

## LEGISLATIVE SUMMARY SHEET

Tracking No. 0003-21

**DATE:** December 18, 2020

**TITLE OF RESOLUTION:** PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A LEASE TO NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY FOR A TEMPORARY HOT PLANT SITE DURING RECONSTRUCTION OF NAVAJO ROUTE N12 IN THE VICINITY OF TSAILE-WHEATFIELDS CHAPTER, NAVAJO NATION

**PURPOSE:** Approving a Lease for Navajo Engineering and Construction Authority for the purpose of constructing, maintaining, and operating a temporary hot plant site during reconstruction of Navajo Route N12 on 11.52 acres, more or less, with the right of reasonable ingress and egress, subject to any prior, valid, existing rights-of-way, on Navajo Nation Trust Lands in the vicinity of Tsaile-Wheatfields Chapter, Navajo Nation (Apache County, Arizona).

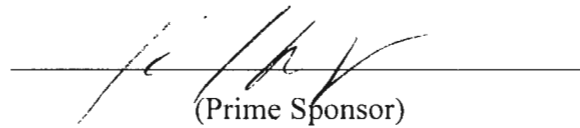
This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

5-DAY BILL HOLD PERIOD: VB Redhorse  
Website Posting Time/Date: 01-08-21 4:36 PM  
Posting End Date: 01-13-21  
Eligible for Action: 01-14-21

Resources & Development Committee

PROPOSED STANDING COMMITTEE RESOLUTION  
24<sup>th</sup> NAVAJO NATION COUNCIL -- Second Year, 2020

INTRODUCED BY

  
(Prime Sponsor)

TRACKING NO. 0003-21

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A LEASE TO  
NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY FOR A  
TEMPORARY HOT PLANT SITE DURING RECONSTRUCTION OF NAVAJO  
ROUTE N12 IN THE VICINITY OF TSAILE-WHEATFIELDS CHAPTER, NAVAJO  
NATION

**Section One. Findings**

- A. Pursuant to 2 NNC §501 (B)(2), the Resources and Development Committee of the Navajo Nation Council has authority to give final approval of all land withdrawals, non-mineral leases, permits, licenses, rights-of-way, surface easements and bonding requirements on Navajo Nation land and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfers, renewals, and terminations.
- B. The Navajo Engineering and Construction Authority Post Office Box 969, Shiprock, New Mexico 87420, submitted a request for a Revocable Use Permit for a temporary hot plant site, during reconstruction of Navajo Route N12 in the vicinity of Tsaile-Wheatfields Chapter, Navajo Nation (Apache County, Arizona), attached hereto and made part of as **Exhibit C**. **Exhibit C** includes Statement of Purpose; December 19, 2019 memorandum from the Navajo Engineering & Construction Authority to the General Land Development Department Navajo Engineering and

1 Construction Authority Board of Directors Resolution NECA10-12-19; and  
2 Resolution of the Tsaile-Wheatfields Chapter #038, TWFY19-118.

3 C. The proposed Revocable Use Permit will consist of 11.52 acres, more or less, along  
4 Navajo Route N12 in Tsaile-Wheatfields Chapter. The location is more particularly  
5 described on the survey map attached hereto and made part hereof as **Exhibit B**.

6 D. The January 14, 2020 memorandum from the Tsaile-Wheatfields Chapter District  
7 Grazing Committee Member and the documents regarding Consent to Use Navajo  
8 Tribal Lands are attached as **Exhibit D**.

9 E. The environmental and archaeological clearances have been completed and are  
10 attached hereto and incorporated herein by this reference as **Exhibit E** which  
11 includes: December 12, 2018 Bureau of Indian Affairs EA-19-35185 for NECA  
12 Chinle Asphalt Hot Mix Plant and Construction Yard Revocable Use Permit  
13 Application; NNDFW Review No. 19danl-03 Biological Resources Compliance  
14 Form; Tsaile Asphalt Hot Mix Plant and Construction Yard Biological Resource  
15 Compliance Form Request; Tsaile Portable Terex Hot Asphalt Mix Plant Site  
16 Environmental Assessment; Cultural Resource Compliance Form NNHHPD NO:  
17 HPD-19-760; Archaeological Inventory Report

18 F. The Stormwater Pollution Prevention Plan (SWPPP) is attached as **Exhibit F**.

19 G. The Spill Prevention Control and Countermeasures Plan 2015 Update for Navajo  
20 Engineering Construction Authority Portable Hot Asphalt Mix Plant is attached as  
21 **Exhibit G**.

22 H. The Reclamation Plan for Hot Plant Site Tsaile/Wheatfields Arizona NNDOT  
23 Project No. N12 (19-4) 1, 2 & 4 is attached as **Exhibit H**.

24 I. Executive Official Review Document No. 014548 in which the Executive Branch  
25 reviewers "approved" or found the review "sufficient" is attached as **Exhibit I**.

## 26 27 **Section Two. Approval**

28 A. Resources and Development Committee of the Navajo Nation Council hereby  
29 approves a Lease for Navajo Engineering and Construction Authority for the  
30 purpose of constructing, maintaining, and operating a temporary hot plant site

1 during reconstruction of Navajo Route N12 on 11.52 acres, more or less, with the  
2 right of reasonable ingress and egress, subject to any prior, valid, existing rights-of-  
3 way, on Navajo Nation Trust Lands in the vicinity of Tsaile-Wheatfields Chapter,  
4 Navajo Nation (Apache County, Arizona). The location is more particularly  
5 described on the map marked as **Exhibit B**.

6 B. The Resources and Development Committee of the Navajo Nation Council hereby  
7 approves the Lease subject to but not limited to, the Terms and Conditions attached  
8 hereto as **Exhibit A**.

9 C. The Resources and Development Committee of the Navajo Nation Council hereby  
10 authorizes the President of the Navajo Nation to execute any and all documents  
11 necessary to implement the intent and purpose of this resolution.





LEASE NO. \_\_\_\_\_

**THE NAVAJO NATION  
and  
NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY**

**THIS LEASE** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between **THE NAVAJO NATION**, hereinafter called the "Lessor," whose address is Post Box 9000, Window Rock, Navajo Nation (Arizona) 86515, and the **NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY** hereinafter called the "Lessee," whose address is Post Office Box 969, Shiprock, New Mexico 87420, pursuant to the authority contained in 2 N.N.C. §501(B)(2)(a), 16 N.N.C. §§2301 *et seq.*, and 25 U.S.C. §415, as implemented by the regulations contained in 25 CFR 162; and amendments thereto, which by 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) "*Encumbrancer*" means the owner and holder of an Approved Encumbrance, including all successors and assigns.

(C) "*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.

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

(E) "*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.

**2. LEASED PREMISES.**

For and in consideration of the rents, covenants, agreements, terms and conditions contained herein, Lessor hereby leases to Lessee all that tract or parcel of land situated within the chapter of Tsaile/Wheatfields, Navajo Nation (AZ), more particularly described in Exhibit "A," attached hereto and by this reference made a part hereof, containing approximately 11.52 acres, more or less, together with the right of reasonable ingress and egress, subject to any prior, valid, existing rights-of-way, is hereinafter called the "Leased Premises." There is hereby reserved and excepted from the Leased Premises rights-of-way for utilities constructed by or on authority of Lessor, provided that such rights-of-way do not unreasonably interfere with Lessee's use of the Leased Premises. GLDD will submit one copy of this document to BIA for recording pursuant to 16 N.N.C. §2322(B).

**3. PURPOSE, UNLAWFUL USES.**

(A) Lessee shall develop, use and occupy the Leased Premises for the purpose of constructing, maintaining, and operating a temporary hot plant consistent with the principal use of the Leased Premises for a hot plant.

(B) The Leased Premises shall not be used by Lessee for any purpose other than as provided herein, except with the prior written consent of Lessor. The consent of Lessor may be withheld, granted or granted upon conditions, in the sole discretion of Lessor.

(C) Lessee agrees not to use or permit to be used any part of the Leased Premises for any unlawful conduct or purpose.

**4. TERM.**

The term of this Lease shall be three (3) years, beginning on the date this Lease is approved by the Nation.

**5. RENTAL.**

In consideration of the foregoing and the covenants, agreements, terms and conditions of this Lease, Lessee hereby covenants and agrees to pay Lessor, in lawful money of the United States, an annual rental of: **None**. In accordance with the provisions of 25 C.F.R. Part 162.604(b)(2)&(3), only nominal rental is provided for herein because this Lease is for educational purposes.

**6. CONDITION OF LEASED PREMISES.**

Lessee has examined and knows the Leased Premises and improvements thereon and accepts the same as-is. No representations as to the condition of the Leased Premises have been made by Lessor or any agent of Lessor prior to or at the time of execution of this Lease. Lessee warrants that it has not relied on any warranty or representation made by or on behalf of Lessor, but solely upon Lessee's independent investigation.

