

LEGISLATIVE SUMMARY SHEET

Tracking No. 0179-18

DATE: May 17, 2018

TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING FIRST AMENDMENT TO KAYENTA CHAPTER SOLAR SITE LEASE AND RIGHT-OF-WAY APPROVED BY RDCS-67-15 FOR NAVAJO TRIBAL UTILITY AUTHORITY


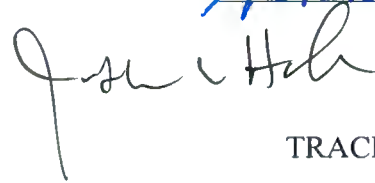

PURPOSE: The purpose of the resolution is to approve an amendment to RDCS-67-18 *An Action Relating to Resources and Development; Approving a Lease Incorporating a Right-of-Way for Navajo Tribal Utility Authority to Construct and Operate a Photovoltaic Facility, Including an Interconnection and Interconnection Facility Upgrade to Navajo Tribal Utility Authority's Existing Kayenta Substation Located in the Kayenta Chapter, Navajo Nation (Kayenta, Arizona)*. This amendment would add 65 (sixty-five) acres to the current 300 (three hundred) acres to total 365 acres, more or less. In addition the amendment would increase the term of the lease by 10 years.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

5-DAY BILL HOLD PERIOD: 5-22-18
Website Posting Time/Date: 4:15pm 5/21/18
Posting End Date: 05-22-18
Eligible for Action: 05-23-18

PROPOSED STANDING COMMITTEE RESOLUTION
23rd NAVAJO NATION COUNCIL -- Fourth Year, 2018

INTRODUCED BY


(Prime Sponsor)



TRACKING NO. 0179-18

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING FIRST
AMENDMENT TO KAYENTA CHAPTER SOLAR SITE LEASE AND RIGHT-OF-
WAY APPROVED BY RDSC-67-15 FOR NAVAJO TRIBAL UTILITY AUTHORITY

BE IT ENACTED:

SECTION ONE. AUTHORITY

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

SECTION TWO. FINDINGS

A. In 2015 the Navajo Nation Resources and Development Committee approved
Resolution RDSC-67-15 *An Action Relating to Resources and Development;
Approving a Lease Incorporating a Right-of-Way for Navajo Tribal Utility Authority
to Construct and Operate a Photovoltaic Facility, Including an Interconnection and
Interconnection Facility Upgrade to Navajo Tribal Utility Authority's Existing
Kayenta Substation Located in the Kayenta Chapter, Navajo Nation (Kayenta,*

1 *Arizona*). Resolution RDCS-67-15 approved a lease for 300 acres, more or less. The
2 term of the lease was twenty-five (25) years. The approved lease became Lease No.
3 TC-16-236. Resolution RDCS-67-15 with Lease TC-16-236 is attached as **Exhibit**
4 **B**.

5 B. The Navajo Tribal Utility Authority seeks approval of the First Amendment to
6 Kayenta Chapter Solar Site Lease and Right-of-Way. The amendment would
7 increase the acreage of the lease from 300 acres, more or less, to 365 acres, more or
8 less; and, it would increase the term of the lease by 10 years. The First Amendment
9 to Kayenta Chapter Solar Site Lease and Right-of-Way is attached as **Exhibit A**.

10 C. The site with its additional 65 acres, more or less, will be used for constructing,
11 operating and maintaining a solar energy project and related interconnection facilities.
12 The additional 65 acres, more or less, are described in **Exhibits I and J**.

13 D. The Kayenta Chapter passed resolution No. KY17-338-09 on September 20, 2017,
14 attached as **Exhibit C**, supporting the proposed project.

15 E. The Right-of-Way Agent has obtained the necessary consents from the affected land
16 users (grazing permittees) which are attached as **Exhibit D**.

17 F. All environmental studies and cultural resources inventories have been completed.
18 See **Exhibits E, F, G, and H**.

19 G. NTUA finds it necessary to construct, operate and maintain Phase II of the Kayenta
20 Solar Project, a 27.3 megawatt solar energy generation facility to address the energy
21 needs of the Navajo Nation, specifically the Kayenta Chapter and the surrounding
22 communities to improve the safety, reliability, redundancy, and increase the energy
23 independence of the utility thereby ensuring that the NTUA can maintain low energy
24 cost for the Navajo Nation.

25 H. NTUA requests the Navajo Nation waive consideration because the proposed project
26 is likely to have a positive effect on commercial and residential customers in the
27 communities and NTUA's long range plans of providing the much need electrical
28 services across the Navajo Nation.

29 I. The application to amend RDCS-67-15 was submitted by Navajo Tribal Utility
30 Authority and has been reviewed by the Fish and Wildlife; Historic Preservation;

Minerals; Navajo Nation Environmental Protection; Division of Natural Resources and the Department of Justice and “Approved” or found “Sufficient.”. See **Exhibit K**

SECTION THREE. APPROVAL

- A. The Resources and Development Committee of the Navajo Nation Council hereby approves First Amendment to Kayenta Chapter Solar Site Lease and Right-of-Way attached as **Exhibit A**. The location is more particularly described on the survey map attached hereto as **Exhibits I and J**.
- B. The Resources and Development Committee of the Navajo Nation Council hereby waives consideration for First Amendment to Kayenta Chapter Solar Site Lease and Right-of-Way.
- C. The Resources and Development Committee of the Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to affect the intent and purpose of this resolution.



LEASE NO. TC-16-236

**FIRST AMENDMENT TO KAYENTA CHAPTER SOLAR SITE LEASE
BETWEEN
THE NAVAJO NATION
AND THE
NAVAJO TRIBAL UTILITY AUTHORITY**

This First Amendment to the Kayenta Chapter Solar Site Lease (this "Amendment") is executed and delivered as of the ____ day of March, 2018, between the Navajo Nation and the Navajo Tribal Utility Authority ("NTUA").

RECITALS

A. NTUA is preparing to development Phase II of the Kayenta Solar Site and in an effort to maximize the solar development, the Navajo Nation and NTUA agree to add an additional 65 acres to the Site Lease, Lease No. TC-16-236.

B. NTUA and the Navajo Nation have agreed to extend the Site Lease for an additional 10 year term.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Amendment to the Primary Term. The Primary Term of this Lease shall be extended by ten years upon the execution of this Amendment.

2. Amendment of Size of the Site. The Site leased by the Navajo Nation to NTUA is hereby increased from 300 ± acres to 365 ± acres. An updated Legal Description is attached hereto as Exhibit A.

3. No Other Modifications. Except as expressly modified by this Amendment, all the terms and conditions of the Agreement remain unmodified and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the date first above written.

THE NAVAJO NATION, LESSOR

Date: _____

By: _____
Russell Begaye
President
Navajo Nation

**THE NAVAJO TRIBAL UTILITY
AUTHORITY, LESSEE**

Date: 3/11/2018

By: Walter Haase
Walter Haase
General Manager
NTUA



RDGS-67-15

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

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A LEASE INCORPORATING A RIGHT-OF-WAY FOR NAVAJO TRIBAL UTILITY AUTHORITY TO CONSTRUCT AND OPERATE A PHOTOVOLTAIC FACILITY, INCLUDING AN INTERCONNECTION AND INTERCONNECTION FACILITY UPGRADE TO NAVAJO TRIBAL UTILITY AUTHORITY'S EXISTING KAYENTA SUBSTATION LOCATED IN THE KAYENTA CHAPTER, NAVAJO NATION (KAYENTA, ARIZONA)

BE IT ENACTED:

SECTION ONE. FINDINGS

- A. Pursuant to 2 N.N.C. §501(B)(2), the Resources and Development Committee of the Navajo Nation Council has been delegated the authority to give final approval of rights-of-way and leases in accordance with applicable federal and Navajo Nation laws; and
- B. The Navajo Tribal Utility Authority (NTUA), Post Office Box 170, Fort Defiance, Arizona 86504, has submitted a right-of-way/lease application (attached as Exhibit "A") to obtain authority to construct and operate a Photovoltaic Facility, including an Interconnection and Interconnection Facility upgrade to NTUA's existing Kayenta Substation, located in Kayenta Chapter vicinity, Navajo Nation (Navajo County, Arizona) referenced as Work Order No. 6213786; and
- C. The site in question is situated across Navajo Nation Trust Lands, Township 39 North, Ranges 19 and 20 East, Gila & Salt River Meridian, in the Kayenta Chapter vicinity, Navajo Nation (Navajo County, Kayenta, Arizona).
- D. The site will be used to construct, operate and maintain a 27.5 megawatt solar energy generation facility within 300+ acres of land and an underground distribution line which will deliver power to NTUA's existing 230kV Substation. The above/underground distribution line will

be 153.28 feet in length, fifty (50) feet wide, consisting of 9.18 acres. The total acreage of the proposed is 300.18 acres, more or less. The location is more particularly described on the attached maps marked as Exhibit "A-1" and A-2"; and

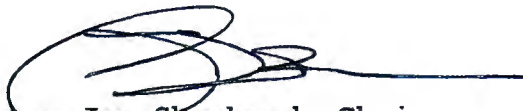
- E. NTUA finds it necessary to construct, operate and maintain a 27.5 megawatt solar energy generation facility to address the energy needs of the Navajo Nation, specifically the Kayenta Chapter and the surrounding communities to improve the safety, reliability, redundancy, and increase the energy independence of the utility thereby ensuring that the NTUA can maintain the energy cost of the Navajo Nation; and
- F. NTUA is required by Federal Energy Regulatory Commission and North American Energy Reliability Corporation to operate a modern, safe reliable electric system. The interconnection facility and upgrades at the Kayenta Substation are necessary to meet federal reliability requirements for NTUA's utility system; and
- G. The Kayenta Chapter passed resolution No. KY15-205-03 on March 18, 2015, attached hereto as Exhibit "F", supporting the proposed project; and
- H. The Project Review Section of the Division of Natural Resources has obtained the necessary consents from the affected land users (grazing permittees), which are attached hereto as Exhibit "G" and
- I. All environmental studies and cultural resources inventories have been completed and the proposed right-of-way/lease has received appropriate clearances (see Exhibits "C, D and E"); and
- J. NTUA has requests the Navajo Nation to waive consideration to the project because proposed undertaking is likely to have a positive effect on commercial and residential customers in the communities for the future including the Navajo Nation and NTUA's long range plans of providing the much needed electrical services across the Navajo Nation. Waiver of damages is not requested and the grantee shall be responsible for and promptly pay all such damages if and when they are sustained.

Section Two. Approval

- A. Resources and Development Committee of the Navajo Nation Council hereby approves and consents to the grant of a right-of-way/lease, attached as Exhibit B, to the Navajo Tribal Utility Authority to construct, operate and maintain a 27.5 megawatt solar energy generation facility and an underground distribution line which will deliver power to NTUA's existing 230 kV substation in the Kayenta Chapter vicinity, Navajo Nation (Navajo County, Arizona).
- B. The Resources and Development Committee of the Navajo Nation Council further approves and consents to the grant of the lease with right-of-way incorporated therein.
- C. The Resources and Development Committee of the Navajo Nation Council waives the consideration of \$42,734.00 for the right-of-way/lease project.
- D. The Resources and Development Committee of the Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute the lease agreement containing of right-of-way.

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at Navajo Nation Council Chambers, Window Rock, Navajo Nation (Arizona), at which quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, 0 abstained this 15th day of September, 2015.



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

Motion: Honorable Leonard Pete
Second: Honorable Benjamin Bennett
(Presiding Chairperson Not Voting)

LEASE NO. TC-16-236

**KAYENTA CHAPTER SOLAR SITE LEASE AND RIGHT-OF-WAY
BETWEEN
THE NAVAJO NATION
AND THE
NAVAJO TRIBAL UTILITY AUTHORITY**

THIS LEASE is made and entered into this 24th day of JUNE, 2016, by and between THE NAVAJO NATION, hereinafter called the "Lessor," or the "Nation," whose address is P.O. Box 9000, Window Rock, Navajo Nation (Arizona) 86515, and THE NAVAJO TRIBAL UTILITY AUTHORITY (NTUA), hereinafter called the "Lessee," whose address is P.O. Box 170, Fort Defiance, AZ 86504. This Lease is made in accordance with the provisions of 2 N.N.C. § 501(B)(2)(a) and 25 U.S.C. § 415, as implemented by the regulations contained in 25 C.F.R. Part 162, and all amendments or successors thereto, which by this reference are made a part hereof.

1. DEFINITIONS.

(A) "Approved Encumbrance" means an encumbrance approved in writing by Lessor in accordance with the terms and conditions of this Lease.

(B) "Sublease" means an agreement that allows Lessee to sublease the site to Lessee's subsidiary to secure the most favorable financing for the Kayenta Solar Project.

(C) "Encumbrancer" means the owner and holder of an Approved Encumbrance, including all successors and assigns.

(D) "Hazardous Substance" means any "hazardous substance as defined at § 2104 Q. of the NNCERCLA, 4 N.N.C. § 2101 *et seq.*, including all amendments or successors thereto.

(E) "NNCERCLA" means the Navajo Nation Comprehensive Environmental Response, Compensation and Liability Act, 4 N.N.C. § 2101 *et seq.*

(F) "Regulated Substance" means any regulated substance as defined at § 1502 V. of the Navajo Nation Underground and Aboveground Storage Act, 4 N.N.C. § 1501 *et seq.*, which includes petroleum and petroleum products.

(G) "Secretary" means the Secretary of the United States Department of the Interior or a duly authorized representative or successor, such as the Bureau of Indian Affairs ("BIA").

2. LEASED PREMISES.

For and in consideration of the rents, covenants, agreements, terms and conditions contained herein, Lessor hereby leases to Lessee all, or a portion of, that tract or parcel of land situated within the Chapter of Kayenta, Navajo Nation, state of Arizona more particularly described in the survey map with legal description attached hereto as Exhibit "A," and by this reference made a part hereof, containing approximately 300 acre(s), more or less, together with the right of reasonable ingress and egress, and the right to install utilities pursuant to Section 10 below, hereinafter called the "Leased Premises." The access road is approximately 0.03 miles, comprised of 0.18 acres. The legal description for this road is contained within Exhibit "A".

