would take considerably less time to process these requests if there was a document and submission plan in the packet for certificates!!	1	05-May-2017
Petrick Antonio PA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Supervisor	Navajo Nation Environmental Protection Agency	Approved	1 COMMENT: Requires coverage under the Federal Multi-Sector General Permit (Sector 2) for storm water discharges from industrial facilities. A Notice of Intent (NOI) submitted to WQSEA and a storm water pollution prevention plan developed prior to NOI submission. For active mining activities and earth-disturbing activities conducted prior to active mining activities.	1	04-May-2017
Richard Begay NHP (Navajo Land Title Data System - Windowrock AZ)	Navajo Nation Historic Preservation Officer	Historic Preservation Department	Approved	1 CBT NPD-06-1363	1	01-May-2017
Robert Adam DNR (Navajo Land Title Data System - Windowrock AZ)	Deputy Director DNR	DNR Administration	Approved	1 SUBJECT TO the following: 1) concerns of NHP/WD, 2015 letter; 3) correction of typographic errors appearing in leave indorsement, and, 3) clarification of Paragraphs 18, 24, and 25 of leave indorsement.	1	16-May-2017
Tolanda Barrey EPA (Navajo Land Title Data System - Windowrock AZ)	Public Water System Supervision Program	Navajo Nation Environmental Protection Agency	Approved	no comments	No Reply	04-May-2017

Tier 1 Document Voting Results						
User Name (Facility)	Job Title	Department	Vote Cast	Comments	Reply	Vote Date
Madiah M. Becker (DPA)	PRFA Users	PRFA Action Team	Approved	no comments	No Reply	30-Apr-2017
			2	I am providing this comment because at the time I reviewed this document, there was an updated letter from Department of Fish and Wildlife (DPA) from JP4 that appeared to contradict DPA's sufficient determination on this document. I consulted with DPA and DPA confirmed that this document, number 5466, is sufficient. The proposed action is a sand and gravel operation. DPA indicated that it has found the document sufficient based on the May 24, 2016 letter from NECA indicating that it will not allow spoil or soil to spill over the edge of the mesa where the sand and gravel operation is proposed to occur. In addition, NECA confirms that it will utilize the existing access road and will not widen the road. NECA's confirmation of these two actions are necessary in order to protect the habitat of the Mesa Verde Cactus, a threatened species. DPA requested that NECA's May 24, 2016 letter be included in the 104 review package and was uploaded to the Electronic System. SUIO needs to ensure that NECA's May 24, 2016 letter be printed out and included in the package that is delivered to DOJ. Thank you.	2	31-May-2017
Richard Begay NHP (Navajo Land Title Data System - Windowrock AZ)	Navajo Nation Historic Preservation Officer	Historic Preservation Department	Approved	no comments	No Reply	31-May-2017
Ronnie Ben EPA (Navajo Land Title Data System - Windowrock AZ)	Underground Injection Control - Reviewer	Navajo Nation Environmental Protection Agency	Approved	2 Conditional Approval: NNEPA will request a site visit with NECA. There is language indicating NECA will determine, so an NNEPA Permit may be required and the NOI will have to be updated. NECA will be required to comply with all Federal and NNEPA environmental laws.	2	02-Jun-2017
Sam Davidson (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Fish and Wildlife	Approved	no comments	No Reply	03-Jun-2017
Steven Prince NHP (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Historic Preservation	Approved	2 This vote is contingent on permanent inclusion of the revised Land and Gravel Leave document uploaded on 6/12/2017 and removal of the original Leave document. slip	2	12-Jun-2017
W. Mike Hilborn (Navajo Land Title Data System - Windowrock AZ)	Manager of Navajo Land Department	NLD Administration	Approved	no comments	No Reply	05-Jun-2017

Equipment Actions			
Date	Action	User	Old Value New Value

RESOURCES AND DEVELOPMENT COMMITTEE
24th Navajo Nation Council

THIRD YEAR 2021

ROLL CALL
VOTE TALLY SHEET

LEGISLATION # 0044-21: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE S-HILL SAND AND GRAVEL LEASE TO NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY TO EXTRACT SAND AND GRAVEL FROM NAVAJO NATION TRUST LANDS LOCATED WITHIN THE TSE DAAK'AAN CHAPTER VICINITY, NAVAJO NATION (SAN JUAN COUNTY, NEW MEXICO) *Sponsor: Honorable Rickie Nez*

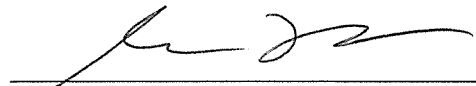
Date: March 24, 2021 – Regular Meeting (Teleconference)
Meeting Location: (RDC members called in via teleconference from their location within the boundary of the Navajo Nation.)

Main Motion:

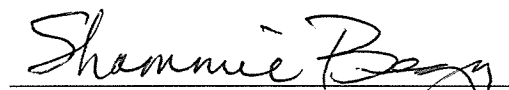
Motion: Herman M. Daniels S: Kee Allen Begay, Jr. Vote: 5-0-1 (PCNV)
In Favor: Wilson C. Stewart, Jr., Kee Allen Begay, Jr., Herman M. Daniels, Thomas Walker, Jr. and Rickie Nez
Excuse: NONE
Not Voting: Presiding Pro Tem Chairperson Mark A. Freeland

AMENDMENT # 1:

Motion: Kee Allen Begay, Jr. S: Rickie Nez Vote: 5-0-1 (PCNV)
In Favor: Wilson C. Stewart, Jr., Kee Allen Begay, Jr., Herman M. Daniels, Thomas Walker, Jr. and Rickie Nez
Excuse: NONE
Not Voting: Presiding Pro Tem Chairperson Mark A. Freeland



Honorable Mark A. Freeland, Presiding Pro Tem Chairperson
Resources and Development Committee



Shammie Begay, Legislative Advisor
Office of Legislative Services