**7. IMPROVEMENTS.**

(A) All buildings and other improvements on the Leased Premises, excluding removable personal property and trade fixtures, shall remain on the Leased Premises after termination of this Lease. At its option, Lessor may require Lessee to remove said buildings and other improvements and to restore the Leased Premises to its original state upon termination of this Lease.

(B) Lessee shall remove all removable personal property and trade fixtures prior to termination of this Lease. Should Lessee fail to remove said personal property and trade fixtures prior to termination of this Lease, said property shall thereupon become property of Lessor, and may be disposed of in any manner by Lessor.

(C) As used in this section, the term "removable personal property" shall not include property, which normally would be attached or affixed to buildings, other improvements or land in such a way that it would become a part of the realty, regardless of whether such property in fact is so attached or affixed.

(D) All Hazardous Substances, Hazardous Substance storage systems or conveyance facilities, including but not limited to Storage Tanks, placed on or under the Leased Premises are the property of Lessee and shall remain the property of Lessee upon termination of this Lease. Within a reasonable time prior to termination of this Lease, Lessee shall remove any such substances or improvements, shall assess the Leased Premises for contamination, shall remediate all contamination, if any, and shall address any third party damages occasioned by any contamination or otherwise by the use or storage of such substances or improvements on the Leased Premises. Should Lessee fail to complete such responsibilities prior to the termination of this Lease, Lessee shall remain responsible therefor, and shall be required to post a bond in an amount reasonably required to ensure that such responsibilities are completed within a reasonable time after termination of this Lease.

#### **8. CONSTRUCTION; MAINTENANCE; REPAIR; ALTERATION.**

(A) All buildings and other improvements placed on the Leased Premises 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 and all service areas shall be screened from public view.

(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.

(C) Lessee shall have the right to make reasonable alterations, additions or repairs to buildings or other improvements on the Leased Premises, consistent with other provisions of this Lease.

#### **9. CONSTRUCTION BOND**

Prior to the commencement of construction of any improvement on the Leased Premises, the Lessee shall require its construction contractor to post construction bonds in amount sufficient to cover such construction as may be approved by Lessor. The Bond shall be written to protect Lessor and Lessee. Copies of the bonds shall be submitted to Lessor upon written request.

#### **10. NON-RESPONSIBILITY NOTICES**

Prior to the commencement of construction of any improvement on the leased premises, or prior to the beginning of any repair or alteration thereto, or work or labor thereon, Lessee shall post non-responsibility notices at the site on Lessor's behalf.

## **11. UTILITY SERVICE LINE AGREEMENTS.**

(A) Lessee specifically is authorized to enter into appropriate service line agreements with utility companies for the provision of utility services to the Leased Premises, including gas, water, sewer, electricity, telephone, television and other utilities, without further consent by Lessor, on the condition that:

- (1) such agreements are for the sole purpose of supplying utility 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 within thirty (30) days of their execution; and
- (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 169.51-169.56, including any amendments or successors thereto.

(B) Nothing contained herein shall be construed to limit the right of Lessor to enter into service line agreements with utility companies for service lines across the Leased Premises, provided that such service lines do not unreasonably interfere with Lessee's use of the Leased Premises, nor otherwise to affect the rights-of-way reserved to Lessor in section 2 of this Lease.

## **12. LIENS; TAXES AND ASSESSMENTS; UTILITY CHARGES.**

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

(B) Lessee shall pay, before becoming delinquent, all taxes, assessments and other like charges levied upon or against the Leased Premises, any interest therein or 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. Lessee agrees to protect and hold harmless Lessor 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.

(C) Lessee shall pay, before becoming delinquent, all charges for water, sewage, gas, electricity, telephone and other utility services supplied to the Leased Premises.

(D) 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 legal rate from the date of payment or incursion thereof by Lessor until repayment is made by Lessee.

### **13. SUBLEASES AND ASSIGNMENTS.**

Lessee shall not assign, convey or otherwise transfer this Lease, or any interest therein, 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 such 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. If the sublease or assignment is for the purposes stated in section 3 of this lease, the approval of Lessor will not be unreasonably withheld. GLDD will submit one copy of each Sublease to BIA for recording pursuant to 16 N.N.C. §2322(B).

### **14. QUIET ENJOYMENT.**

Lessor hereby covenants and agrees that, upon performing each of its covenants, agreements, terms and conditions contained in this Lease, that 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.

### **15. ENCUMBRANCE.**

(A) This Lease or any interest therein may not be encumbered without the prior written approval of Lessor, and no such encumbrance shall be valid or binding without such prior written approval. An encumbrance shall be confined to the leasehold interest of Lessee, 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 Lessor may deem necessary to justify the amount, purpose and terms of said encumbrance.

(B) In the event of default by Lessee of the terms of an Approved Encumbrance, Encumbrancer may exercise any rights provided in such Approved Encumbrance, provided that prior to any sale of the leasehold, Encumbrancer shall give to Lessor 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, 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 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.

#### **16. 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 bond or be in violation of any other provision of this Lease, said violation may be acted upon by the Lessor, 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 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 or has failed to conduct business for an extended period of time without notice, and remove all persons and property therefrom, and re-let the premises without terminating this Lease as the agent and for the account of Lessee, but without prejudice to the right to cause the termination of the Lease under applicable law thereafter, and without invalidating any right of Lessor or any obligations

of Lessee hereunder. The terms and conditions of such re-letting shall be in the sole discretion of Lessor, who shall have the right to alter and repair the 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 re-letting, collection, altering and repairing, including reasonable attorney's fees and any reasonable real estate commission actually paid, insurance, taxes and assessments 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 as the case may be, 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 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. The Lessor shall not terminate this Lease if an Encumbrancer has cured or is taking action diligently to cure Lessee's default and has commenced and is pursuing diligently either a foreclosure action or an assignment in lieu of foreclosure.

#### 17. SANITATION.

Lessee hereby agrees to comply with all applicable sanitation laws, regulations or other requirements of the Navajo Nation. Lessee agrees to dispose of all solid waste in compliance with applicable federal and Navajo 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.

#### 34. 18. 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 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.

#### **19. PUBLIC LIABILITY INSURANCE.**

(A) At all times during the term of this Lease, Lessee shall carry a public liability insurance policy in the amount of at least \$1,000,000 for personal injury to one (1) person and \$2,000,000 per occurrence, and \$500,000 for damage to property. Said policy shall be obtained from a reliable insurance company authorized to do business in the Navajo Nation and in the State of New Mexico and shall be written to protect Lessee and Lessor and shall provide for notification to Lessor prior to any material change, cancellation or non-renewal of said policy for any reason, including non-payment of premiums. Upon written request therefor, copies of said policy shall be furnished to Lessor.



(B) Lessor may require that the amount of the insurance policy required by subsection (A) of this section be increased no more than every five (5) years from the beginning date of this Lease and only upon the Lessor's determination that such increase reasonably is necessary for the protection of Lessor.

(C) With the prior written approval of Lessor, which will not be unreasonably withheld, the insurance obligation under this section may be satisfied by a self-insurance program maintained by Lessee or by other means of alternative performance satisfactory to Lessor.

## **20. NON-LIABILITY.**

Except for liability arising from the Lessor's negligence or misconduct, Lessor nor their officers, agents, or employees, 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, caused by any use of the leased premises by Lessee, or by any defect in any structure existing or erected thereon, or arising from accident, fire, or from any other casualty on said premises or from any other cause whatsoever and Lessee, as a material part of the consideration for this Lease, hereby waives on Lessee's behalf all claims against Lessor and agrees to defend and hold Lessor 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.

## **21. PROPERTY DAMAGE, FIRE AND CASUALTY INSURANCE.**

(A) At all times during the term of this Lease, Lessee shall carry fire and casualty insurance with an extended coverage endorsement covering not less than the full insurable value of all improvements on the Leased Premises. Said policy shall be obtained from a reliable insurance company authorized to do business in the Navajo Nation and in the State of New Mexico, and shall be written to protect Lessee and Lessor and an Encumbrancer, if any, and shall provide for notification to Lessor, and any Encumbrancer prior to any material change, cancellation or non-renewal of said policy for any reason, including non-payment of premiums. Upon written request therefor, copies of said policy shall be furnished to Lessor.

(B) Subject to the provisions of subsections (C) and (D) of this section, in the event of destruction of or damage to any improvement on the Leased Premises, Lessee shall promptly replace or repair the destroyed or damaged improvement to a condition as good or better than before the destruction or damage occurred.

(C) In the event of destruction of or damage to any improvement on the Leased Premises, Lessee shall have the option not to replace or repair said improvement. Lessee shall provide Lessor with written notice of exercise of Lessee's option within thirty (30) days of the said event of damage. Should Lessee exercise its option to not to replace or repair in accordance with this subsection, this Lease shall terminate ninety (90) days after the effective date of notice thereof and all proceeds of fire and damage insurance shall be paid to Lessor. Lessee shall clear the Leased Premises of all debris prior to termination of this Lease.