3. COMPLIANCE WITH FEDERAL LAW.

This Lease hereby incorporates by reference, and shall be deemed to include, all the mandatory provisions regarding a business lease set forth in 25 C.F.R. §162.413 (the "Mandatory Provisions"). Incorporation of the Mandatory Provisions into this Lease is designed to assure that the Lease complies with all applicable requirements of federal law and to facilitate the processing and administration of this Lease. The Mandatory Provisions require compliance with federal and tribal laws pursuant to the 25 C.F.R. §162.014. Please note this requires compliance with all federal and tribal historic and cultural preservation laws—specifically all work must cease and the Nation must be notified if artifacts are discovered to prevent unauthorized destruction of resources pursuant to 16 U.S.C. §470ee. In no circumstances shall the Lease be construed to waive any requirement of federal law or to prevent the Secretary from exercising any right granted to the Secretary with respect to this Lease. The parties understand and agree the Lessor determined the Secretary will approve the Lease pursuant to 25 CFR §162 until such time that the Navajo Nation regulations are amended and the Navajo Nation is prepared to approve Leases. During this time, any rights granted to Lessor under this Lease shall be granted to the Secretary, including any notice to which Lessor is entitled, or which Lessor may provide may be given by the Secretary.

4. PURPOSE, UNLAWFUL USES.

(A) Lessee shall develop, use and occupy the Leased Premises solely for the purpose of constructing, operating and maintaining a solar energy project and related interconnection facilities. Lessee shall have the right to fence all, or any portion, of the Leased Premises as may be necessary to conduct Lessee's operations. Whether or not Lessee chooses to fence the Leased Premises, Lessee shall be solely responsible for securing the Leased Premises so as to protect Lessee's solar energy project, related structures and any related interconnection facilities located on the Leased Premises and for protecting members of the general public, as well as Lessee's agents and invitees, from personal injury on the Leased Premises.

(B) The Leased Premises shall not be developed or used by Lessee for any purpose other than as described in Section 4(A) above, except upon grant of a Sublease or with the prior written consent of Lessor.

(C) Lessee shall not use, or permit to be used, any part of the Leased Premises for any unlawful conduct or purpose, creation of a nuisance, illegal activity, or negligent use or waste of the leased premises.

5. TERM.

(A) Primary Term. The Primary Term of this Lease shall be for a period of twenty-five (25) years, commencing on the later date the Lease is approved by the Nation or by the Secretary, if the Secretary's approval is necessary (the "Effective Date").

6. RENTAL.

(A) Lessor hereby waives an annual rental payment so long as NTUA uses the Leased Premises for non-commercial purposes. When NTUA desires to use the Leased Premises for commercial operation(s), it must obtain approval from the Resources and Development Committee.

(B) The Lessee shall make an additional annual of payment of \$2,000.00 to the Nation for each Sublease proposed by the Lessee and approved by the Nation. Annual payments shall be paid in advance in the same manner as required by this Lease.

(C) Payments under this Lease shall be addressed to: Navajo Nation, Accounts Receivable Section, Post Office Box 3150, Window Rock, Arizona 86515.

(D) The consideration for the right-of-way associated with this lease is assessed at \$42,724.00. The Navajo Nation's contributes this amount to the project, pursuant to Exhibit B.

The NTUA must obtain the approval of the Resources and Development Committee if any portion of the right-of-way is used to serve commercial operation(s). The Nation's consideration shall be assessed and paid by NTUA for the portion of the line used for commercial operation

7. CONDITION OF LEASED PREMISES.

Lessee has examined the Leased Premises and any improvements thereon and accepts the same in "as-is" condition. No representations as to the condition of the Leased Premises have been made by Lessor, any agent of Lessor, or the Secretary, prior to or at the time of execution of this Lease. Lessee warrants that its decision to enter into this Lease is based solely upon Lessee's independent investigation of the Leased Premises.

8. IMPROVEMENTS.

(A) All buildings and other improvements to the Leased Premises, including, but not limited to, the solar panels, inverters, structures, interconnection facilities, as well as any and all equipment, conduits, fixtures and personal property, shall remain the property of Lessee during and after the Term.

(B) Lessor agrees and acknowledges that Lessee shall have the right to remove all property, without limitation and including, but not limited to, buildings, improvements, equipment, conduits, fixtures and personal property of Lessee, at any time during the term, up to twelve months past the expiration of the Term. Prior and up to twelve months past the expiration of the Term, at Lessee's expense, Lessee shall remove any buildings, improvements and all personal property in a workmanlike manner, and shall restore the Leased Premises to substantially

the same condition, including reasonable wear and tear, as existed prior to the installation of Lessee's improvements. The solar plant foundations may be excluded from removal if the Nation determines in writing its beneficial use to the Nation. Lessee will be released from liability when approved by an inspection of the premises. Any structures, buildings and other improvements which are not removed within twelve months after the expiration or termination of the lease shall become the property of the Navajo Nation. The Lessee shall remain liable for any and all clean up and removal costs of any property not removed within the twelve month window.

9. CONSTRUCTION; MAINTENANCE; REPAIR; ALTERATION.

(A) All buildings and other improvements placed on the Leased Premises by Lessee or its Subtenant shall be constructed in a good and workmanlike manner in compliance with applicable laws and building codes. All parts of buildings or other improvements visible to the public or from adjacent premises shall present a pleasant appearance. The Nation reserves the right to require Lessee to modify or remove any improvements to the Leased Premises that do not comply with the requirements of this Section 9(A).

(B) Lessee shall maintain the Leased Premises and all buildings and other improvements thereon and any alterations, additions or appurtenances thereto, in good order and repair and in a safe, sanitary and neat condition.

10. UTILITY SERVICE LINE AGREEMENTS.

(A) Lessee is authorized to enter into appropriate service line agreements with utility companies for the provision of utility services, such as electricity and telecommunication services, to the Leased Premises on the condition that:

- (1) such agreements are for the sole purpose of supplying utility services, such as electricity and telecommunication services, to the Leased Premises;
- (2) such agreements authorize utility service lines only within the Leased Premises;
- (3) such agreements do not extend beyond the Term of this Lease;
- (4) executed copies of such agreements, together with plats or diagrams showing with particularity the location, size and extent of such service lines, are filed by the utility companies with Lessor and the Secretary within thirty (30) days of their execution;
- (5) such agreements make Lessee and its Sublessee solely responsible for any charges; and
- (6) such agreements are otherwise in accordance with the provisions of 25 C.F.R. Part 169.22, including any amendments or successors thereto.

(B) Although Lessor has the right to enter into service line agreements with utility companies for service lines across the Leased Premises, the Lessor shall ensure that any such

agreements do not interfere with Lessee's use of the Leased Premises, e.g., solar photovoltaic energy collection, transmission and distribution. For the avoidance of any doubt regarding potential interference, Lessor agrees to coordinate with Lessee prior to entering into any such agreements.

11. LIENS; TAXES AND ASSESSMENTS; UTILITY CHARGES.

(A) Lessee shall not permit any liens arising from any work performed, materials furnished, or obligations incurred by Lessee to be enforced against the Leased Premises, any interest therein or any improvements thereon. Lessee shall discharge all such liens before any action is brought to enforce same.

(B) Lessee shall pay, before becoming delinquent, all property, use or gross receipts taxes or assessments, or any other like charges levied upon or against the Leased Premises, any interest therein or any improvements thereon, for which Lessee is liable. Upon request by Lessor, Lessee shall furnish Lessor written evidence duly certified that any and all such taxes, assessments and other like charges required to be paid by Lessee have been paid, satisfied or otherwise discharged. Lessee shall have the right to contest any asserted tax, assessment or other like charge against the Leased Premises, any interest therein or improvements thereon, by posting bond to prevent enforcement of any lien resulting therefrom.

(C) Lessee agrees to protect and hold harmless Lessor, the Secretary and the Leased Premises and all interests therein and improvements thereon from any and all such taxes, assessments and like charges and from any lien therefor, any sale or other proceedings to enforce payment thereof, and all costs in connection therewith. Upon request by Lessee, Lessor shall execute and deliver any appropriate documents with reference to real estate tax exemption of the Leased Premises, any interest therein or improvements thereon.

(D) Lessee shall pay, before becoming delinquent, all charges for utility services, including electricity and telecommunication services, supplied to the Leased Premises. Lessee may permit Sublessees to pay such charges directly, but in the event of nonpayment by Sublessee, Lessee shall be responsible for paying such charges. Lessee shall have no right to recover any payment on behalf of a Sublessee from Lessor or to offset such payments against rent owed to Lessor.

(E) Lessor shall have the right to pay any lien, tax, assessment or other charge payable by Lessee under this Lease, or to settle any action therefor, if, within a reasonable time after written notice thereof from Lessor, Lessee fails to pay or to post bond against enforcement thereof. All costs and other expenses incurred by Lessor in so doing shall be repaid by Lessee to Lessor on demand, together with interest at the greater of (a) ten percent (10%) per annum, or (b) the highest allowable rate from the date of payment or incursion thereof by Lessor until repayment is made by Lessee. Interest shall accrue from the date of payment or incursion thereof by Lessor until repayment is made by Lessee.

12. ASSIGNMENTS AND SUBLEASES.

With the exception of ability of Lessee to sublease to a direct subsidiary for financing purposes, as provided in Exhibit C, the Lessee shall not assign, convey, or otherwise transfer this

Lease without the prior written approval of Lessor, and then only upon the condition that the assignee or other successor in interest shall agree, in writing, to be bound by each and every covenant, agreement, term and condition of this Lease. Any such attempted assignment, conveyance, or transfer, without Lessor's prior written approval shall be void and of no effect. The approval of Lessor may be granted, granted upon conditions, or withheld at the sole discretion of Lessor. Any Sublease of the Leased Premises shall be effective only upon approval of the Sublease by the Nation, as provided in Section 14 below. The Leasehold may be sold, assigned or transferred by the Lessee, with approval or consent of the Lessor, to Lessee's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of Lessee's assets by reason of a merger, acquisition or other business reorganization. No change of stock ownership, partnership interest or control of Lessee or transfer upon partnership or corporate dissolution of Lessee shall constitute an assignment hereunder. The Lessor shall provide BIA a copy of the assignment within 30 days after it is executed. Lessor permits the Lessee to sublease, assign, convey or otherwise transfer this Lease only to a direct subsidiary solely for the purpose of securing financing for the Kayenta Solar Project.

13. QUIET ENJOYMENT.

Lessor hereby covenants and agrees that, upon performing each of its covenants, agreements, terms and conditions contained in this Lease, Lessee shall peaceably and quietly have, hold and enjoy the Leased Premises without any hindrance, interruption, ejection or molestation by Lessor or by any other person or persons claiming from or under Lessor.

14. ENCUMBRANCE.

- A. This Lease or any right to or interest therein may not be encumbered without the prior written approval of the Lessor and the Secretary, and no such encumbrance shall be valid or binding without such prior written approval. An encumbrance shall be confined to the leasehold interest of the Lessee or the subleasehold interest of a Sublessee and shall not jeopardize in any way Lessor's interest in the land. Lessee agrees to furnish any requested financial statements or analyses pertinent to the encumbrance that the Lessor and the Secretary may deem necessary to justify the amount, purpose and terms.
- B. In the event of default by Lessee or Sublessee of the terms of an approved encumbrance, Encumbrancer may exercise any rights provided in such approved encumbrance, provided that prior to any sale of leasehold, whether under power of sale or foreclosure, the Encumbrancer shall give to Lessor and the Secretary notice of the same character and duration as is required to be given to Lessee by the terms of such Approved Encumbrance and by applicable law. In the event of such default, Lessor shall have the right, which may be exercised at any time prior to the completion of sale, to pay to Encumbrancer any and all amounts secured by the Approved Encumbrance, plus unpaid interest accrued to the date of such payment, plus expenses of sale incurred to the date of such payment.
- C. If Lessor exercises the above right, all right, title and interest of Lessee in this Lease shall terminate and Lessor shall acquire this Lease; provided, however, that such termination shall not relieve Lessee of any obligation or liability which shall have accrued prior to the date of termination. Acquisition of this Lease by Lessor under these circumstances shall not serve to extinguish this Lease by merger or otherwise.

D. If Lessor declines to exercise the above right and sale of the leasehold under the Approved Encumbrance shall occur, the purchaser at such sale shall succeed to all of the right, title and interest of Lessee in this Lease. It is further agreed that the purchaser at such sale if it is the Encumbrancer, the Encumbrancer may sell and assign this Lease without any further approval by Lessor and the Secretary, provided that the assignee shall agree in writing to be bound by all the covenants, agreements, terms and conditions of this Lease, and no such assignment shall be valid unless and until the assignee shall so agree. If Encumbrancer is the purchaser, it shall be required to perform the obligations of this Lease only so long as it retains title thereto. If the purchaser is other than the Encumbrancer, the purchaser shall agree in writing to be bound by all the covenants, agreements, terms and conditions of this Lease, and no such purchase shall be valid unless and until purchaser shall so agree.

15. DEFAULT.

(A) Time is declared to be of the essence in this Lease. Should Lessee default in any payment of monies when due under this Lease, fail to post any required bond, failure to cooperate with a BIA request to make appropriate records, reports, information available or be in violation of any other provision of this Lease, and should such violation not be cured within thirty (30) days of written notice from Lessor, or, with respect to any default other than a failure to make a timely payment of monies due and owed, within such additional time as is needed to cure provided Lessee is diligently prosecuting the same to completion, said violation may be acted upon by the Nation in accordance with the provisions of 25 C.F.R. Part 162, including any amendments or successors thereto.

(B) In addition to the rights and remedies provided by the aforementioned regulations, Lessor or the Secretary, either jointly or severally, may exercise the following options upon Lessee's default, authorized by applicable law subject to the provisions of subsection (D) below:

- (1) Collect, by suit or otherwise, all monies as they become due hereunder, or enforce by suit or otherwise, Lessee's compliance with all provisions of this Lease; or
- (2) Re-enter the premises, if the Lessee has abandoned the premises and defaulted on payment of rent, or has failed to conduct its solar operations for twelve months without notice, and remove all property therefrom, and re-let the premises without terminating this Lease, for the account of Lessee, but without prejudice to Lessor's right to terminate the Lease under applicable law thereafter, and without invalidating any right of Lessor or any obligations of Lessee hereunder. The terms and conditions of any re-letting shall be in the sole discretion of Lessor, who shall have the right to alter and repair the Leased Premises as it deems advisable and to re-let with or without any equipment or fixtures situated thereon. Rents from any such re-letting shall be applied first to the expense of altering and repairing or re-letting the Leased Premises and collecting any related expenses, including reasonable attorney's fees and any reasonable real estate commission actually paid, together with any insurance, taxes and assessments paid, and thereafter toward payment to liquidate the total

liability of Lessee. Lessee shall pay to Lessor monthly when due, any deficiency and Lessor may sue thereafter as each monthly deficiency shall arise; or

(3) Take any other action authorized or allowed under applicable law.