(D) In the event of destruction of or damage to any improvement on the Leased Premises while an Approved Encumbrance remains in effect, the proceeds of fire and damage insurance equal to the amount of destruction or damage to the encumbered improvements (but not exceeding the remaining balance of the Approved Encumbrance) shall be paid to Encumbrancer on the condition that Encumbrancer agrees to perform and comply with Lessee's replacement and repair obligations set forth in subsections (B) and (C) of this section. If such amount paid to Encumbrancer is sufficient to repair the destroyed or damaged improvements with respect to which it was paid, or, if within three (3) months after such payment by the insurer to Encumbrancer, Lessor or Lessee shall deposit with Encumbrancer sufficient additional funds, if any, required to completely replace or repair the destruction or damage, upon written order of Lessor or Lessee, Encumbrancer shall pay such the costs of such replacement or repair, and such payment shall not be deemed a payment or credit on the Approved Encumbrance. Otherwise, at the expiration of such three (3) months said sum so paid by the insurer to Encumbrancer shall be applied and credited on the Approved Encumbrance.

(E) With the prior written approval of Lessor, which will not be unreasonably withheld, the insurance obligation under this section may be satisfied by a self-insurance program maintained by Lessee or by other means of alternative performance satisfactory to Lessor.

## **22. INSPECTION.**

The Lessor and its 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.

## **23. INDEMNIFICATION.**

Except to the extent of the negligence or intentional misconduct of the Nation and its agents, employees and contractors, Lessee shall defend, indemnify and hold harmless the Navajo Nation and their authorized agents, employees, 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.

## **24. 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 improvements constructed by Lessee.

**25. 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.

**26. DELIVERY OF PREMISES.**

At the termination of this Lease, Lessee shall peaceably and without legal process deliver up the possession of the Leased Premises in good condition, usual wear and tear excepted. Upon the written request of the Navajo Nation, Lessee shall provide to the Navajo Nation, at Lessee's sole cost and expense, an environmental audit assessment of the Leased Premises at least sixty (60) days prior to delivery of said premises.

**27. HOLDING OVER.**

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

**28. 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 or any Sublessee for breach, default or liability arising under this Lease.

**29. AGREEMENT TO ABIDE BY NAVAJO NATION LAWS AND FEDERAL LAWS.**

Lessee and the Lessee's employees, agents, and sublessees and their employees and agents agree to abide by all laws, regulations, and ordinances of the Navajo 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 the Navajo Education Policies, 10 N.N.C. §§ 101 *et seq.*, Navajo Preference in Employment Act, 15 N.N.C. §§ 601 *et seq.* (NPEA) and the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 *et seq.* (NNBOA).

**30. GOVERNING LAW AND CHOICE OF FORUM.**

Except as prohibited by applicable federal law, the law of the Navajo 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.

**31. RESERVATION OF LESSEE'S RIGHTS TO ADMINISTRATIVE AND JUDICIAL REVIEW.**

Nothing in this agreement shall be construed as divesting the Lessee of any right to an administrative appeal or judicial review of an administrative decision regarding this lease under 25 C.F.R. Part 2; 43 C.F.R. Part 4, Subpart D; 5 U.S.C. §704; or any other applicable regulation or statute.

**32. DISPUTE RESOLUTION.**

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

**33. CONSENT TO JURISDICTION.**

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

**34. COVENANT NOT TO CONTEST JURISDICTION.**

Lessee hereby covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess 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 Navajo Nation.

**35. 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 Navajo Nation.

**36. 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, but this provision shall not be construed to extend to this Lease if made with a corporation or company for its general benefit.

**37. 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.

**38. NOTICES AND DEMANDS.**

(A) Any notices, demands, requests or other communications 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:

President, The Navajo Nation  
Office of the President/Vice-President  
Post Office Box 9000  
Window Rock, Navajo Nation (Arizona) 86515  
Fax: (928) 871-7005

To or upon Lessee:

Navajo Engineering and Construction Authority  
Post Office Box 969  
Shiprock, New Mexico 87420

(B) All notices shall be given by personal delivery, by registered or certified mail, postage prepaid, or by facsimile transmission, 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, followed by surface mail, on the next business day following actual delivery and receipt.

(C) Lessor and Lessee may at any time change its address for purposes of this section by notice.

**39. 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.

**40. RESERVATION OF JURISDICTION.**

There is expressly reserved to the Navajo 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.

**41. EFFECTIVE DATE; VALIDITY.**

This Lease shall take effect on the date it is approved by the Navajo Nation. This Lease. and any modification of or amendment to this Lease. shall not be valid or binding upon either party until it is approved by the Navajo Nation.

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

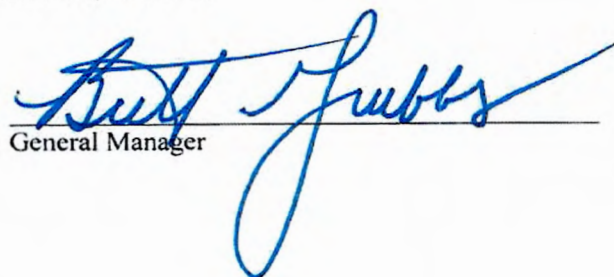
**THE NAVAJO NATION, LESSOR**

By:

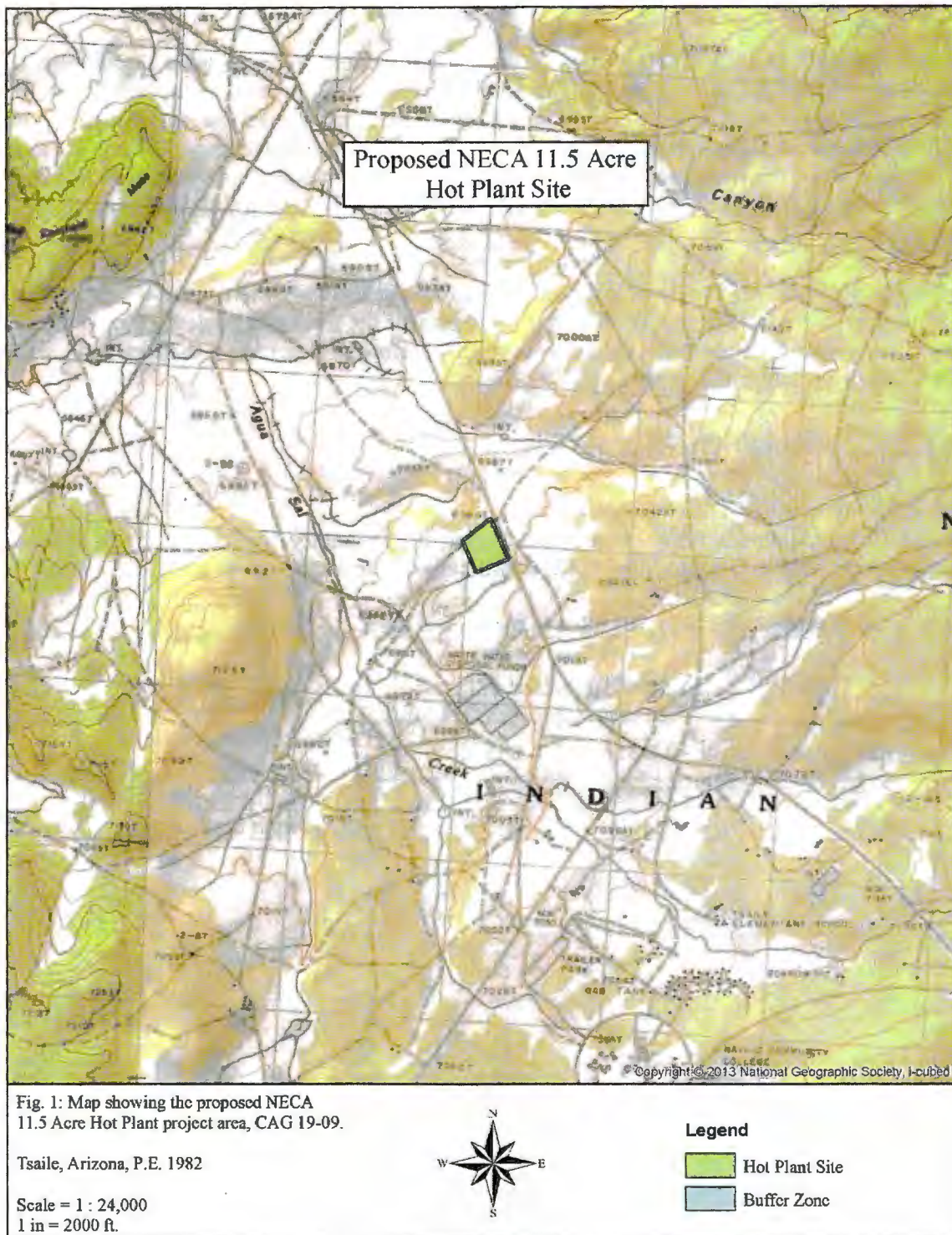
  
Jonathan Nez. President

**NAVAJO ENGINEERING AND CONSTRUCTION  
AUTHORITY, LESSEE**

By:

  
General Manager



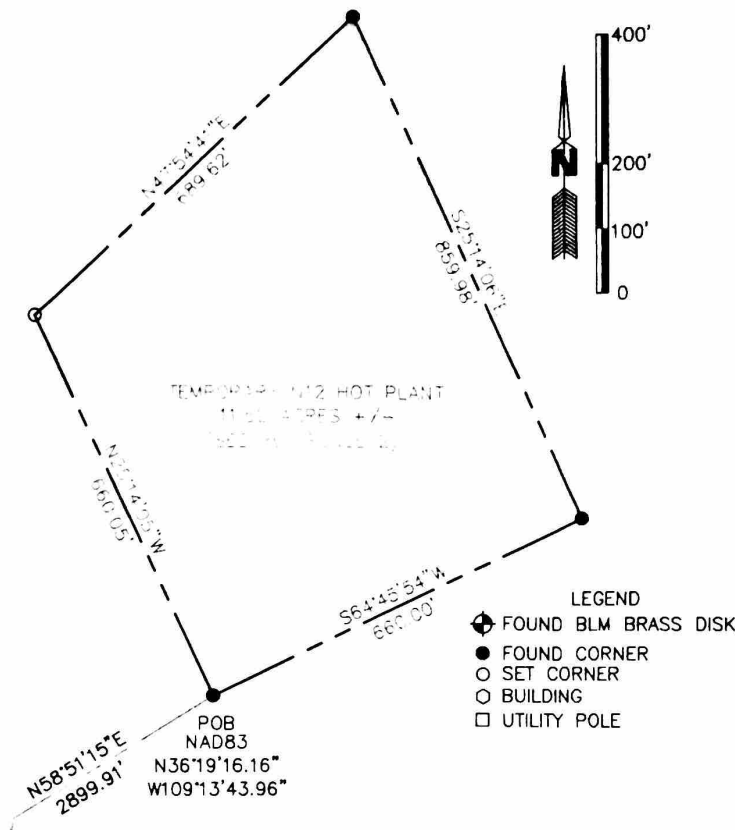


**Figure 1. Map showing the proposed NECA 11.5 Acre Hot Plant Site project area in Tsailie/Wheatfields Chapter, Apache County, Arizona.**

USBLM  
T34N, R29E  
1/4  
S29 S28  
2000  
NAD83  
N36°19'27.67"  
W109°14'14.49"

BASIS OF BEARING  
S00°35'35"E-2639.93' (M)  
N00°03'W-40.00 CH (R)  
SEE REFERENCE 1

USBLM  
T34N, R29E  
S29 S28  
S32 S33  
2000  
NAD83  
N36°19'01.56"  
W109°14'14.46"



LEGEND  
 ◆ FOUND BLM BRASS DISK  
 ● FOUND CORNER  
 ○ SET CORNER  
 ○ BUILDING  
 □ UTILITY POLE

# SURVEY PLAT AND LEGAL DESCRIPTION OF TEMPORARY N12 HOT PLANT LEASE

A RETRACEMENT SURVEY OF A PARCEL OF LAND SITUATE IN PORTIONS OF THE SOUTHWEST AND SOUTHEAST QUARTER OF SECTION 28 TOWNSHIP 34 NORTH(T34N) RANGE 29 EAST(R29E) OF THE GILA AND SALT RIVER MERIDIAN (G&SRM) IN THE VICINITY OF TSAILE/WHEATFIELDS, APACHE COUNTY, ARIZONA AND IN THE NAVAJO NATION MANAGEMENT DISTRICT 11 UNIT 3 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
 COMMENCING AT A FOUND UNITED STATES BUREAU OF LAND MANAGEMENT (USBLM) SECTION CORNER COMMON TO SECTIONS 28, 29, 32 AND 33 OF T34N, R29E A BRASS DISK IN GOOD CONDITION DATED 2000;  
 WHENCE A USBLM QUARTER CORNER COMMON TO SECTION 28 AND 29 OF T34N, R29E A BRASS DISK IN GOOD CONDITION DATED 2000 BEARS S00°35'35"E A DISTANCE OF 2639.93 FEET AND THE BASIS OF BEARING;  
 THENCE N58°51'15"E A DISTANCE OF 2899.91 FEET TO A FOUND 1/2 INCH IRON PIN WITH YELLOW PLASTIC CAP AND THE POINT OF BEGINNING;  
 THENCE N25°14'05"W A DISTANCE OF 660.05 FEET TO A SET 1/2 INCH IRON PIN WITH YELLOW PLASTIC CAP;  
 THENCE N47°54'41"E A DISTANCE OF 689.62 FEET TO A FOUND 1/2 INCH IRON PIN WITH YELLOW PLASTIC CAP;  
 THENCE S25°14'06"E A DISTANCE OF 859.99 FEET TO A FOUND 1/2 INCH IRON PIN WITH YELLOW PLASTIC CAP AND LYING THEREON FOR INGRESS AND EGRESS TO AN EXISTING HIGHWAY BIA ROUTE N12 THE MOST NORTHERLY 50.00 FEET;  
 THENCE S64°45'54"W A DISTANCE OF 660.00 FEET TO THE POINT OF BEGINNING;  
 BEING 11.52 ACRES MORE OR LESS AS CALCULATED USING COMPUTER SOFTWARE AND BEING SUBJECT TO ALL EXISTING EASEMENTS, RIGHTS-OF-WAY, CULTURAL RESOURCES AND OTHER LAND RIGHTS LOCATED THEREON.

I, Lemont L. Yazzie, Sr., a duly qualified Registered Professional Land Surveyor under the laws of the State of Arizona do hereby certify that this plat shown hereon was prepared from a bona fide land survey conducted by me or under my direct supervision



Expires: June 30, 2022

## NOTES:

1. "BASIS OF BEARING" references localized coordinate system.
2. Latitudes and longitudes are for navigation only.
3. Parcel located on Land held in Trust for Navajo Tribe(TNT).
4. All distances are ground distances feet unless otherwise noted.
5. Project control points are found standard BLM brass disks in good condition.
6. Horizontal and Vertical geodetic control was established on the SE corner of N12 Hot Plant using two static sessions on two different days totaling 5.5 hours of observations. Both sessions were adjusted separately and the results averaged. All other points measured using GPS RTK observations. Combined average RMS 0.05 feet (0.015m).

## REFERENCES:

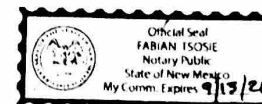
1. T31N, R29E G&SRM AZ officially filed Bureau of Land Management November 2, 1994. Copy of plat filed at Navajo Land Department and the Bureau of Indian Affairs.
2. Retracement Survey of "Temporary Asphalt Hot Plant Site", BIA N64(1-2)4, Certified by Johnny R. Sosoya, NMRLS 13473, December 21, 1204.

NAVAJO ENGINEERING & CONSTRUCTION  
AUTHORITY



SURVEY PLAT AND LEGAL DESCRIPTION OF  
TEMPORARY N12 HOT PLANT LEASE  
11.52 ACRES +/-, NAVAJO INDIAN RESERVATION, DISTRICT 11, UNIT 3  
SW1/4 AND SE1/4 OF SECTION 28, T34N, R29E, G&SRM  
TSAILE/WHEATFIELDS, APACHE COUNTY, ARIZONA

Subscribed and sworn to before me this 26<sup>th</sup> day of September, 2019.



*[Signature]*  
Notary Public (signature)  
Fabian Tsosie  
Notary Public (print name)



# STATEMENT OF PURPOSE

Revocable Use Permit for a Hot Plant Site

Navajo Engineering and Construction Authority

Navajo Engineering and Construction Authority (NECA) is applying for a Revocable Use Permit and existing access entrance within the right-of-way to operate a temporary hot plant site 1.10-miles north of Tsaile Junction. The term of the Revocable Use Permit and existing entrance will be for a period of three-years.

Navajo Engineering and Construction Authority (NECA) has been awarded Navajo Nation Department of Transportation (NNDOT) Road Project No. N12(19-4)1,2 & 4 for reconstruction of Navajo Route N12 consists of 11.5 miles in Tsaile/Wheatfields , Arizona. The construction includes grading, drainage, aggregate base course, hot asphaltic concrete pavement, installation of arch structures and other miscellaneous work. NECA is proposing to use a parcel of land on the Navajo Indian Reservation for a temporary asphalt hot plant site, aggregate stockpile area. Approximately 53,924 metric tons of paving aggregates will be required for the project.