(C) No waiver of a breach of any of the terms and conditions of this Lease shall be construed to be a waiver of any succeeding breach of the same or any other term or condition of this Lease. Exercise of any of the remedies herein shall not exclude recourse to any other remedies, by suit or otherwise, which may be exercised by Lessor, or any other rights or remedies now held or which may be held by Lessor in the future.

(D) Lessor and/or the Secretary shall give to an Encumbrancer a copy of each notice of default by Lessee at the same time as such notice of default shall be given to Lessee. Lessor and the Secretary shall accept performance by an Encumbrancer of any of Lessee's obligations under this Lease, with the same force and effect as though performed by Lessee. An Encumbrancer shall have standing to pursue any appeals permitted by applicable federal or Navajo Nation law that Lessee would be entitled to pursue. Neither Lessor nor the Secretary shall terminate this Lease if an Encumbrancer has cured or is diligently taking action to cure Lessee's default and has commenced and is pursuing diligently either a foreclosure action or an assignment in lieu of foreclosure.

16. SANITATION.

Lessee hereby agrees to comply with all applicable sanitation laws, regulations or other requirements of the United States and the Nation, and to dispose of all solid waste in compliance with applicable federal and Nation law. Lessee further agrees at all times to maintain the entire Leased Premises in a safe and sanitary condition, presenting a good appearance both inside and outside the Leased Premises.

17. HAZARDOUS AND REGULATED SUBSTANCES.

(A) Lessee shall not cause or permit any Hazardous or Regulated Substance to be used, stored, generated or disposed of on or in the Leased Premises without first notifying Lessor and obtaining Lessor's prior written consent. If Hazardous or Regulated Substances are used, stored, generated or disposed of on or in the Leased Premises, with or without Lessor's consent, or if the premises become contaminated in any manner, Lessee shall indemnify and hold harmless the Lessor and the Secretary from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses (including, without limitation, a decrease in value of the Leased Premises, damages due to loss or restriction of rentable or usable space, any and all sums paid for settlement of claims, and any costs related to marketing the Leased Premises), as well as attorneys' fees, consultant and expert fees arising during or after the Lease term and arising as a result of such contamination regardless of fault, with the exception that the lessee is not required to indemnify the Indian landowners for liability or cost arising from the Indian landowners' negligence or willful misconduct. This indemnification includes, without limitation, any and all costs incurred due to any investigation of the site or any cleanup, removal or restoration mandated by the federal government or the Nation. Without limitation of the foregoing, if Lessee causes or permits any Hazardous or Regulated Substance on the Leased Premises and the presence of such results in any

contamination of the Leased Premises, including, but not limited to, the improvements, soil, surface water or groundwater, Lessee shall promptly, at its sole expense, take any and all necessary actions to return the Leased Premises to the condition existing prior to the contamination by any such Hazardous or Regulated Substance on the Leased Premises. Lessee shall first obtain Lessor's approval for any such remedial action.

(B) Lessee shall provide the Navajo Environmental Protection Agency and the Risk Management Department of the Nation with a clear and legible copy of all notices or reports concerning release of Hazardous or Regulated Substance, testing, or remediation at the premises subject to this Lease which Lessee is required by applicable law, or regulation, to provide to the United States Environmental Protection Agency or which Lessee otherwise provides to the United States Environmental Protection Agency. Service of documents as required by this Lease upon the Navajo Environmental Protection Agency shall be by first class mail to:

Waste Regulatory and Compliance Program
Navajo Environmental Protection Agency
Post Office Box 3089
Window Rock, Navajo Nation (Arizona) 86515

and,

Risk Management Department
Navajo Environmental Protection Agency
Post Office Box 1690
Window Rock, Navajo Nation (Arizona) 86515

or their respective institutional successors.

18. PUBLIC LIABILITY INSURANCE.

(A) Lessee shall obtain and maintain a commercial public liability insurance policy in an amount of no less than \$1,000,000.00 for personal injury to one person and \$1,000,000.00 per occurrence and \$500,000.00 for damage to property. Lessor and the United States shall be named as an Additional Insured with respect to this Lease. This coverage shall be primary to the Additional Insured, and not contributing with any other insurance or similar protection available to the Additional Insured, whether said other available coverage by primary, contributing or excess. Lessee shall provide for notification to Lessor prior to any change in said policy or any cancellation or non-renewal of said policy for any reason including non-payment of premium. Certificate of Insurance evidencing the above coverage shall be furnished to Lessor annually, or upon written request.

(B) Lessor may require that the amount of the insurance policy required by subsection (A) of this Section 20 be increased at any time, whenever either shall determine that such increase reasonably is necessary for the protection of Lessor or the United States.

(C) In no event shall the amount of Lessee's insurance policy limit Lessee's liability or its duty to indemnify Lessor under this Agreement.

19. PERFORMANCE BOND

NTUA is a wholly owned enterprise of the Navajo Nation. The Nation waives the Performance Bond Requirements pursuant to 16 N.N.C. §2335(B), which permits waiver of the Performance Bond where the Nation waives the rent; or the waiver of the bond is in the best interest of the Nation. Since NTUA was created by the Nation as an enterprise of the Nation, no performance bond is required.

20. NON-LIABILITY.

Neither Lessor nor the United States Government, nor their officers, agents, or employees (collectively, the "Lessor Parties"), shall be liable for any loss, damage, death or injury of any kind whatsoever to the person or property of Lessee or any other person whomsoever, that is caused by any use of the Leased Premises by Lessee or any Sublessee, or that results from any defect in any structure existing or erected thereon, or that arises from accident, fire, or from any other casualty on said premises or from any other cause whatsoever, except to the extent of the Lessor Parties' negligence or intentional misconduct. Lessee, as a material part of the consideration for this Lease, hereby waives on Lessee's behalf all claims against Lessor and the United States Government and agrees to defend and hold Lessor and the United States Government free and harmless from liability for all claims for any loss, damage, injury or death arising from the condition of the premises or use of the premises by Lessee, together with all costs and expenses in connection therewith to the full extent permitted by applicable law, excepting however, all claims to the extent arising from the Lessor Parties' negligence or intentional misconduct.

21. INSPECTION.

The Lessor, Secretary, and their authorized representatives shall have the right, upon reasonable notice to Lessee, to enter upon the Leased Premises, or any part thereof, to inspect the same and all improvements erected and placed thereon for purposes, including, but not limited to, conditions affecting the health, safety and welfare of those entering the premises, the protection of the Leased Premises, any improvements thereto or any adjoining property or uses, or compliance with applicable environmental health or safety laws and regulations. No showing of probable cause shall be required for such entry and inspection. If testing for environmental contamination reveals environmental contamination in violation of applicable law, Lessee shall pay the costs of such testing provided such contamination arose due to Lessee's acts or omissions. Nothing in this section shall limit Lessee's obligation under applicable law or this Lease to perform testing or remediation or otherwise limit Lessee's liability.

22. MINERALS.

All minerals, including sand and gravel, contained in or on the Leased Premises are reserved for the use of Lessor. Lessor also reserves the right to enter upon the Leased Premises and search for and remove minerals located thereon, paying just compensation for any damage or injury caused to Lessee's personal property or any improvements constructed by Lessee.

23. EMINENT DOMAIN.

If the Leased Premises or any part thereof is taken under the laws of eminent domain at any time during the term of this Lease, Lessee's interest in the Leased Premises or the part of the Leased Premises taken shall thereupon cease. Compensation awarded for the taking of the Leased Premises or any part thereof, including any improvements located thereon, shall be awarded to Lessor and Lessee as their respective interests may appear at the time of such taking, provided that Lessee's right to such awards shall be subject to the rights of an Encumbrancer under an Approved Encumbrance.

24. DELIVERY OF LEASED PREMISES.

At the termination of this Lease, Lessee will peaceably and without legal process deliver up the possession of the Leased Premises, in good condition, usual wear and tear excepted.

25. HOLDING OVER.

Except as otherwise provided, holding over by Lessee after termination of this Lease shall not constitute a renewal or extension thereof or give Lessee any rights hereunder in or to the Leased Premises or to any improvements located thereon.

26. ATTORNEY'S FEES.

Lessee agrees to pay and discharge all reasonable costs, attorney's fees and expenses that may be incurred by Lessor in enforcing the provisions of this Lease or in pursuing an action against Lessee for breach, default or liability arising under this Lease. Lessee will not be liable for costs incurred by Lessor if a judgment is rendered in favor of Lessee.

27. INDEMNIFICATION.

Except to the extent of the negligence or intentional misconduct of Nation and the Secretary, and their agents, employees and contractors, Lessee shall defend, indemnify and hold harmless the Nation and the Secretary and their authorized agents, employees, land users and occupants, against any liability for loss of life, personal injury and property damages arising from the construction on or maintenance, operation, occupancy or use of the Leased Premises by Lessee or any Sublessee.

28. AGREEMENT TO ABIDE BY NAVAJO NATION AND FEDERAL LAWS.

Lessee and Lessee's employees or agents, and Sublessees and their employees or agents agree to abide by all laws, regulations, and ordinances of the Nation and all applicable laws, regulations and ordinances of the United States now in force and effect or as may be hereafter in force and effect including, but not limited to:

- a. Title 25, Code of Federal Regulations, Part 169 subject to the terms of the right-of-way;
- b. The Navajo Preference in Employment Act, 15 N.N.C. § 601 *et seq.* (NPEA);
- c. The Navajo Nation Business Opportunity Act, (NNBOA), 5 N.N.C. § 201 *et seq.*; and
- d. The Navajo Nation Water Code, 22 N.N.C. § 1101 *et seq.* Lessee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.

29. GOVERNING LAW.

Except as may be prohibited by applicable federal law, the laws of the Nation shall govern the construction, performance and enforcement of this Lease. Any action or proceeding brought by Lessee against the Nation in connection with or arising out of the terms and conditions of this Lease, to the extent authorized by Navajo law, shall be brought only in the courts of the Nation, and no such action or proceeding shall be brought by Lessee against the Nation in any court or administrative body of any State.

30. AIR QUALITY.

The Lessee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the Lease.

31. KEEPING LANDS CLEAR

The Lessee shall clear and keep clear the lands within the Lease and right-of-way to the extent compatible with the purpose of this Lease, and shall dispose of all vegetation and other materials cut, uprooted or otherwise accumulated during any surface disturbance activities.

32. RECLAIMED LANDS

The Lessee shall reclaim all surface lands disturbed related to the Lease and right-of-way, as outlined in a restoration and revegetation plan, which shall be approved by the Navajo Nation Environmental Protection Agency (NNEPA) prior to commencement of such a plan.

33. MAINTENANCE OF LAND

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 resulting from any damages caused by the Navajo Nation, its employees and any entity to which the Navajo Nation has granted a lease or right-of-way.

34. PERMISSION TO CROSS

The Lessee is responsible for securing written permission to cross existing rights-of-way, if any, from the appropriate parties.

35. TERMINATION

The Navajo Nation may recommend termination of the Lease by DOI for violation of any of the terms and conditions stated herein.

At the termination of this 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 of the Navajo Nation, the Lessee shall provide the Navajo Nation, at the Lessee's sole cost and expense, with an environmental audit assessment of the premises at least sixty (60) days prior to delivery of said premises.

36. ENTRY UPON PREMISES

The Navajo Nation and the Secretary of the Interior shall have the right, at any reasonable time during the term of the Lease, to enter upon the premises, or any part thereof, to inspect the same and any improvements located thereon.

37. DISPUTE RESOLUTION.

In the event that a dispute arises under this Lease, Lessee, before initiating any action or proceeding, agrees to use good faith efforts to resolve such disputes through mediation, informal discussion, or other non-binding methods of dispute resolution in connection with this Lease.

38. CONSENT TO JURISDICTION.

Lessee hereby consents to the legislative, executive and judicial jurisdiction of the Nation in connection with all activities conducted by the Lessee within the Nation.

39. COVENANT NOT TO CONTEST JURISDICTION.

Lessee hereby covenants and agrees not to contest or challenge the legislative, executive or judicial jurisdiction of the Nation in connection with any enforcement of this Lease, on the basis that such jurisdiction is inconsistent with the status of the Nation as an Indian nation, or that the Nation government is not a government of general jurisdiction, or that the Nation government does not possess 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 in this section shall be construed to negate or impair federal responsibilities with respect to the Leased Premises or to the Nation.

40. NO WAIVER OF SOVEREIGN IMMUNITY.

Nothing in this Lease shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Nation.

41. INTEREST OF MEMBER OF CONGRESS.

No member of or delegate to Congress or any Resident Commissioner shall be admitted to any share or part of this Lease or to any benefit that may arise here from. This provision shall not be construed to extend to this Lease if made with a corporation or company for its general benefit.

42. OBLIGATIONS TO THE UNITED STATES.

It is understood and agreed that while the Leased Premises are in trust or restricted status, all of Lessee's obligations under this Lease and the obligations of its sureties are to the United States as well as to Lessor.

43. NOTICES AND DEMANDS.

(A) Any notices, demands, requests or other communications to or upon either party provided for in this Lease, or given or made in connection with this Lease, (hereinafter referred to as "Notices,") shall be in writing and shall be addressed as follows:

To or upon Lessor:

W. Mike Halona, Director
Navajo Land Department
DIVISION OF NATURAL RESOURCES
P.O. Box 2249
Window Rock, Navajo Nation (Arizona) 86515
Fax: 1- 928-871-7039

To or upon Lessee:

Navajo Tribal Utility Authority
P.O. Box 170
Fort Defiance, Arizona 86504
Fax: 1-928-729-2135

To or upon the Secretary (if approval by the Secretary is required):

Regional Director
Navajo Region
Bureau of Indian Affairs
United States Department of the Interior
301 West Hill Street
P.O. Box 1060
Gallup, New Mexico 87305
Fax: 1-505-863-8324

(B) All Notices shall be given by personal delivery, by registered or certified mail, postage prepaid, or by facsimile transmission or e-mail, followed by surface mail. Notices shall be

effective and shall be deemed delivered: if by personal delivery, on the date of delivery if during normal business hours; or if not, during normal business hours on the next business day following delivery; if by registered or certified mail, or by facsimile transmission or e-mail, followed by surface mail, on the next business day following actual delivery and receipt.

(C) Copies of all Notices shall be sent to the Secretary if approval of this Lease is required.

(D) Lessor, Lessee and the Secretary may at any time change its address for purposes of this section by Notice.

45. SUCCESSORS AND ASSIGNS.

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 Lessee. Except as the context otherwise requires, the term "Lessee," as used in this Lease, shall be deemed to include all such successors, heirs, executors, assigns, employees and agents.

46. RESERVATION OF JURISDICTION.

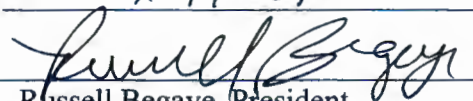
There is expressly reserved to the Nation full territorial legislative, executive and judicial jurisdiction over the area under the Lease and all lands burdened by the Lease, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the area under the Lease; and 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.

47. EFFECTIVE DATE; VALIDITY.

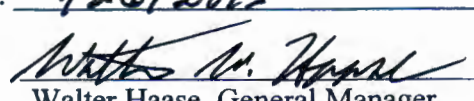
This Lease shall take effect on the date it is executed by both parties, or approved by the Secretary if the Navajo Nation determines that its approval is required. No modification of or amendment to this Lease shall be valid or binding on either party until it is executed by both parties and approved by the Secretary when necessary until the Navajo Nation commences leasing authority pursuant to 25 U.S.C. 415(e).

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the date first above written.

THE NAVAJO NATION, LESSOR

Date: 10/19/2015
By: 
Russell Begaye, President
Navajo Nation

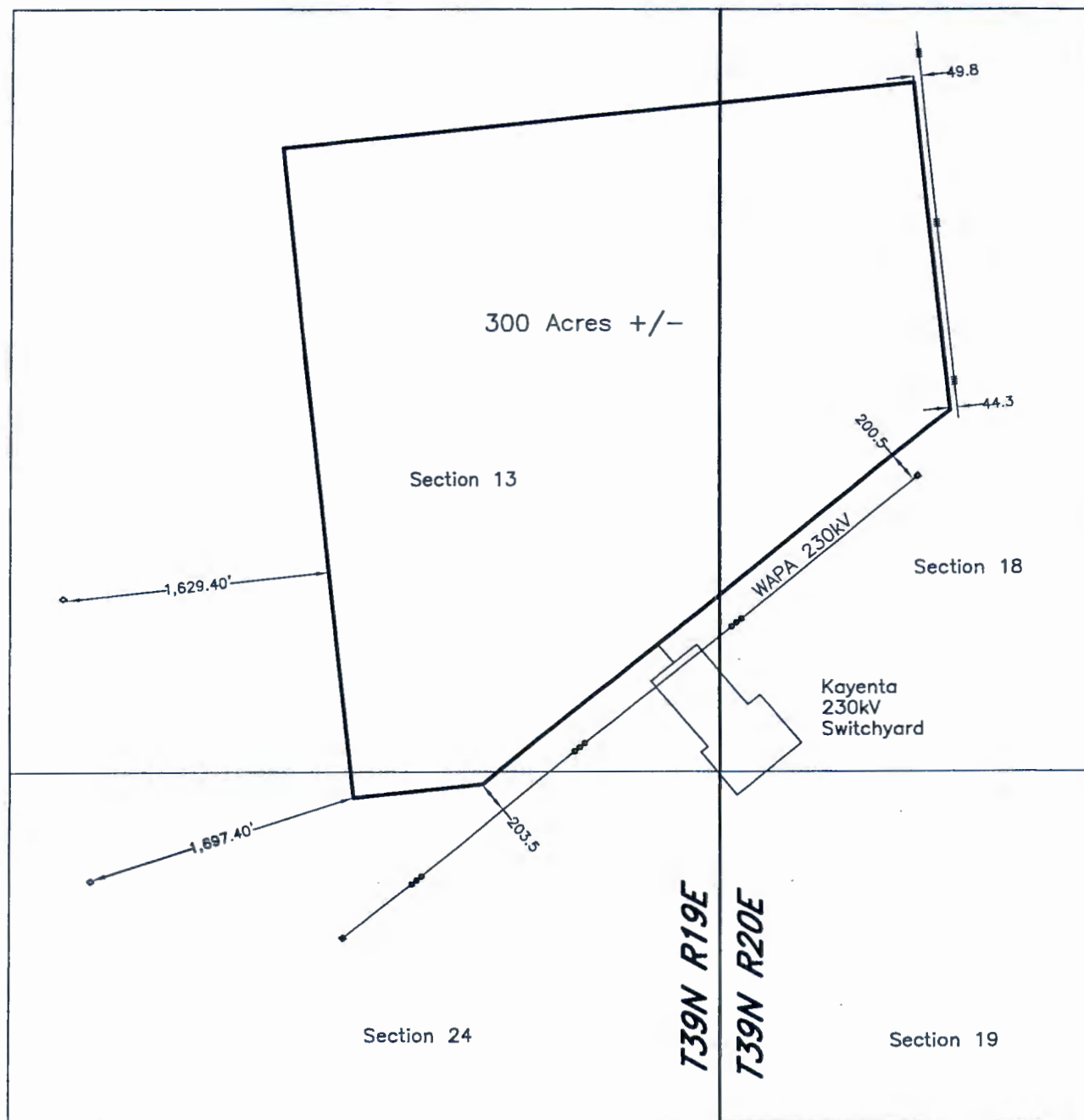
**THE NAVAJO TRIBAL UTILITY
AUTHORITY, LESSEE**

Date: 9/26/2015
By: 
Walter Haase, General Manager

APPROVED: JUN 24 2016
Pursuant to Secretarial Redlegation Order
209 DM 8, 230 DM 1 and 3 IAM 4.


Regional Director, Navajo Region
Bureau of Indian Affairs

SKETCH SHOWING A PROPOSED NTUA'S KAYENTA SOLAR GENERATION PLANT TRACT
 WITH DISTRIBUTION LINE
 IN SECTIONS 13 & 24, T39N, R19E, G&SRM
 IN SECTION 18, T39N, R20E, G&SRM
 KAYENTA, NAVAJO COUNTY, ARIZONA
 NTUA WORK ORDER NUMBER 6213786



500 0 500 1000

T & D

Services

Transmission & Distribution Services, LLC
 Consulting Engineers & Surveyors
 6909B Adams Street NE
 Albuquerque, NM 87113

F.B.
 AZ27-29

Instrument
 R6-TSC3

NAVAJO TRIBAL UTILITY AUTHORITY
 ARIZONA 27 SHIPROCK

SCALE: 1"=1000' HORZ.

DATE: OCT. 27, 2014



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



Resolution No: KY17-338-09

SUPPORTING AND APPROVING NAVAJO TRIBAL UTILITY AUTHORITY (NTUA) TO OBTAIN ADDITIONAL 65 ACRES ADJACENT TO THE EXISTING SOLAR GENERATION PLANT AND AMEND LEASE NO. TC-16-236 IN THE VICINITY OF THE KAYENTA CHAPTER, NAVAJO COUNTY, ARIZONA

WHEREAS

1. Kayenta Chapter ns a duly certified Chapter of the Navajo Nation Government and has the authority and responsibility to provide assistance and to address matters that are in the best interest of the community; and
2. The Navajo Tribal Utility Authority (NTUA) is delegated the authority for operations and management of NTUA, including renewable energy development in a cost-effective and feasible manner pursuant to 21 N.N.C. § 5 (a) (1) AND (2) ; and
3. On March 18, 2015, the Kayenta Chapter considered and approved Resolution No. KY15-205-03 for NTUA to develop a solar plant on 300 acres of land; and
4. On September 15, 2015, Resources and Development Committee considered and approved Resolution No. RDCS-67-15; and
5. On October 19, 2015, Honorable Russell Begay, President, Navajo Nation approved Lease No. TCD-16-236; and
6. On June 24, 2016, the Regional Director, Navajo Region, Bureau of Indian Affairs approved Lease No. TC-16-236; and
7. NTUA finds it necessary to expand the existing 300 acres solar generation tract by 65 acres. NTUA is requesting an additional 65 acres adjacent to the existing tract to construct a second phase of solar generation and utilize the full capacity of the available interconnection capacity at the Kayenta Substation megawatts (MW), which allow NTUA to deliver more renewable energy to homes on the Navajo Nation; and
8. NTUA will complete all the necessary consents required, environmental and cultural resources inventories and obtain compliances for the proposed undertaking; and
9. NTUA maintains that this project is not being developed at the expense of the Navajo people, but rather it is an essential component in creating energy and financial independence for the Navajo Nation and its people.

NOW, THEREFORE BE IT RESOLVED THAT,

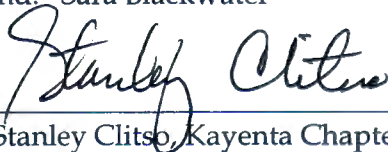
1. *The Kayenta Chapter finds it is in their best interest that Navajo Tribal Utility Authority amend Lease No. TC-16-236 to include the additional 65 Acres adjacent to the existing solar tract for NTUA to expand the existing solar generation facilities.*
2. *The Kayenta Chapter hereby supports and approves Navajo Tribal Utility Authority to amend Lease No. TC-16-236 to include the additional 65 acres adjacent to the existing solar tract for NTUA to expand the existing solar generation facilities.*
3. *The Kayenta Chapter hereby supports and approves the Navajo Tribal Utility Authority of its subsidiaries to conduct all activities related to the development, construction and operation of the solar generation plant, its expansion, transmission facilities and ancillary resources.*

CERTIFICATION

I hereby certify that the foregoing resolution was considered by the KAYENTA Chapter at a duly called meeting at, KAYENTA, Navajo Nation, Arizona, at which a quorum was present and that the same was passed by a vote of 15 in favor, 0 Opposed, and 04 abstaining, this 20th day of September, 2017.

Motion: Ben Edwards

Second: Sara Blackwater



Mr. Stanley Clitso, Kayenta Chapter President





NAVAJO TRIBAL UTILITY AUTHORITY

AN ENTERPRISE OF THE NAVAJO NATION

MEMORANDUM

TO : Bernice Tsosie, Assistant Manager
Electric Systems Planning Section

FROM : Esther Kee, R/W Agent *Esther Kee*
Electric System Planning Section

DATE : October 18, 2017

SUBJECT: Additional 65 acres Land Withdrawal for Kayenta Solar Project
NTUA Work Order No. 6213786

Navajo Tribal Utility Authority proposes to withdraw an additional 65 acres of Navajo Tribal Trust Lands adjacent to the existing Kayenta Solar Generation Plant to construct the second phase of solar generation and utilize the full capacity of the available interconnection at the Kayenta Substation megawatts, which allow NTUA to deliver more renewable energy to homes on the Navajo Nation, located near the vicinity of Kayenta Chapter, Navajo County, Arizona.

NTUA met with the affected grazing permittees identified by Johnathan Nez, Kayenta Chapter Grazing official and informed the land users of the proposed request. NTUA obtained written consents from the four (4) grazing permittees with no objection along with the concurrence of Johnathan Nez. Landusers will be compensated \$8,125.00 (65 acres x \$125 per acre, divided into four equals shares).

Field clearance completed, land users consent, map are all attached for your information and use.

FIELD CLEARANCE CHECKLIST

This form covers only damages and compensation to individual land users. It doesn't cover consideration or other fee to the Navajo Nation. (use back if necessary to complete this form).

1. Project Identification: NTUA Work Order No.
Application: Navajo Tribal Utility Authority
Type of Project: Land Withdrawal
Purpose: Construct, Operate and Maintain Solar Generation Plant
Location: Kayenta, Navajo County, Arizona
2. Amount of land affected: 65 acres
3. Land Status: Trust: X Fee: Other:
4. List names of all individuals whose land use rights will be affected by the proposed project.

	Name	Census Number	Type of Land Use Right
1.	<u>Florence Parrish</u>	<u>73,848</u>	<u>GP 08-0772</u>
2.	<u>Jefferson Yazzie Black</u>	<u>89,959</u>	<u>GP 08-576</u>
3.	<u>Bessie Parrish</u>	<u>77,881</u>	<u>GP 08-1078</u>
4.	<u>John Todacheene</u>	<u>301,813</u>	<u>GP 08-1322</u>
5.	<u> </u>	<u> </u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>
7.	<u> </u>	<u> </u>	<u> </u>
8.	<u> </u>	<u> </u>	<u> </u>

5. Are all the land users with claims to the affected lands as shown in Branch Land Operation records included in the list in item 4? Yes
6. Have the Grazing Committee or Land Board Member (which ever appropriate) for the affected area confirm land user list in item 4 by signing acknowledgement below. Yes

ACKNOWLEDGEMENT

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

09.05.17
Date:


Grazing Committee/Land Board Member

8-1
Dist. No.

CONSENT 2

(Compensation for damages)

**CONSENT TO USE
NAVAJO TRIBAL LANDS**

TO WHOM IT MAY CONCERN:

I, Florence Parris, hereby grant consent to the Navajo Tribe and the Bureau of Indian Affairs to permit **Navajo Tribal Utility Authority, Post Office Box 170, Ft Defiance, Arizona 86504**, to use a portion of my land use area for the following purpose: **to withdraw additional 65 acres, more or less, of Navajo Tribal Trust Land (NTTL) adjacent to the existing solar generation plant to achieve its full capacity of 50 MWs so NTUA will be able to deliver more renewable energy to homes on the Navajo Nation located within the vicinity of Kayenta, Navajo County, Arizona, as shown on the map showing the location of the proposed project on the back of this consent form.**

My consent is given subject to the receipt of compensation \$2,031.25
($65\text{ac} \times \$125 = \$8,125.00$ which I acknowledge as good and adequate compensation divided among 4 permittees) for the diminishment in value of my land use rights as a result of the above referenced project as proposed.