NECA has selected an area on the westside of Navajo Route N12, approximately 1.10-miles north Tsaile Junction, intersection N12 and N64 in section 28 of Township 34 North, Range 29 East of the Gila Salt River Meridian, Apache County, Arizona. Access to the parcel will be adjacent to Navajo Route N12. The temporary hot plant site and existing entrance is on a fine to coarse grained aeolian and alluvial sand and silt along with pebble to cobble sized sedimentary clasts, 11.5-acres and existing entrance along the right-of-way and lies within Wheatfields Chapter management area in Apache County, Arizona.

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

The site will be fenced with a temporary barbed wire fence to limit unauthorized access to the site, for the safety of the local people and livestock. The fence will be removed upon completion.

Temporary erosion controls will be installed and maintained in accordance with the stormwater pollution prevention plan (SWPPP) for the site. A SWPPP permit will be obtained from the USEPA for the site. Stripping and stockpiling of the topsoil will be performed as needed before grading the temporary hot plant site, and the operations will be intermittent over the 3-year term of the Revocable Use Permit. In general, we expect that hours of operation will be sunup to sundown, Monday through Friday, with the normal shift being 10-hours per day.

During the hours of operation at hot plant, dust control will be provided by spray bars on conveyor and aggregate processing equipment will be utilized to control dust during paving operations and water trucks equipped with spray bars will be used control dust on access road, and traffic areas within the hot plant site. Water for dust control will come from a permitted source. NECA will ensure the operator will comply with air quality requirements of the Navajo Nation during all operations at the Hot Plant Site.

AT the hot plant site and existing access road, NECA will have the traffic signs posted along Navajo Route N12 warning of truck traffic when hauling is taking place. The existing dirt road will

be graded and maintained when the hot plant site is in operation. Truckers will be instructed to be considerate of local traffic.

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

The ground surface under the hot plant rotary drum dryer and tanks containing petroleum products for the hot plant are covered with an impermeable liner to prevent contamination of the ground surface. This is detailed in the Spill Prevention Control and Countermeasure plan (SPCCP) for the hot plant.

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

Stormwater runoff will be handled according to the Stormwater Pollution Prevention Plan for the site. A Stormwater Notice of Intent will be filed with USEPA.

Upon completion of project N12, NECA will reclaim and reseed the site with native vegetation. Reclamation will be in accordance with NECA's reclamation plan for the Hot Plant Site, which will be reviewed and approved by the Navajo Nation EPA. Prior to topsoil replacement and seeding, the disturbed area will be graded to minimize erosion, with no slopes steeper than 3-to1.



# Navajo Engineering & Construction Authority

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

SHIPROCK, NEW MEXICO 87420

December 19, 2019

The Navajo Nation  
Division of Natural Resources  
General Land Development  
Post Office Box 2249  
Window Rock, Arizona 86515

Attention: Ms. Elerina Yazzie, Program Manager, GLDD

Reference: Revocable Use Permit – Temporary Hot Plant Site and existing access road right-of-way, N12(19-4)1,2&4 Tsaile/Wheatfields, Arizona

Dear Ma'am:

Enclosed are: one signed copy of our application for a Revocable Use Permit, one complete copy of the Appendix to Revocable Use Permit Application for the referenced project, two compact discs containing digital copies of the complete application packet, and a check for \$500.00 for the processing fee.

This information is for a Revocable Use Permit Application for a Temporary Hot Plant Site and existing access road right-of-way located 1.10 miles north of Tsaile Junction of N12 & N64, Apache County, Arizona. Please process documents under the 164 review of the Revocable Use Permit Application through the Navajo Nation. The Bureau of Indian Affairs (BIA) does not recognize a Revocable Use Permit. Please see attached letter dated December 12 of 2018 from the BIA.

As described in our permit application package, we propose to use this parcel of land to temporally set a Hot Plant Site for the production of the N12 project. We request that the term of the permit be for a period of three years. As an Enterprise of the Navajo Nation, we request the requirements for the performance and reclamation bond (item no. 5 on the permit form) be waived. In lieu of a bond, Navajo Engineering and Construction Authority (NECA) will provide a resolution that will ensure that the disturbed area will be reclaimed. We also ask that this stipulation be listed in the terms and conditions attached to the permit and in the Resolution from the Resources & Development Committee of the Navajo Nation Council.

We also request that the terms and condition attached to the permit and the resolution from the Resources and Development Committee include a stipulation that authorizes NECA to begin use of the site once the Revocable Use permit is signed by the Navajo Nation President.

We appreciate your prompt attention to this permit application.

Sincerely yours,

Navajo Engineering & Construction Authority

A handwritten signature in black ink, appearing to read "Brett Grubbs", written in a cursive style.

Brett Grubbs,  
Manager of Engineering

Copy to: Chrono, permit file



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

**Requesting the Resources and Development Committee of The Navajo Nation to  
Approve a Revocable Use Permit and Access Road Right-of-Way for Navajo  
Engineering and Construction Authority (NECA) for a Temporary Hot Plant Site, in  
the Vicinity of the Tsaile/Wheatfields Chapter, Navajo Nation, Apache County,  
Arizona; and to Waive Reclamation Bond**

**WHEREAS:**

1. The Navajo Engineering and Construction Authority (NECA) is a duly established enterprise of the Navajo Nation, 5 N.N.C. §1971 s amended; and
2. The NECA is created to "engage in the general engineering and heavy construction industry" 5 N.N.C. §1971 (A)(1) as amended, and further, the NECA Board of Directors is authorized to have responsibility for the management and operation of NECA, 5 N.N.C. §1972(B)(1), as amended; and
3. NECA has applied to The Navajo Nation for a Revocable Use Permit and Access Road Right-of-Way for a temporary hot plant site located 1.10-miles north of Tsaile Junction along Navajo Route N12 in Section 28, Township 34 North Range 29 East of the Gila Salt River Meridian within the Tsaile/Wheatfields Chapter, Navajo Nation, Apache County, Arizona; and
4. The proposed Revocable Use Permit and Access Road Right-of-Way is for 11.5-acres, more or less and 130 feet access road on Navajo Nation Trust Land as described in the maps and other supporting documentation contained in the Revocable Use Permit application; and
5. The Tsaile/Wheatfields Chapter passed resolution number TWFY19-118, attached hereto and incorporated here in as Exhibit "A", supporting the Hot Plant Site and 130 feet Access Road Right-of-Way; and
6. The Navajo Nation has adopted as part of its permitting policy a requirement that permittee's provide a Reclamation bond to assure that reclamation requirements contained in the permit application are carried out; and
7. The requirement that NECA provide a Reclamation Bond results in the Navajo Nation furnishing a bond to itself, and results in additional cost to NECA and the Navajo Nation, therefore NECA request the Reclamation Bond be Waive; and
8. NECA as a Tribal Enterprise will continue to conduct business within the boundaries of the Navajo Nation in accordance with all laws and regulations, thereby assuring that reclamation of the Hot Plant Site and Access Road Right-of-Way area will be carried out; and

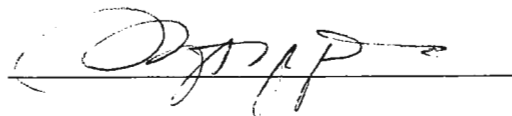
9. NECA has an excellent record of managing and reclaiming sand and gravel mining leases and temporary land withdrawal on the Navajo Nation Trust Lands and with the Bureau of Indian Affairs; and
10. It is in the best interest of the Navajo Engineering and Construction Authority that the Revocable Use Permit be issued.

**NOW THEREFORE BE IT RESOLVED THAT:**

1. The Navajo Engineering and Construction Authority Board of Directors requests that the Resources and Development Committee of the Navajo Nation approve a Revocable Use Permit, within the Tsaiile/Wheatfields Chapter management area in Apache County, Arizona, subject to the terms and conditions of the Revocable Use Permit.
2. The Navajo Engineering and Construction Authority Board of Directors further requests that the Resources and Development Committee of the Navajo Nation Council waive the requirement for a Performance and Reclamation Bond.
3. The Navajo Engineering and Construction Authority Board of Directors further authorizes the General Manager of NECA, the President of the NECA Board of Directors, and the NECA General Counsel to do any and all things necessary and proper to accomplish the purposes and intent of this resolution.
4. The Navajo Engineering and Construction Authority Board of Directors further directs the General Manager of NECA to do any and all things necessary to comply with the terms and conditions of the Revocable Use Permit.

**CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the Board of Directors of the Navajo Engineering and Construction Authority, at a duly called meeting at Albuquerque, New Mexico at which a quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, and 0 abstention this 31 day of October 2019.