REMARKS:

_____	<u>Florence S. Parris</u>	<u>73,848</u>	<u>GP 08-0772</u>
Date	Land User Signature (or Thumbprint)	Census No.	Permit No.
	<u>P. O. Box 1792, Kayenta Arizona 86033</u>	<u>527-90-3973</u>	
	Address: (P.O. Box, City, State, Zip)	Social Security No.	

WITNESS: _____

09-05-17
Date

[Signature]
Grazing Committee Member

8-1
District No.

Acknowledgement of Field Agent

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

[Signature]
Field Agent Signature

CONSENT 2

(Compensation for damages)

**CONSENT TO USE
NAVAJO TRIBAL LANDS**

TO WHOM IT MAY CONCERN:

I, Jefferson Yazzie Black, hereby grant consent to the Navajo Tribe and the Bureau of Indian Affairs to permit **Navajo Tribal Utility Authority, Post Office Box 170, Ft Defiance, Arizona 86504**, to use a portion of my land use area for the following purpose: **to withdraw additional 65 acres, more or less, of Navajo Tribal Trust Land (NTTL) adjacent to the existing solar generation plant to achieve its full capacity of 50 MWS so NTUA will be able to deliver more renewable energy to homes on the Navajo Nation located within the vicinity of Kayenta, Navajo County, Arizona**, as shown on the map showing the location of the proposed project on the back of this consent form.

My consent is given subject to the receipt of compensation \$2,031.25
(65ac x \$125.= \$8,125.00 which I acknowledge as good and adequate compensation divided among 4 permittees)
for the diminishment in value of my land use rights as a result of the above referenced project as proposed.

REMARKS:

<u>Jefferson Yazzie Black</u> (RTP)		<u>89,959</u>	<u>GP 08-576</u>
Date	Land User Signature (or Print)	Census No.	Permit No.
<u>P.O.Box 408 Kayenta, AZ 86033</u>		<u>527-64-1548</u>	
Address: (P.O. Box, City, State, Zip)		Social Security No.	

WITNESS:

09.05.17
Date

[Signature]
Grazing Committee Member

8-1
District No.

Acknowledgement of Field Agent

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

[Signature]
Field Agent Signature

CONSENT 2

(Compensation for damages)

**CONSENT TO USE
NAVAJO TRIBAL LANDS**

TO WHOM IT MAY CONCERN:

I, Bessie Parris, hereby grant consent to the Navajo Tribe and the Bureau of Indian Affairs to permit **Navajo Tribal Utility Authority, Post Office Box 170, Ft Defiance, Arizona 86504**, to use a portion of my land use area for the following purpose: to withdraw additional 65 acres, more or less, of Navajo Tribal Trust Land (NTTL) adjacent to the existing solar generation plant to achieve its full capacity of 50 MWs so NTUA will be able to deliver more renewable energy to homes on the Navajo Nation located within the vicinity of Kayenta, Navajo County, Arizona, as shown on the map showing the location of the proposed project on the back of this consent form.

My consent is given subject to the receipt of compensation \$2,031.25 (65ac x \$125.=\$8,125.00 which I acknowledge as good and adequate compensation divided among 4 permittees) for the diminishment in value of my land use rights as a result of the above referenced project as proposed.

REMARKS:

<u>8/18/2017</u> Date	<u>Bessie Parris</u> Land User Signature (or Thumbprint) P. O. Box 2548, Kayenta Arizona 86033 Address: (P.O. Box, City, State, Zip)	<u>77,881</u> Census No.	<u>GP 08-1078</u> Permit No.
		<u>585-76-0635</u> Social Security No.	<u>1-480-799-5276</u>

WITNESS: _____

<u>09.05.17</u> Date	<u>[Signature]</u> Grazing Committee Member	<u>801</u> District No.
-------------------------	--	----------------------------

Acknowledgement of Field Agent

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

Erther Lee
Field Agent Signature

CONSENT 2

(Compensation for damages)

CONSENT TO USE
NAVAJO TRIBAL LANDS

TO WHOM IT MAY CONCERN:

I, John Todacheene, hereby grant consent to the Navajo Tribe and the Bureau of Indian Affairs to permit **Navajo Tribal Utility Authority, Post Office Box 170, Ft Defiance, Arizona 86504**, to use a portion of my land use area for the following purpose: **to withdraw additional 65 acres, more or less, of Navajo Tribal Trust Land (NTTL) adjacent to the existing solar generation plant to achieve its full capacity of 50 MWS so NTUA will be able to deliver more renewable energy to homes on the Navajo Nation located within the vicinity of Kayenta, Navajo County, Arizona**, as shown on the map showing the location of the proposed project on the back of this consent form.

My consent is given subject to the receipt of compensation \$2,031.25 (65ac x \$125.=\$8,125.00 which I acknowledge as good and adequate compensation divided among 4 permittees) for the diminishment in value of my land use rights as a result of the above referenced project as proposed.

REMARKS:

8/18/17
Date

John Todacheene
Land User Signature (or Thumbprint)
P.O. Box 2548, Kayenta, Arizona 86033
Address: (P.O. Box, City, State, Zip)

301,813 GP 08-1322
Census No. Permit No.
526-80-8264
Social Security No.

WITNESS: _____

09-05-17
Date

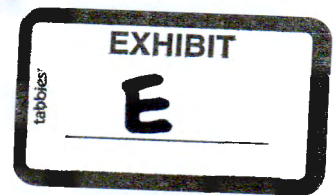
[Signature]
Grazing Committee Member

2.1
District No.

Acknowledgement of Field Agent

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

Esther Kee
Field Agent Signature



ENVIRONMENTAL ASSESSMENT - EA-15-9148
ADDENDUM FOR ADDITIONAL 65± ACRES LOCATED DIRECTLY
ADJACENT TO EXISTING 300± ACRES NEAR THE EXISTING
KAYENTA SOLAR GENERATION FACILITY

NTUA Work Order No. 6213786

Prepared by
NAVAJO TRIBAL UTILITY AUTHORITY
Post Office Box 170
Fort Defiance, Arizona 86504
928/729-5721

March 2018

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1.0 - PROPOSED ACTION

A. Project Description

The Navajo Tribal Utility Authority (NTUA), Fort Defiance, Arizona proposes to secure an additional 65± acres of land to expand the existing 300 acres generation tract to construct a second phase of solar generation and utilize the full capacity of the available interconnection capacity at the Kayenta Substation megawatts, which will allow NTUA to deliver more renewable energy to homes on the Navajo Nation. The additional 65± acres is directly adjacent to the existing 300± acres which was described in the 2015 Environmental Assessment. NTUA will amend the existing Lease with Navajo Nation to incorporate the additional 65± acres.

The additional land will consist of 65± acres, more or less, across lands of the Navajo Nation Trust Lands, which is directly adjacent to the previously approved 300± acres. Construction activities will consist of the following:

1. NTUA will comply with the 25 Code of Federal Regulations, Part 169: Right-of-Way over Indian Lands.
2. Site preparation will involve removal of the sparse vegetation, ground leveling, compacting, and grading within the 300± acres tract.
3. Installation of posts and inverter station foundations.
4. Assemble the racking to the posts, attaching the panels to the racking, connecting wires, wiring the arrays to combiner boxes, to inverters, and finally to the interconnection point.
5. Installation of electrical system, wiring, substation and components.
6. Approximately 153± feet of underground distribution line will be constructed from the solar system to the substation.
7. The entire 300± acres will be securely fenced during construction and operation of the solar facility.
8. An operations and maintenance building will be constructed on-site.
9. Construction crew will pick up debris resulting from the construction.
10. The operation stage will consist of maintenance and monitoring of the solar facility.

B. Purpose and Need for Action

The purpose and need of these facilities is requested by Navajo Tribal Utility Authority, Fort Defiance, Arizona.

Resources are needed to meet the energy demand and meet future needs which are expected to increase over time across the Navajo Nation.

Promote green energy efficiency and economic growth through green jobs for the Navajo Nation.

C. Locations

The proposed project is situated within Township 39 North, Ranges 19 and 20 East, Gila and Salt River Meridian, Kayenta, Navajo County, State of Arizona.

Quadrangle Maps: Agathla Peak, AZ.

D. Vicinity Maps

Exhibit "A-1" Right-of-Way Map
Exhibit "A-2" Location Map

2.0 - ALTERNATIVES

A. Formulation of Alternatives

Alternatives are Electric power distribution, Solar energy, Wind Energy, and No action. As this document is to add in an additional 65± acres for the continued development of solar energy, we note that other alternatives are not applicable.

B. Reasonable Alternatives

1. Electric Power Line

Although NTUA has transmission and distribution electric lines across Navajo Nation; it relies on other sources of generation to provide adequate energy supply and meet future needs. In the future, NTUA may not be able to maintain lower rates and create energy dependence without the addition of owning and operating generation resources.

2. Solar Energy

Solar energy provides renewable and clean energy, job creation, and economic independence. NTUA seeks to mitigate negative economic impacts from reduced capacity of coal-fire generation facilities and will create an additional Navajo owned generation facility to meet Navajo needs with maintaining lower rates.

3. Wind Energy

Wind energy is a viable renewable technology, however, it is dependent on wind, if there is no wind blowing, there's no electricity generated. Based on the proposed site and initial analysis, the site is not the most suitable for wind, but is suitable based on the improvement of solar technology for additional solar generation at the site. NTUA will continue to evaluate other locations with the Navajo Nation to find other sites that are suitable and feasible for wind development.

4. No Action

If no action is taken, NTUA would continue to rely on other sources of generation to provide adequate energy supply and meet future needs and not be able to create energy independence.

C. Alternatives Beyond BIA Authority

The Navajo Tribal Utility Authority does not know of other reasonable alternatives beyond BIA Authority that may be considered.

3.0 - DESCRIPTION OF THE AFFECTED ENVIRONMENT

A. Land Resources

The project area is located four miles north of the town of Kayenta adjacent to Arizona State Highway 163 and adjacent to NTUA's existing 230kV substation.

The land is primarily used for grazing and undeveloped. No farmland will be impacted by the project. The proposed undertaking will be limited to the existing 300± acres and proposed additional 65± acres tracts and rights-of-way, which are adjacent and contiguous for solar generation tract.

B. Water Resources

No sufficient water is located on site, no surface waters would be impacted by the proposed undertaking. NTUA has installed a water pipeline to address needed water for construction and dust control purposes.

C. Air Resources

The proposed undertaking would produce short-term emissions from the construction equipment during construction. Due to the time associated with the construction, impacts would be minimal and temporary. Dust control would be abated by the use of water supplied by NTUA.

D. Biotic Resources

1. Wildlife

Biological field surveys were conducted in November 2014 around the existing solar generation tract and in 2017 received biological resource compliance form for the proposed additional 65± acre tract and no suitable habitat existed for the Golden eagle, Burrowing owl, Ferruginous hawk, Mexican gray wolf, Yellow-billed cuckoo, Southwestern willow flycatcher, Peregrine falcon, Roundtail chub, California condor, Little Colorado spinedace, Chiricahua leopard frog, Northern leopard frog, Apache (Arizona) trout, Gila trout, Mexican spotted owl, Northern Mexican gartersnake, and New Mexico meadow jumping mouse. No individuals or stick nests were found during the surveys.

Potential habitat was found for the Gray wolf; however, no individuals were found during the 2014 survey and the biological resource compliance form in 2017.

No prairie dogs or burrows were observed. Based on observations and criteria set forth in the black-footed ferret guidelines, no impacts are expected to the black-footed ferret.

If there were any disturbance of the wildlife, it would be temporary and no long term disturbance of the wildlife would occur.

2. Vegetation

During the surveys in 2014 and the 2017 biological resource compliance form, no suitable habitat existed within the project area for the Welsh's milkweed, Navajo sedge, Peebles Navajo cactus, and Parish's alkali grass. No individuals were found during the surveys.

Top surface of the soil will be disturbed within the existing and proposed tracts for the construction activities.

E. Cultural Resources

The Navajo Nation Historic Preservation Department (NNHPD) files states several small previous projects have been conducted and no sites were recorded within 300 feet of the project area.

In October 2017, the Dinétahdóó Cultural Resources Management (DCRM), Farmington, New Mexico, conducted the cultural resources inventory within the tract. Four Isolated Occurrences (I.O.s) were observed and recorded, DCRM 2014-26-Addendum I. No Traditional Cultural Properties (TCPs) were identified under the 2014 survey or the 2017 biological resource compliance.

F. Socioeconomic Conditions

Approximately 268 jobs were created during the height of construction of Phase I of the Kayenta Solar Project and expect to create a similar amount of jobs during Phase II of the Kayenta Solar Project. It is expected that four positions are permanent to operate and maintain the solar generation plant.

G. Resources/Land Use Patterns

Natural resources in the Kayenta Chapter include scenic attractions, farming, coal, and sand & gravel.

The proposed undertaking would represent a visual change but located in the vicinity of existing electric utility infrastructures and have moderate impact on visual resources at the proposed site.

H. Other Values

The project area is not located within or near wilderness areas and will not cross wetlands area.

In reference to the 65± acres for the solar tract, prior to construction, NTUA will file a Notice of Intent (NOI) with the Navajo Nation Environmental Protection Agency for an amendment to the existing National Pollutant Discharge Elimination System (NPDES)

Permit and prepare an amendment to the existing Storm Water Pollution Prevention Plan (SWPPP) pursuant to the Clean Water Act Section 402(p).

A Section 404 Permit is not applicable such as no discharge of dredged or fill material into waters will occur as result of the proposed project.

4.0 - ENVIRONMENTAL CONSEQUENCES OF THE PROPOSED ACTION

The following impacts (adverse or non-adverse) may occur as a result of the proposed undertaking:

A. Biological Impacts

1. Approximately 65± acres additional of surface area may be potentially disturbed during installation of Phase II of Kayenta Solar Project, which may result in an influx of disturbed-soil associated species and loss of wildlife cover and forage species.
2. There may be a temporary avoidance of the project area by certain wildlife species during the construction.
3. Foraging habitat may be temporarily affected impacted wildlife during construction.

B. Physical Impacts

1. Preparation of land to set up the solar facility and clearing of vegetative land cover will be required during the construction period. Because of the scarcity of vegetation in the area, these impacts will be limited.
2. The construction and operation of the solar project will alter the visual landscape. The additional 65± acres would be converted from a grazing use to solar energy complex as the adjacent area consists of the Phase I of the Kayenta Solar Project, as well as a large utility substation and transmission lines.
3. The construction will be temporary, approximately 9 months, and not have any lasting negative affect on local residents. Actual construction will be during the daylight hours only and temporary increase of noise from the construction activities.
4. Material storage will be conducted on site and at the NTUA District compound. This will be determined at the pre-construction meeting, which is held for every project.
5. The existing road into the existing Phase I of the Kayenta Solar Project and the existing Kayenta substation will be used for access during the construction period.
6. Fugitive dust generated by vehicular and equipment traffic, and wind erosion associated with construction activities, is expected to impact air quality on a minor, short-term basis and will be abated using water supplied by NTUA.

5.0 - MITIGATION MEASURES OF THE PROPOSED ACTION

A. Biological Measures

The following mitigative measures are provided to alleviate or minimize negative impacts.

Avoid unnecessary ground disturbance and removal of vegetation within and adjacent to the tract during the construction and maintenance of the solar project by use of vehicles, construction equipment, and machinery.

NTUA will comply with the Vegetative Reclamation for Powerlines Plan prepared by the Navajo Department of Agriculture within the disturbed areas.

To avoid any impacts to the Golden eagle and nests, construction may be scheduled outside the breeding season (February 1 to July 15). If unavoidable, a pre-construction survey will be conducted.

Due to the transient nature of the foraging Golden eagle and California condor, they are not expected to be adversely impacted.

Biological Resources Compliance Form No. 14ntua112E was issued on December 15, 2107.

B. Physical Measures

The *existing* access road will be utilized during the construction phase and operation of the solar facility and *existing* disturbed sites for parking areas and staging areas.

C. Solid Waste Management

Navajo Tribal Utility Authority will practice the general procedure in regards to Solid Waste Management as follows:

1. Solid waste such as trash/garbage generated in result from the construction activities will be collected and transported by NTUA to a designated nearest trash bins. Salvage materials will be returned to NTUA warehouse yard.
2. NTUA will not and does not generate any hazardous waste.

D. Archaeological Resources

Dinétahdóó Cultural Resources Management conducted the cultural resources inventory within the tract and along the distribution line corridor.

The stipulations contained in the Cultural Resources Compliance Form No. HPD-15-255.1 dated December 18, 2017 will be adhered to.

E. Socioeconomic Resources

The Navajo Nation's median income is around \$10,000 per year. Unemployment levels fluctuates between 45 and 55%. About 45% of families live below the Federal poverty rate.

On September 20, 2017, the Kayenta Chapter passed resolution No. KY17-338-09 supporting and approving the additional 65 acres

The Project Review Section office consulted the permit holders and acquired their consents to approve the proposed project

F. Pollution Prevention

To minimize dust and vehicle emissions, the vehicles are equipped with regular exhaust mufflers. A mechanic is scheduled to make routine preventive maintenance for vehicles, equipment, and other machinery at the job sites.

6.0 - CONCLUSIONS REGARDING THE SIGNIFICANCE

No identified species are present in the proposed area and are unlikely to be present, due to the absence of critical habitat requirements.

Dinétahdóó Cultural Resources Management conducted the cultural resources inventory within the tract and along the right-of-way corridor in both 2014 and 2017. The stipulations contained in Compliance Form No. HPD-15-255.1 will be adhered to.

As with Phase I of the Kayenta Solar Project, the construction of Phase II of the Kayenta Solar Project and underground interconnection line will be temporary and no significant adverse impacts on the environment are expected.

The Phase II of the Kayenta Solar Project will provide and improve safe, reliable, and adequate electrical services and accommodate future developments across the Navajo Nation.

7.0 & 8.0 - CONSULTATION AND COORDINATION

A. **Personnel**

The Navajo Tribal Utility Authority, Fort Defiance, Arizona conducted the field investigations and research analyses associated with the Environmental Assessment.

1. Bernice Tsosie, Assistant Manager

B. **Consultation and Coordination**

1. Dinétahdóó Cultural Resources Management
P.O. Box 2012
Farmington, New Mexico 87499
2. Gloria M. Tom, Director
Navajo Nation Department of Fish & Wildlife
P.O. Box 1480
Window Rock, Arizona 86515
3. Harrilene Yazzie, Regional NEPA Coordinator
Division of Environmental, Cultural & Safety Management
BIA - Navajo Area Office
P.O. Box 1060
Gallup, New Mexico 87305-1060
4. Real Estate Services Office
BIA - Navajo Area Office
P.O. Box 1060
Gallup, New Mexico 87305-1060
5. Navajo Nation Historic Preservation Department
P.O. Box 4950
Window Rock, Arizona 86515
6. Derek A. Dyson, Esq.
Duncan, Weinberg, Genzer, & Pembroke, P.C.
1615 M Street, NW, Suite 800
Washington, D.C. 20036
7. NTUA Engineering Section
P.O. 170
Fort Defiance, Arizona 86504

C. Bibliography/References

1. A Cultural Resources Inventory of NTUA's Proposed Kayenta Solar Generation Farm Tract Additional 64.99 Acres, Kayenta, Navajo County, Arizona, Work Order No. 6213786. Author(s): Rena Martin and Shane Wero. DCRM 2014-26-Addendum I, October 19, 2017.
2. Cultural Resources Compliance Form No. HPD-15-255.1, December 18, 2017.
3. Biological Resources Compliance Form No. 14ntual12E, December 15, 2107.
4. Environmental Assessment for Kayenta Solar Generation Facility with Power Line Project, NTUA Work Order No. 6213786, March 2015 (EA-15-9148) May 27, 2015.
5. Navajo Tribal Utility Authority Environmental Report for 2008-2011 Construction Work Plan, Prepared by Navajo Tribal Utility Authority, April 2008, Submitted to Rural Utilities Service, U.S. Department of Agriculture, Washington D.C., (EA-08-058).
6. Chapter Images: 2004 Edition, Compiled, Edited, and Prepared by LSR Innovations Research and Planning, Division of Community Development, The Navajo Nation, P.O. Box 1896, Window Rock, Arizona 86515, 928.871.6810.
7. Regional Hydrogeology of the Navajo and Hopi Indian Reservations, Arizona, New Mexico, and Utah, Geological Survey Professional Paper 521-A.
8. Suggested Practices for Raptor Protection on Power Lines: State of the Art in 2006.
9. U.S. Code of Federal Regulations, Title 40, Protection of the Environment.
10. U.S. Code of Federal Regulations, Title 50, Wildlife and Fisheries.
11. National Historic Preservation Act (NHPA), 36 CFR 60.4.
12. Archaeological Resources Protection Act of 1979 (ARPA), 43 CFR Part 7.
13. American Indian Religious Freedom Act (AIRFA), Public Law 95 341.
14. 36 CFR Part 800: Protection of Historic Properties.
15. Navajo Nation Cultural Resources Protection Act, Tribal Council Resolution No. CMY-19-88.

16. U.S. Code of Federal Regulations, Title 25, Part 169: Rights-of-Way over Indian Lands.

D. **Signature**



Bernice "Niecy" Tsosie
Assistant Manager
Electric System Planning Section
NAVAJO TRIBAL UTILITY AUTHORITY
Post Office Box 170
Fort Defiance, Arizona 86504
928.729/6204
e-mail address: niecy@ntua.com



United States Department of the Interior

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



MC 465: Branch of Environmental Quality, Compliance Act and Review

Mr. Walter Hasse, General Manager
Navajo Tribal Utility Authority
P.O. Box 170
Fort Defiance, Arizona 86504

MAR 27 2018

Dear Mr. Haase:

The amended Environmental Assessment (EA), **EA-18-21229**, for the proposed Kayenta Solar Generation Plant and Distribution Line Project Work Order No. 6213786 Near Kayenta, Navajo County, Arizona, has been reviewed in the Branch of Environmental Quality, Compliance Act and Review, Navajo Regional Office. This addendum to the original Finding of No Significant Impact (FONSI), same title as adds an additional 65 Acres in the original EA and FONSI. This amendment increases original proposed 300 acres by 65 acres totaling to 365 acres in the amended EA and FONSI. The Finding of No Significant Impact (FONSI) previously issued (EA-15-9148) also applies to the current proposed action which 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.

In accordance with Section 102 (2) (c) of the National Environmental Policy Act (NEPA) of 1969, as amended, and the Council of Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations (CFR) Parts 1500-1508), the Bureau of Indian Affairs, Navajo Regional Office, finds that the Proposed Action is not a major federal action that will significantly impact the quality of the human environment. Therefore, an Environmental Impact Statement is not required for implementing the Proposed Action. This Finding of No Significant Impact (FONSI) is supported by the Environmental Assessment (EA) and the supporting appendices and documents.

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

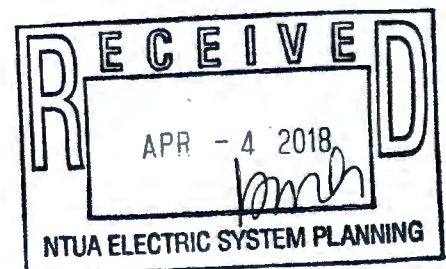
Sincerely,

Regional Director

Received

MAR 30 2018

NTUA
General Manager's Office



ADDENDUM
**TO EA-18-21229 KAYENTA SOLAR GENERATION PLANT AND DISTRIBUTION
LINE PROJECT WORK ORDER NO. 6213786 PROJECT ENVIRONMENTAL
ASSESSMENT AND FONSI**

Navajo Tribal Utility Authority

This addendum serves to notify the Navajo people, general public and the Navajo Nation Government that additional information about the Kayenta Solar Generation Plant and Distribution Line Project Work Order No. 6213786 Near Kayenta, Navajo County, Arizona was received by the Navajo Regional Office. The project environmental assessment, EA-15-9148 was revisited to incorporate the new information.

The new information provided by the Navajo Tribal Utility Authority for the Proposed Project is as follows:

1. This addendum appends a revised Cultural Resource Compliance Form (CRCF) approved December 18, 2017. The revised CRCF (HPD 15-255.1) adds on 65 additional acres to original 300 acres. The proposed project can be found on the Agathla Peak Quadrangle, Navajo County, Arizona, USGS 7.5-minute quadrangle maps.
2. In compliance with the National Historic Preservation Act of 1966, as amended, Section 106 and 36 CFR 800.9 (b), consultation was held with the Navajo Nation Historic Preservation Department (NNHPD). The NNHPD issued Cultural Resources Compliance Form (CRCF), NNHPD No. HPD-15-255.1, updating information relative to the proposed changes in the Sections in the CRCF and indicating "No historic properties affected."
3. This addendum appends a revised Biological Resources Compliance Form (BRCF) approved December 15, 2017. The revised BRCF (14ntua112E) adds on 65 additional acres to original 300 acres. The proposed project can be found on Sections 13 & 18, T39N, R19-20E, G&SRM, Kayenta, Navajo County, Arizona
4. In compliance with the Navajo Endangered Species Act and Environmental Policy Codes, U.S. Endanger Species, Migratory Bird Treaty, Eagle Protection and National Environmental Policy Acts.
5. In the event of a discovery [discovery mean 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.

No other changes to the environmental assessment or the Finding of No Significant Impact (FONSI) are expected. The addendum, with supporting documents designated as EA-18-21229,

is on file and available for review in Room 356, Branch of Environmental Quality, Compliance Act and Review, Navajo Regional Office, Bureau of Indian Affairs, 301 West Hill Street, Gallup, New Mexico 87301.



Regional NEPA Coordinator

3/27/18

Date



United States Department of the Interior
Bureau of Indian Affairs
Navajo Region
P. O. Box 1060
Gallup, New Mexico 87305-1060



MC: 620 Branch of Environmental Quality Act Compliance & Review

MAY 28 2015

Mr. Walter W. Haase, General Manager
Navajo Tribal Utility Authority
P.O. Box 170
Fort Defiance, AZ 86504

Received

JUN 02 2015

Attention: Ms. Bernice Tsosie, Government Liaison/Row Specialist

Dear Mr. Haase:

NTUA
General Manager's Office

The Environmental Assessment (EA), EA-15-9148, received on May 8, 2015, for the NTUA proposed Kayenta Solar Generation Plant & Distribution Line Project, Work Order No. 6213786, for the construction, operation and maintenance of a 27.5 megawatt solar generation plant near Kayenta Navajo County, Arizona, has been reviewed in the Branch of Environmental Quality Act Compliance & Review, Navajo Regional Office. The solar generation facility will utilize ± 300 acres of land. Approximately ± 153 feet of power line within a 50-foot wide ROW, encompassing 0.18 acres of land, will deliver power to NTUA's existing 230 kV substation within the Kayenta Chapter. In total, 300.18 acres of Navajo Tribal Trust land will be affected. The project area is located 4.0 miles north of Kayenta adjacent to Arizona State Highway 163 and NTUA's existing substation. A Finding of No Significant Impact (FONSI) has been determined for the proposed action. The project will not have a significant impact on the quality of the natural and human environment. An environmental impact statement for the project is not required.

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

Sincerely,

Regional Director, Navajo

Enclosure

5. Water Resources – there are no natural, permanent or semi-permanent sources of water located within the project area. There are two unnamed washes through the project area (BE, Page 1).

6. In compliance with the National Historic Preservation Act of 1966, as amended, Section 106 Consultation, and 36 CFR 800.9 (b), a cultural resources inventory of the proposed project area was conducted by Dinéahdóó Cultural Resources Management (DCRM). The Navajo Nation Historic Preservation Department (NNHPD) issued Cultural Resources Compliance Form (CRCF) NNHPD No.HPD-15-255 indicating that no historic properties will be affected if conditions stated in the CRCF are followed” (EA, Exhibit E).

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.

7. RCRA, Subtitle C, Hazardous Waste - the operator shall not generate hazardous waste (EA, Part 5.C.2).

8. RCRA, Subtitle D, Non-Hazardous Solid Waste - trash and garbage generated as a result of the project shall be collected and disposed at approved landfills (EA, Part 5.C.1).

9. NPDES & SWPPP – NTUA will file a notice of intent (NOI) with the Navajo Nation Environmental Protection Agency for a National Pollutant Discharge Elimination System permit and will prepare a Storm Water Pollution Prevention Plan pursuant to the Clean Water Act Section 402p (EA, Part 3.H).

10. Noise – the construction will be temporary and will not have any lasting effect on local residents. Construction will occur during daylight hours. There will be a temporary increase in noise from construction activities (EA, Part 4.B.3).