Stanley Yazzie, President  
Board of Directors  
Navajo Engineering and Construction Authority

MOTION: Terrill Harvey

SECOND: Teena M. Redhorse

VOTE: 4 IN FAVOR, 0 OPPOSED, 0 ABSTENTION



Tsaile/Wheatfields Chapter  
Post Office Box C18  
Tsaile, Arizona 86556  
Phone: (928) 724-2220 Fax: (928) 724-2223

Tsééhilí

TóDzís'á

Tsézhine

Zane P. James, President  
Charles R. Chee, Grazing Committee

Devon Begay, Vice President

Kuhyonre E. Nita'ani, Secretary/Treasurer  
Nelson Begaye, Council Delegate

TWFFY19- 118

**RESOLUTION OF THE  
TSAILE/WHEATFIELDS CHAPTER #038**

**SUPPORTING AND RECOMMENDING THE RESOURCES AND DEVELOPMENT COMMITTEE OF THE NAVAJO NATION COUNCIL TO APPROVE A REVOCABLE USE PERMIT CONSISTING OF 11.5 ACRES AND 130 FEET OF ACCESS ROAD ON THE NAVAJO TRUST LANDS FOR THE NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY TO ESTABLISH, OPERATE, AND MAINTAIN A HOT PLANT SITE, AND AN AGGREGATE STOCK PILE AREA FOR N12 ROAD CONSTRUCTION ALONG NAVAJO ROUTE 12, NAVAJO NATION, APACHE COUNTY, ARIZONA.**

**WHEREAS:**

1. Pursuant to Navajo Nation Council Resolution No. CJ-20-55, dated December 2, 1955, the Tsaile/Wheatfields Chapter is vested with authority and charged with the responsibility to promote, protect and preserve the interest and general welfare, including the health and safety of its community people; and
2. The Indian Self-Determination Act (P.L. 93-638) of the U. S. Congress and Local Governance Initiatives entitles and support us, Navajo Indians, in initiating plans making decisions, recommendation, request, etc., according to our actual needs and desires; and
3. The Navajo Engineering and Construction Authority, P.O. Box 969, Shiprock, New Mexico 87420, has been awarded Road Construction Project N12 (19-4) 1,2 & 4, Tsaile/Wheatfields consisting of 10.68 miles; and
4. The proposed work entails grading, drainage, aggregate base course, hot asphaltic concrete pavement, arch structures and miscellaneous construction; and
5. The Navajo Engineering and Construction Authority propose to submit an application for Revocable Use Permit for approximately 11.5 acres, and 130 feet access road on Navajo Trust Lands to establish, operate and maintain a Hot Plant Site and an aggregate stock pile area located 1.10 miles north of Tsaile Junction along Navajo Route N12 in Section 28, Township 34 North, Range 29 East of the Gila Salt River Meridian within the Tsaile/Wheatfields Chapter, Navajo Nation, Apache County, Arizona. The location is shown on the map attached hereto as Exhibit "A" and made a part of hereof; and
6. The disturbed area will be reclaimed and reseeded with a native seed mix upon completion of the projects.

SUPPORTING AND RECOMMENDING THE RESOURCES AND DEVELOPMENT COMMITTEE OF THE NAVAJO NATION COUNCIL TO APPROVE A REVOCABLE USE PERMIT CONSISTING OF 11.5 ACRES AND 130 FEET OF ACCESS ROAD ON THE NAVAJO TRUST LANDS FOR THE NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY TO ESTABLISH, OPERATE, AND MAINTAIN A HOT PLANT SITE, AND AN AGGREGATE STOCK PILE AREA FOR N12 ROAD CONSTRUCTION ALONG NAVAJO ROUTE 12, NAVAJO NATION, APACHE COUNTY, ARIZONA.

**NOW THEREFORE BE IT RESOLVED THAT:**

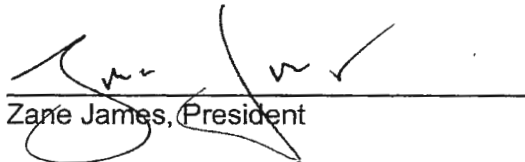
1. The Tsail/Wheatfields Chapter hereby approves, supports and recommends the Resources and Development Committee of the Navajo Nation Council to approve a revocable use permit consisting of 11.5 acres and 130 feet of access road on the Navajo Trust Lands for the Navajo Engineering and Construction Authority to establish, operate and maintain a Hot Plant Site, and an aggregate stock pile area for N12 Road Construction along Navajo Route 12, Navajo Nation, Apache County, Arizona.
2. The Tsail/Wheatfields Chapter requests of Navajo Engineering and Construction Authority to reseed the disturbed area with a native seed mix upon completion of Project N12 (19-4) 1,2 & 4, Tsail, Arizona.

**CERTIFICATION**

I, hereby certify the foregoing resolution was duly considered by the Tsail/Wheatfields Chapter at a duly called meeting at Wheatfields, Arizona at which a quorum was present and the same was passed by a vote of 27 in favor, 1 opposed, and 10 abstained on this 19<sup>th</sup> day of August, 2019.

Motion by: Willis Becenti

Second by: Angela Brown

  
Zane James, President



January 15, 2020

To: The Navajo Nation  
General Land Development Department  
St. Michaels, Arizona

From: Charles R. Chee  
Charles R. Chee, District Grazing Committee Member  
Tsaile/Wheatfields Chapter

RE: CONSENT TO ISSUE A REVOCABLE USE PERMIT TO THE NAVAJO  
ENGINEERING AND CONSTRUCTION AUTHORITY FOR 11.5 ACRES OF  
THE NAVAJO TRUST LANDS FOR A TEMPORARY HOT PLANT SITE AND  
AN AGGREGATE STOCK PILE AREA FOR NAVAJO ROUTE N12 (19-4)1,2, &4  
ROAD RECONSTRUCTION.

The Navajo Engineering and Construction Authority (NECA), Post Office Box 969, Shiprock, New Mexico (NM), 87420, proposes to submit an application for a Revocable Use Permit for 11.5 acres, more or less, and 130 feet of an existing access road entrance on the Navajo Trust Lands for a duration of 36 months in Section 28; T-34-N, R-29-E, Gila and Salt River Baseline and Meridian, Tsaile/Wheatfields Chapter, Navajo Nation, Apache County, Arizona. The area will be used to establish, operate, and maintain a temporary hot plant site and an aggregate stock pile area for the purpose of the reconstructing 10.68 miles of Navajo Route N12. The site is located approximately 1.10 miles North of the N12 and N64 Intersection of the Tsaile Junction.

Site visit to the area determined that two individuals are listed on the Grazing Permit for land use rights with 25/15 sheep units with an up-to-date Annual Tally Count. The surface damage compensation has been determined to the satisfaction of the Grazing Permittees for the diminishment in value of the land use rights for the above-referenced proposed project. The Wheatfields/Tsaile Chapter strongly recommend the area be reclaimed and reseeded upon completion of the project. The road reconstruction primarily benefits the local chapter communities.

If you have any questions, regarding the land use consent, I can be contacted at (928)313-2210. Thank you.

## FIELD CLEARANCE CHECKLIST

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

### 1. Project Identification

Applicant: The Navajo Engineering and Construction Authority,  
P.O. Box 969, Window Rock, AZ  
Type of Project: Revocable Use Permit  
Purpose: to establish, operate, and maintain a temporary hot plant site, an  
aggregate stock pile area, and 130 feet of an existing access road  
entrance for a duration of 36 months.  
Location: Tsaile/Wheatfields Chapter, the NAVAJO NATION,  
Apache County, Arizona  
Identification Number (s): N12(19-4)1,2, & 4 Tsaile/Wheatfields, Arizona

2. Amount of Land Affected: 11.5 Acres.

3. Land Status: Trust XX

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

	Names:	Census Number	Type of Land Use Right
1.	<u>Isabel John</u>	<u>---</u>	<u>Grazing/#11-932</u>
2.	<u>Louise Davis</u>	<u>---</u>	<u>Grazing/#11-895</u>
3.	<u>---</u>	<u>---</u>	<u>---</u>
4.	<u>---</u>	<u>---</u>	<u>---</u>

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

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

### ACKNOWLEDGEMENT

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

1.15.20  
Date

Charles R. Chee  
Grazing Committee or Land Board Member

11.3  
District Number

Consent Form #2  
(Compensation for Damages)

CONSENT TO USE NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

We, Isabel John  
Isabelle Johnny, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs to permit The Navajo Engineering and Construction Authority and Its Assigns of P.O. Box 969, Shiprock, New Mexico 87420 to use a portion of our Grazing area for the following purpose(s): a Revocable Use Permit for 11.5 acres, more or less, and 130 feet of an existing access road entrance on the Navajo Trust Lands for a duration of 36 months in Section 28; T-34-N, R-29-E, Gila and Salt River Baseline and Meridian, Tsaile/Wheatfields Chapter, Navajo Nation, Apache County, Arizona. The area will be used to establish, operate, and maintain a temporary hot plant site and an aggregate stock pile area for the purpose of the reconstructing 10.68 miles of Navajo Route N12. The site is located approximately 1.10 miles North of the N12 and N64 Intersection of the Tsaile Junction as shown on the map that shows the location of the proposed project.