11. 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. NTUA shall comply with the Vegetative Reclamation Plan, prepared by the Navajo Department of Agriculture, for disturbed areas within the project area (EA, Part 5.A).

12. In accordance with Executive Order 12898 on Environmental Justice, impacts to minority and low-income populations and communities have been considered by the NEPA Coordinator, as have impacts to Indian Trust Resources.

The proposed action, supported by Resolution of the Kayenta Chapter (Exhibit F), will allow the NTUA to meet current and future energy demands on the Navajo Nation, as well as, promote green energy efficiency, thereby promoting economic growth in the region. This region has been negatively impacted by job losses at the Black Mesa Coal Mine and the Navajo Generating Station.


Regional NEPA Coordinator

5/27/15
Date

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B. Physical Impacts-----	7
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B. Physical Measures-----	8
C. Solid Waste Management-----	8
D. Archaeological Resources-----	9
E. Socioeconomic Resources-----	9
F. Pollution Prevention-----	9
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A. Personnel-----	11
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Appendix Enclosures-----	Various

9. Construction crew will pick up debris resulting from the construction.
10. The operation stage will consist of maintenance and monitoring of the solar facility.

B. Purpose and Need for Action

The purpose and need of these facilities is requested by NTUA, headquartered in Fort Defiance, Arizona.

Energy Generation Resources are needed to meet the current and future energy demand across the Navajo Nation. This project will meet a growing demand by the Navajo Nation to utilize its own renewable resources to meet energy demand.

In addition, this project shall promote green energy efficiency and create green jobs thereby promoting economic growth in the Kayenta, AZ region. This region has been negatively impacted by job losses at the Black Mesa Coal Mine and at the Navajo Generating Station.

C. Locations

The proposed project is situated within Township 39 North, Ranges 19 and 20 East, Gila and Salt River Meridian, Kayenta, Navajo County, State of Arizona.

Quadrangle Maps: Agathla Peak, AZ.

D. Vicinity Maps

Exhibit "A-1" Right-of-Way Map
Exhibit "A-2" Location Map

3.0 - DESCRIPTION OF THE AFFECTED ENVIRONMENT

A. Land Resources

The project area is located four miles north of the town of Kayenta adjacent to Arizona State Highway 163 and adjacent to NTUA's existing 230kV substation. The land is primarily used for grazing. The elevation ranges about 5,600 feet.

Soil types in the project area are comprised of Palma-Clovis-Trail Association; deep coarse to moderately fine-textured, nearly level to rolling soils on plains.

B. Water Resources

NTUA's existing water and wastewater facilities are found in the immediate vicinity the project area and small drainages.

C. Air Resources

Air quality in the area is generally good. The area may be influenced by air pollution from the mining activities and power plants located on the Navajo Nation. Passing motor vehicles on dirt roads and prevailing dusty winds provides period of dense particulate pollution within the project areas.

Visibility can exceed 30 miles or more on clear days. During winter months and windy days, visibility may get obstructed.

The proposed project area receives 8-12 inches of rainfall annually. The annual mean temperature is 25 degrees Fahrenheit during winter months and 90 degrees Fahrenheit during the summer months.

D. Biotic Resources

1. Wildlife

Wildlife species observed within the project area are listed in *Appendix B* of the Biological Survey Report for Species of Concern on the Kayenta Solar Generation Plant and Transmission Line Project, prepared by Zoology Unlimited, Flagstaff, Arizona, Exhibit "C".

Sonja Detsoi, Wildlife Technician, Navajo Natural Heritage Program, Window Rock, Arizona, in a letter dated November 14, 2014, provided species known, potential and species of concern include protected, candidate, and other rare or otherwise sensitive species, including certain native species and species of economic or cultural significance to occur near the project area and are listed in *Appendix A* of the report.

F. Socioeconomic Conditions

Major employment on the Navajo Nation is found with Navajo Tribal offices, Federal agencies, and businesses situated locally or within principal towns of the Navajo Nation.

Kayenta Chapter's population is estimated to be 5,928±. The project is located within the Kayenta Chapter and BIA's Western Navajo Agency.

The community is centered on the traditional lifestyle of the Navajo people by farming, silversmith, rug weaving, and arts & crafts.

G. Resources/Land Use Patterns

Natural resources in the Kayenta Chapter include scenic attractions, farming, coal, and sand & gravel. The community is accessible by Arizona State Highway Nos. 160 and 163. Bus and air services are available in the community.

The community has chapter house, new hospital, Senior Citizens Center, community center, fire station, dialysis center, health center, and numerous tribal and federal offices.

The Kayenta Community has school facilities, which include a high school, elementary school, junior high school, and pre-school.

The community has recreation facilities include a fair ground, park, basketball courts, baseball fields, tennis courts, recreation buildings, and library.

There are numerous commercial establishments such as gas stations, convenient stores, Laundromats, bank, supermarket, restaurants, movie theatre, and other small businesses in the community. In addition, there are several churches and organizations in the community.

H. Other Values

The project area is not located within or near wilderness areas and will not cross wetlands area.

In reference to the 300± acres for the solar tract, prior to construction, NTUA will file a Notice of Intent (NOI) with the Navajo Nation Environmental Protection Agency for a National Pollutant Discharge Elimination System (NPDES) permit and prepare a Storm Water Pollution Prevention Plan (SWPPP) pursuant to the Clean Water Act Section 402(p).

5.0 - MITIGATION MEASURES OF THE PROPOSED ACTION

A. Biological Measures

The following mitigative measures are provided to alleviate or minimize negative impacts.

Avoid unnecessary ground disturbance and removal of vegetation within and adjacent to the tract during the construction and maintenance of the solar project by use of vehicles, construction equipment, and machinery.

NTUA will comply with the Vegetative Reclamation for Powerlines Plan prepared by the Navajo Department of Agriculture within the disturbed areas.

To avoid any impacts to the Golden eagle and nests, construction may be scheduled outside the breeding season (February 1 to July 15). If unavoidable, a pre-construction survey will be conducted.

Due to the transient nature of the foraging Golden eagle and California condor, they are not expected to be adversely impacted.

Due to the lack of information on the effects of a solar facility, studies will be conducted to ascertain the effects of the solar facility on wildlife. Reports will be filed with Navajo Fish & Wildlife Department for, if need, further recommendation.

B. Physical Measures

The *existing* access road will be utilized during the construction phase and operation of the solar facility and *existing* disturbed sites for parking areas and staging areas.

C. Solid Waste Management

Navajo Tribal Utility Authority will practice the general procedure in regards to Solid Waste Management as follows:

1. Solid waste such as trash/garbage generated in result from the construction activities will be collected and transported by NTUA to a designated nearest trash bins. Salvage materials will be returned to NTUA warehouse yard.
2. NTUA will not and does not generate any hazardous waste.

6.0 - CONCLUSIONS REGARDING THE SIGNIFICANCE

A total of 23 species were identified that have potential to occur on or near the project area. Twenty-one of the 23 species were not present in the proposed areas and are unlikely to be present in the right-of-way corridor, due to the absence of critical habitat requirements. The Biological Resources Compliance Form No. 14ntua112 was issued on April 30, 2015.

Dinétahdóó Cultural Resources Management conducted the cultural resources inventory within the tract and along the right-of-way corridor. The stipulations contained in Compliance Form No. HPD-15-255 will be adhered to.

The construction of the solar facility and power line will be temporary and no significant adverse impacts on the environment are expected as a result of the proposed project.

The proposed solar facility will provide and improve safe, reliable, and adequate electrical services and accommodate future developments across the Navajo Nation.

C. **Bibliography/References**

1. A Cultural Resources Inventory of NTUA's Proposed Kayenta Solar Generation Facility with Distribution Line North of Kayenta, Navajo County, Arizona, NTUA Work Order No. 6213786. Author(s): Natasha Ignacio and Clifford Werito. DCRM 2014-35, April 3, 2015.
2. Cultural Resources Compliance Form No. HPD-15-255, April 24, 2015.
3. Biological Survey Report for Species of Concern on the Kayenta Solar Generation Plant and Transmission Line Project, Kayenta Chapter, Arizona. Work Order No. 6213786, Prepared by Zoology Unlimited, LLC, December 5, 2014.
4. Biological Resources Compliance Form No. 14ntua112, April 30, 2015.
5. Kayenta Solar Generation Plant with Power Line, Navajo County, AZ, Work Order No. 6213786, March 10, 2015.
6. Navajo Tribal Utility Authority Environmental Report for 2008-2011 Construction Work Plan, Prepared by Navajo Tribal Utility Authority, April 2008, Submitted to Rural Utilities Service, U.S. Department of Agriculture, Washington D.C., (EA-08-058).
7. Chapter Images: 1996 Edition, Division of Community Development, The Navajo Nation, P.O. Box 1896, Window Rock, Arizona 86515, Compiled, Edited, and Prepared by Larry Rodgers.
8. Regional Hydrogeology of the Navajo and Hopi Indian Reservations, Arizona, New Mexico, and Utah, Geological Survey Professional Paper 521-A.
9. Suggested Practices for Raptor Protection on Power Lines: State of the Art in 2006.
10. U.S. Code of Federal Regulations, Title 40, Protection of the Environment.
11. U.S. Code of Federal Regulations, Title 50, Wildlife and Fisheries.
12. National Historic Preservation Act (NHPA), 36 CFR 60.4.
13. Archaeological Resources Protection Act of 1979 (ARPA), 43 CFR Part 7.
14. American Indian Religious Freedom Act (AIRFA), Public Law 95 341.



NNDFW Review No. 14ntua112E

BIOLOGICAL RESOURCES COMPLIANCE FORM
NAVAJO NATION DEPARTMENT OF FISH AND WILDLIFE
P.O. BOX 1480, WINDOW ROCK, ARIZONA 86515-1480

It is the Department's opinion the project described below, with applicable conditions, is in compliance with Tribal and Federal laws protecting biological resources including the Navajo Endangered Species and Environmental Policy Codes, U.S. Endangered Species, Migratory Bird Treaty, Eagle Protection and National Environmental Policy Acts. This form does not preclude or replace consultation with the U.S. Fish and Wildlife Service if a Federally-listed species is affected.

PROJECT NAME & NO.: Kayenta Solar Generation Plant - Tract Expansion

DESCRIPTION: NTUA proposes a 65-acre expansion of the existing 300-acre solar generation tract for a total of 365± acres. The expansion is necessary for phase II of the solar generation project and to operate to full capacity in order to deliver more renewable energy to homes on the Navajo Nation.

LOCATION: Sections 13 & 18, T39N, R19-20E, G&SRM, Kayenta, Navajo County, Arizona

REPRESENTATIVE: Bernice Tsosie, Government Liaison/ROW Specialist, Navajo Tribal Utility Authority

ACTION AGENCY: Navajo Nation and Bureau of Indian Affairs

B.R. REPORT TITLE / DATE / PREPARER: BSR for Species of Concern on the Kayenta Solar Generation Plant and Transmission Line Project/05 DEC 2014/Zoology Unlimited, LLC.

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: NA

CONDITIONS OF COMPLIANCE*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/14 DEC 2017

COPIES TO: (add categories as necessary)



2 NTC § 164 Recommendation:

Signature

Date

- ☒ Approval
☐ Conditional Approval (with memo)
☐ Disapproval (with memo)
☐ Categorical Exclusion (with request letter)
☐ None (with memo)

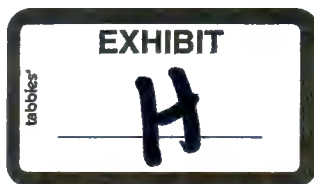

Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife

12/15/17

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

Representative's signature

Date



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

CULTURAL RESOURCE COMPLIANCE FORM

ROUTE COPIES TO:	NNHPD NO.: HPD-15-255.1
<input checked="" type="checkbox"/> DCRM	OTHER PROJECT NO.: DCRM 2014-26 Add. 1

PROJECT TITLE: A Cultural Resource Inventory of NTUA's Proposed Kayenta Solar Generation Farm Tract Additional 64.99 Acres, Kayenta, Navajo County, Arizona. NTUA Work Order No. 6213786

LEAD AGENCY: BIA/NR

SPONSORS: Bernice Tsosie, Navajo Tribal Utility Authority, PO Box 170, Fort Defiance, Arizona 86504

PROJECT DESCRIPTION: NTUA is proposing to withdraw an additional two tracts that total 64.99-acres for the expansion of the Kayenta Solar Generation Farm Facility. Ground disturbance will be intensive and extensive with the use of heavy equipment.

LAND STATUS:	Navajo Tribal Trust
CHAPTER:	Kayenta
LOCATIONS:	Project is located on the Agathla Peak Quadrangle, Navajo County, Arizona G&SRPM
	T. 39 N, R. 20 E- Sec. 18
	T. 39 N, R. 19 E- Sec. 24 & 13
PROJECT ARCHAEOLOGIST:	Rena Martin & Shane Wero
NAVAJO ANTIQUITIES PERMIT NO.:	B17650
DATE INSPECTED:	10/03/17 – 10/04/17
DATE OF REPORT:	10/19/17
TOTAL ACREAGE INSPECTED:	75.9 - acres
METHOD OF INVESTIGATION:	Class III pedestrian inventory with transects spaced <u>10</u> m apart.

LIST OF CULTURAL RESOURCES FOUND:	(4) Isolated Occurrences (IO)
LIST OF ELIGIBLE PROPERTIES:	None
LIST OF NON-ELIGIBLE PROPERTIES:	(4) Isolated Occurrences (IO)
LIST OF ARCHAEOLOGICAL RESOURCES:	None

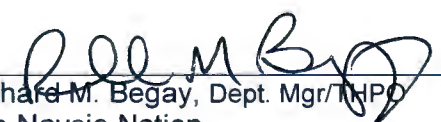
EFFECT/CONDITIONS OF COMPLIANCE: No historic properties affected.

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

FORM PREPARED BY: Tamara Billie
FINALIZED: December 5, 2017

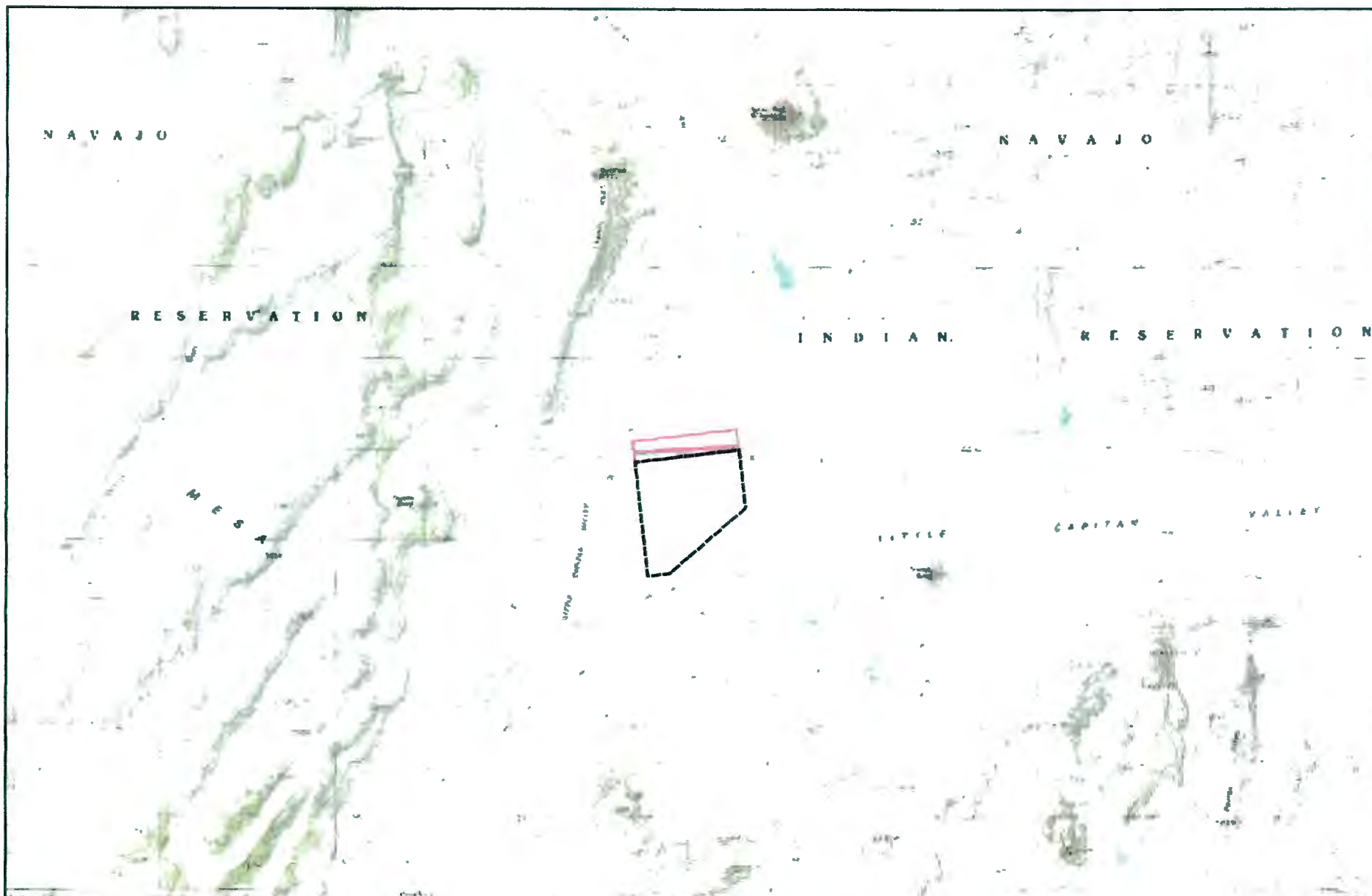
Notification to Proceed Recommended ☒ Yes ☐ No



Conditions: ☐ Yes ☒ No


Richard M. Begay, Dept. Mgr/NNHPD
The Navajo Nation
Heritage & Historic Preservation Dept.
Date 12/6/17

Navajo Region Approval ☒ Yes ☐ No


BIA - Navajo Regional Office
Date 12/18/17



SCALE: 1"=50'		 <p>NAVAJO TRIBAL UTILITY AUTHORITY P.O. BOX 170 FORT DEFIANCE, ARIZONA 86504</p>	DRAWN BY: J.B. CHECKED BY: A.M. DATE: 10/2017	GAD REVISION HY	KAVENTA SOLAR FARM ADDITIONAL 65 ACRES LOCATED IN THE NORTHEAST (NE1/4) QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 10 EAST, AND THE NORTHWEST (NW1/4) QUARTER OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 20 EAST, GILA AND GALT RIVER WATERSHED, KAYENTA, NAVAJO COUNTY, STATE OF ARIZONA	EXHIBIT 
SECTION: T38N18	JOB NO.: 6296956					
TOWNSHIP: 730N						
RANGE: 19E&20E						
SHEET 1 OF 1						

Document No. 009917Date Issued: 03/14/2018**EXECUTIVE OFFICIAL REVIEW**Title of Document: NTUA, Phase II Kayenta Solar Develop Contact Name: YAZZIE, ELERINA BProgram/Division: DIVISION OF NATURAL RESOURCESEmail: elerinayazzie@frontier.com Phone Number: 928-871-6447☐ **Business Site Lease** Sufficient Insufficient

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

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

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

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

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

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

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

☐ **Lease Purchase Agreements**

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

☐ **Grant Applications**

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

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

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

☐ **Relinquishment of Navajo Membership**

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

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

Sufficient Insufficient

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

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

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

☒ **Rights of Way**

1. NLD _____ Date: _____ ☐ ☐
2. F&W _____ Date: _____ ☐ ☐
3. HPD _____ Date: _____ ☐ ☐
4. Minerals _____ Date: _____ ☐ ☐
5. NNEPA _____ Date: _____ ☐ ☐
6. Office of the Attorney General: *[Signature]* Date: 5/17/18 ☒ ☐
7. OPVP _____ Date: _____ ☐ ☐

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

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

☐ **Assignment of Mineral Lease**

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

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

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

☐ **OTHER:**

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



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



DOJ
04-18-18 4:52pm
DATE / TIME
<input type="checkbox"/> 7 Day Deadline
DOC #: 009917
SAS #:
UNIT: NM

☐ RESUBMITTAL

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

CLIENT TO COMPLETE

DATE OF REQUEST: 4/18/2018 ENTITY/DIVISION: Division Natural Resources
CONTACT NAME: Michelle Hoskie or Sherie Hudson DEPARTMENT: Gen. Land Development Dept.
PHONE NUMBER: 871-6447 or 871-6423 E-MAIL: michelle.hoskie@frontier.com
TITLE OF DOCUMENT: Application for NTA Phase II Kayenta Solar Development

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 4.19.18 8:20am REVIEWING ATTORNEY/ADVOCATE: Irwin Chee 4.30.18
DATE/TIME OUT OF UNIT: 5.17.18 5/

DOJ ATTORNEY / ADVOCATE COMMENTS

• Doc. was legally insufficient. After meeting, discussion & making changes & corrections to the packet, Document,


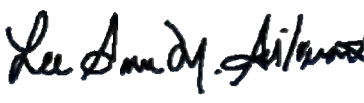
REVIEWED BY: (PRINT) Tammie Chee	DATE / TIME 5/17/18	SUBMITTED BY: (PRINT) V. Blackhat	DATE / TIME 5/17/18 4:48pm
DOJ Secretary Called:	for Document Pick Up on	at	By:

PICKED UP BY: (PRINT) Arash Nathan Modoc DATE / TIME: 5/17/18 4:48

NNDOJ/DRRF-July 2013

is now legally sufficient.
The Tammie

Tier 1 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Eugenia Quintana EPA (Navajo Land Title Data System - Windowrock AZ)	Air and Toxics - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1 Request NTUA to provide copy of subsequent amendment by BIA to FONSI that will include additional 65+/- acres.	1 No Reply	28-Mar-2018	
Lee Anna Martinez EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1 Our office advises to submit a consultation of your project area, being with in the vicinity of the Little Capitan and the Laguna Creek being in close proximity to attain better clarification that no significant nexus will be included within this solar project. Please contact our NNEPA office (928) 871-7692. Thank you.	1 No Reply	06-Apr-2018	
Najamh Tariq (Navajo Land Title Data System - Windowrock AZ)	Approver	Department of Water Resources	Approved	no comments	No Reply	21-Mar-2018	

Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review Fish and Wildlife	Approved	1 #14ntua112 E	1 No Repl y	21-Mar-2018
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Patricia Magala

Pam Maples EPA (Navajo Land Title Data System - Windowrock AZ)	Storage Tanks Program - Reviewer Navajo Nation Environmental Protection Agency	Approved	no comments	No Reply	22-Mar-2018
--	--	----------	----------------	-------------	-------------


Patricia Magala

Patrick Antonio EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Supervisor Navajo Nation Environmental Protection Agency	Approved	1 65 acres to be added to existing 300 acres for solar farm development. Work on the existing 300 acres would require coverage under the federal Construction General Permit for storm water discharges from construction sites which requires submission of a Notice of Intent (NOI) to USEPA and the development of a storm water pollution prevention plan (SWPPP). Work on the added 65 acres can be included in the SWPPP for the existing 300 acres.	1 No Repl y	21-Mar-2018
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Patrick Antonio

Robert Allan (Navajo Land Title Data System - Windowrock AZ)	Deputy DNR Director	DNR Administration	Approved	no comments	No Reply	26-Mar-2018	Robert O. Allan
Tamara Billie (Navajo Land Title Data System - Windowrock AZ)	HPD NNHP Reviewer	Historic Preservation Department	Approved	1. HPD-15-255.1	1. No Reply	29-Mar-2018	Tamara Billie
Yolanda Barney (Navajo Land Title Data System - Windowrock AZ)	Public EPA Water System Supervisor	Navajo Nation Environmental Protection Agency	Approved	no comments	No Reply	21-Mar-2018	Yolanda Barney

Tier 2 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Bidtah N. Becker (FBFA)	FBFA Users	FBFA Action Team	Approved	1 I am marking this document as sufficient, although it appears from Minerals comments that the document may not be sufficient. The reason I am marking it sufficient rather than addressing and resolving the comments of the Minerals Department is because I have been verbally informed that NTUA has taken this package directly to the Office of Legislative Counsel to obtain a resolution. If this verbal information is correct, then Navajo Nation DOJ has not reviewed this packet. It is imperative that Navajo Nation DOJ immediately review this packet to determine if the Minerals comments are correct. If the Minerals Department's comments are correct, then Navajo	1 No 1 Reply	18-Apr-2018	

Nation DOJ will need to advise on how to address. In addition to immediately taking this packet to Navajo Nation DOJ, I am asking the GLDD department to monitor the listing of legislation on a daily basis. The reason for the daily monitoring is that GLDD or NNDOJ may need to submit comments in the five day comment period to included the comments from the reviewers. Thank you and please let me know if you have any questions.

Richard Begay NNHP (Navajo Land Title Data System - Windowrock AZ)	Navajo Nation Historic Preservation Department n Officer	Historic Preservation Department	Approved	no comments	No Reply	06-Apr-2018
Ronnie Ben EPA (Navajo Land Title Data System - Windowrock AZ)	Underground Injection Control - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. Conditional Approval contingent on compliance with all NNEPA and USEPA environmental laws. 2. Conditional Approval contingent on	1. No Reply 2. No Reply	12-Apr-2018

Roll M Bays

Noi he

compliance
with all
NNEPA and
USEPA
environment
al laws.

Sam Diswood (Navajo Land Title Data System - Windowroc k AZ)	Technical Review	Fish and Wildlife	Approve d	no comments	No Reply	06-Apr- 2018
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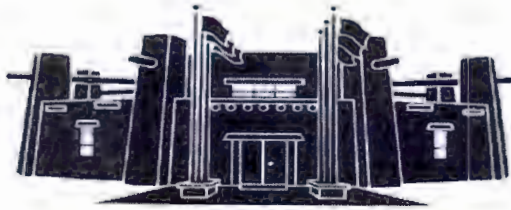
Samuel F. Diswood

Steven Prince MIN (Navajo Land Title Data System - Windowroc k AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approve d	1 .	This vote is contingent on the uploaded Exhibit D permanentl y replacing the original included with the application approval package. The lease term on the original Phase I Lease and the ROW term in the T&C do not match, but the Minerals Department was not consulted on that approval. The uploaded Phase II T&C grants a 20 year term, but the Lease is for 25 years and indicates that NTUA is requesting an additional 10 years be added to the overall combined Phase I and II lease. slp	1 .	No Reply	17-Apr- 2018
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Steven L Prince

W. Mike	Manager II	INLD	Approve	<i>no</i>	<i>No</i>	10-Apr-
Halona	Navajo	Administration	d	<i>comments</i>	<i>Reply</i>	2018
(Navajo	Land					
Land Title	Departmen					
Data	t					
System -						
Windowroc						
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MEMORANDUM

TO: Honorable Alton Shepherd
Jeddito, Cornfields, Ganado, Kinlichee, Steamboat Chapters

Honorable Nathaniel Brown
Chilchinbeto, Dennehotso, Kayenta Chapters

Honorable Jonathan Hale
Oak Springs and St. Michael's Chapters

FROM:



Mariana Kahn, Attorney
Office of Legislative Counsel

DATE: May 17, 2018

SUBJECT: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION
RELATING TO RESOURCES AND DEVELOPMENT; APPROVING FIRST
AMENDMENT TO KAYENTA CHAPTER SOLAR SITE LEASE AND
RIGHT-OF-WAY APPROVED BY RDCS-67-15 FOR NAVAJO TRIBAL
UTILITY AUTHORITY

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0179-18__

SPONSOR: Alton Joe Shepherd

TITLE: An Action Relating To Resources and Development; Approving First Amendment To Kayenta Chapter Solar Site Lease And Right-Of-Way Approved By RDCS-67-15 For Navajo Tribal Utility Authority

Date posted: May 17, 2018 at 6:15 PM

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

**THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY**

LEGISLATION NO.: 0179-18

SPONSOR: Honorable Alton Joe Shepherd

TITLE: An Action Relating To Resources and Development; Approving First Amendment To Kayenta Chapter Solar Site Lease And Right-Of-Way Approved By RDCS-67-15 For Navajo Tribal Utility Authority

Posted: May 17, 2018 at 6:15PM

5 DAY Comment Period Ended: May 22, 2018

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inconclusive Comments	<i>None</i>



**Legislative Assistant
Office of Legislative Services**



Date/Time