Our consent is given subject to the receipt of a onetime payment of \$2,300.00 to be equally divided (\$200.00 per acre X 11.5 acres = \$2,300.00) which we acknowledge as good and adequate compensation for the diminishment in value of my land use rights as a result of the above referenced project as proposed.

REMARKS:

<u>01/15/20</u> DATE	<u>Isabel M. John</u> GRAZING PERMITTEE SIGNATURE (OR THUMBPRINT)	_____ CENSUS NO.	<u>11-932</u> PERMIT NO.
<u>____</u> PHONE NO.	<u>P.O. Box</u> ADDRESS (P.O. BOX, CITY, STATE, ZIP)	<u>____</u> SOCIAL SECURITY NO.	
<u>01-16-20</u> DATE	<u>Terrie Davis</u> GRAZING PERMITTEE SIGNATURE (OR THUMBPRINT)	_____ CENSUS NO.	<u>11-895</u> PERMIT NO.
<u>____</u> PHONE NO.	<u>P.O. Box</u> ADDRESS (P.O. BOX, CITY, STATE, ZIP)	<u>____</u> SOCIAL SECURITY NO.	

WITNESS:

<u>1-15-20</u> DATE	<u>Charles E. Chae</u> GRAZING PERMITTEE SIGNATURE (OR THUMBPRINT)	_____ CENSUS NO.	_____ PERMIT NO.
------------------------	--	---------------------	---------------------

ACKNOWLEDGEMENT OF FIELD AGENT

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

Minnie Beddel  
Field Agent Signature

Form 4/10/2018



United States Department of the Interior  
BUREAU OF INDIAN AFFAIRS

Navajo Regional Office  
P.O. Box 1060  
Gallup, New Mexico 87301

DEC 12 2018



IN REPLY REFER TO:  
465: Office of Environmental Quality Act Compliance and Review

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

RE: FONSI Request - National Environmental Policy Act Compliance for NECA Chinle Asphalt Hot Mix Plant and Construction Yard Revocable Use Permit Application **EA-19-35185**

Dear Mr. Robbins:

This letter is in response to your request for a Finding of No Significant Impact (FONSI) in compliance with the National Environmental Policy Act from the Bureau of Indian Affairs (BIA), Navajo Regional Office (NRO). The NRO does not have a federal action associated with the proposed Navajo Engineering and Construction Authority (NECA) Chinle Asphalt Hot Mix Plant and Construction Yard Revocable Use Permit Application. The NRO does not issue Revocable Use Permits. NECA is seeking a Revocable Use Permit from the Navajo Nation. Because BIA is not issuing a permit, there is no federal action associated with this project.

In accordance with 25 Code of Federal Regulations §162.104 (a), "An Indian landowner who owns 100% of the trust or restricted interests in a tract may take possession without a lease or any other prior authorization from us (BIA)." Therefore, tribal trust land designated for specific use by the Navajo Nation does not require approval from the Bureau of Indian Affairs (BIA); thus, would not require a National Environmental Policy Act (NEPA) action.

The only federal action that may require NEPA compliance is the utilization of federal dollars for the road improvements. In which case, the federal funding agency would be responsible for the NEPA compliance documentation.

If you have any questions, please contact Ms. Harrilene Yazzie, Supervisory Environmental Protection Specialist at (505) 863-8287.

Sincerely,

Regional Director, Navajo

Enclosure

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

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

PROJECT NAME & NO.: Tsale Asphalt Hot Mix Plant & Construction Yard

DESCRIPTION: NECA is applying for an 11.5-acre site for a temporary construction yard and asphalt hot mix plant for the reconstruction of Navajo Route 12. The site was previously used by NECA in 2005 during the N64 project.

LOCATION: Section 28, T34N, R29E, Tsale, Apache County, Arizona

REPRESENTATIVE: Leonard Robbins, Denali Environmental Services for Navajo Engineering & Construction Authority (NECA)

ACTION AGENCY: Bureau of Indian Affairs and Navajo Nation

B.R. REPORT TITLE / DATE / PREPARER: Request for a Project Specific Review/OCT 2019/Leonard Robbins

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 1 (Highly Sensitive Area).

**POTENTIAL IMPACTS**

NESL SPECIES POTENTIALLY IMPACTED: *Odocoileus hemionus* (Mule Deer), species of cultural and economic significance.

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

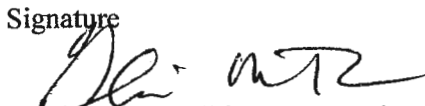
AVOIDANCE / MITIGATION MEASURES: The site is located in high-use winter range for mule deer. The NNDFW highly recommends that NECA fully reclaims the 11.5-acre site. This includes re-seeding with a native, weed-free seed mixture and monitoring for 5 years upon closure of the site. The NNDFW also recommends livestock exclusion for the duration of the reclamation period.

CONDITIONS OF COMPLIANCE\*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/21 NOV 2019

COPIES TO: (add categories as necessary)

☐ \_\_\_\_\_ ☐ \_\_\_\_\_

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

\*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

*Brett Hubbs*

Date *12-9-19*



**TSAILE ASPHALT HOT MIX PLANT AND CONSTRUCTION YARD  
BIOLOGICAL RESOURCE COMPLIANCE FORM REQUEST  
NAVAJO ENGINEERING CONSTRUCTION AUTHORITY**



**USGS Quadrangle Map: Tsaile, Arizona  
PLS: Section 28 T34N R29 E, G&SRPM  
Lat & Long: 36° 19' 21.6" N 108° 13' 41.0" W, NAd-83  
UTM: 659,039 m E 4,021,196 m N, Zone 12  
Elevation 6,992' amsl**

**Prepared by  
NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY  
P.O. Box 969  
Shiprock, New Mexico 87420**

**DENALI ENVIRONMENTAL SERVICES  
P.O. Box 1127  
Fort Defiance, Arizona 86504  
denali1946@msn.com**

**October, 2019**

**TSAILE TEMPORARY CONSTRUCTION YARD AND ASPHALT HOT MIX PLANT SITE  
BIOLOGICAL RESOURCE COMPLIANCE FORM REQUEST  
NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY**

**Introduction**

The Navajo Engineering & Construction Authority (NECA) of Shiprock, New Mexico wishes to make application for a temporary construction yard on 11.5 acres of Navajo Tribal Trust land near Tsaille, Arizona. The land will be used as a temporary construction yard, where an asphalt hot mix plant site, aggregate stockpiles, trucks and heavy equipment will be located for approximately 36 months, during the widening and reconstruction of Navajo Route N12, Project No. N12 (19-4)1, 2, & 4. Approximately 53,924 metric tons of paving aggregate will be required to reconstruct N12 from the Wheatfields Lake area extending north toward Lukachukai, for a distance of 11.5 miles. Figure 1 illustrates the location of the proposed construction yard along Navajo Route N12.

In February 24, 2005, the same property (construction yard and hot mix plant) was used by NECA during the same year for the reconstruction of Navajo Route N64, Tsaille junction extending west to Chinle. Endangered Species Act consultation with NDF&W – Natural Heritage Program was conducted by Ecosystem Management, Inc. A biological evaluation was developed for the project. The Navajo Regional Office FONSI determination (EA-04-206) would indicate no threatened or endangered species were affected by the project during that time.



**Photo 1.** Looking west, the picture shows the proposed 11.5 Acre Tsaille Temporary Asphalt Hot Mix Plant Site near Tsaille, Arizona.

In regard to the Navajo Department of Fish and Wildlife Biological Resource Conservation Plan (RCP), the proposed action would be located in a designated Area 3, an Area of Less Sensitivity, in



areas with fewest restrictions on development. We request a biological resource compliance form for the proposed action.

### 1.0 Description of the Proposed Action

NECA proposes to construct Tsaille Temporary Asphalt Hot Mix Plant Site on approximately 11.5 acres of Navajo Tribal Trust land near Tsaille, Arizona. The land will be used as a temporary construction yard, where aggregate stockpiles, a hot mix asphalt plant, trucks and heavy equipment will be located for approximately 36 months, during the widening and reconstruction of Navajo Route N12, Project No. N12 (19-4)1, 2, & 4. Approximately 53,924 metric tons of paving aggregate will be required to reconstruct N12 from the Wheatfields Lake area extending north to Lukachukai, for a distance of 11.5 miles.

Electrical power for the construction yard and asphalt hot mix plant is provided by diesel powered generators onsite. No electrical powerlines are needed for the construction yard.

An existing paved turnout from Navajo Route N12 would access to the proposed construction yard. The existing dirt road on the north side will be used during operations of the construction yard. No access roads to the business site lease will be constructed. The proposed construction yard perimeter would be fenced for security, public safety, and to avoid livestock encroachment. The fence will be dismantled after use of the yard.

### 1.1 Location

The proposed project area is located on USGS topographic map entitled *Tsaille, AZ*, a 7.5 minute quadrangle map at Figure 1. The waypoint description of the project location is shown at Table 1. Specific waypoint descriptions of the project boundaries are shown on the USGS map at Figure 1.

Table 1. Waypoint Descriptions of the proposed Tsaille Temporary Asphalt Hot Mix Plant, Tsaille, AZ USGS Quadrangle Map.

Proposed Construction Yard	Public Land Survey G&SRPM	Latitude and Longitude NAd 83	UTM, Zone 12
Northwest Corner	S28 T34N R29 E	36° 19' 22.2" N 109° 13' 47.4" W	658,895 m E 4,021,209 m N
Southwest Corner	S28 T34N R29 E	36° 19' 16.2" N 109° 13' 44.1" W	658,980 m E 4,021,025 m N
Northeast Corner	S28 T34N R29 E	36° 19' 26.6" N 109° 13' 41.0" W	658,052 m E 4,021,348 m N
Southeast Corner	S28 T34N R29 E	36° 19' 18.9" N 109° 13' 36.7" W	659,165 m E 4,021, 114 m N

At an elevation 6,992' amsl, the proposed business site tract is located in Tsaille, west of Navajo Route N12, Wheatfields/Tsaille Chapter, Apache County, Arizona.



VEDQ  
2-89

**Figure 1. Tsaille Asphalt Hot Mix Plant & Construction Yard**  
Navajo Engineering & Construction Authority, Shiprock, NM  
Tsaille, AZ 7.5 Minute Quadrangle Map, 11.5 Acres

**Northwest Corner**

PLS: Section 28 T34N R29E

L&L:  $36^{\circ}19'22.2''$  N  $109^{\circ}13'47.4''$  W

UTM: 658,895 m E 4,021,209 m N

**Southwest Corner**

PLS: Section 28 T34N R29E

L&L:  $36^{\circ}19'16.2''$  N  $109^{\circ}13'44.1''$  W

UTM: 658,980 m E 4,021,025 m N

**Northeast Corner**

PLS: Section 28 T34N R29E

L&L:  $36^{\circ}19'26.6''$  N  $109^{\circ}13'41.0''$

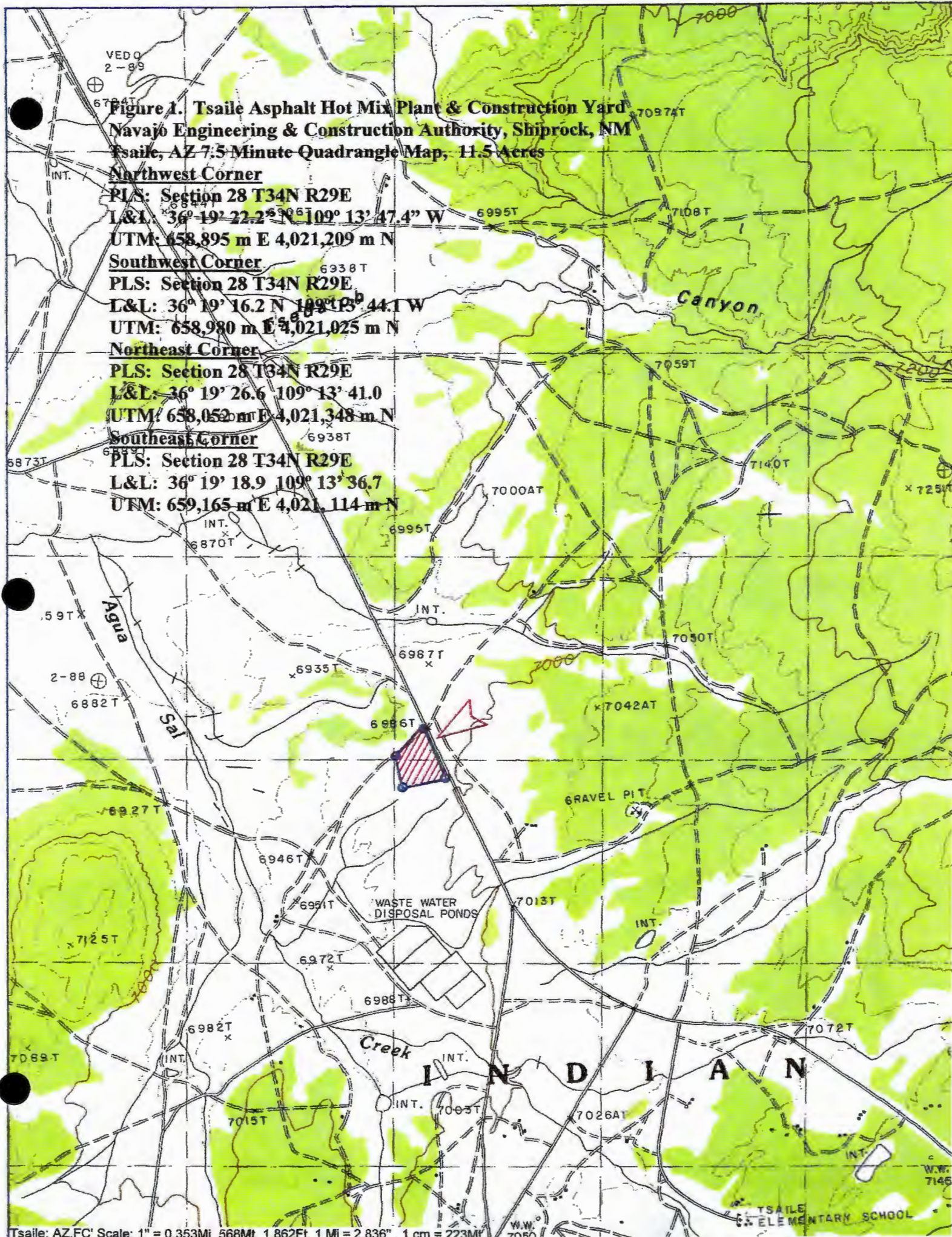
UTM: 658,052 m E 4,021,348 m N

**Southeast Corner**

PLS: Section 28 T34N R29E

L&L:  $36^{\circ}19'18.9''$  N  $109^{\circ}13'36.7''$

UTM: 659,165 m E 4,021,114 m N





## 2.0 Existing Land Uses

The proposed business site tract is located on a vacant lot, formerly occupied by the NECA during 2005 for the same purpose – asphalt hot mix plant and construction yard. Numerous scattered home sites are located within one-quarter mile of the proposed project area.

There are no Resource Conservation and Recovery Act (RCRA) Subtitle D Solid Waste sites, illegal trash dumps on the proposed project area. There are no Resource Conservation & Recovery Act (RCRA) Subtitle C Hazardous Waste sites on the proposed project area, along the highway, nor on the perimeter of the proposed construction yard.

Soils onsite are largely atypical, disturbed from previous grading. Surface topography and geology/soils within the proposed project area is not expected to present any specific problems to the proposed project.

## 3.0 Onsite Survey Methods

Onsite pedestrian surveys of the proposed project area were conducted on September 5, and September 9, 2019. The entire project area was covered during the field survey. Onsite habitat was evaluated for all Endangered Species Act (ESA), Navajo Endangered Species List species of concern (NESL), and Migratory Bird Treaty Act (MBTA) species. All conservation status species that have the potential to occur in the proposed project and action areas were considered.

### 3.1 Action Area

The proposed project action area would include additional area surrounding the proposed business site, called the zone of influence, which would consist of the surrounding terrain within a 1/8-mile (0.1 mile) radius of the proposed project area boundaries.

## 4.0 Pinyon-Juniper Savannah Terrestrial Fauna and Flora Biotic Resources

### 4.0.1 Existing Conditions

The project area is located in the Pinyon-Juniper Savannah Ecosystem and is located in high plateau country of northeastern Arizona (Brown, D. E., 1994). At approximately 6,992 feet amsl, the proposed project area is encompassed by *Pinus edulis*, Juniper trees *Juniperus monosperma*, Sagebrush *Artemisia spp.*, and grasses. These trees, shrubs, and grasses are the dominant species in this P-J Savannah habitat type.

In this biome Pinyon pine and Juniper trees (P-J), sagebrush and grasses surround the entire project area. Under natural conditions, growing amid the P-J canopy under story are shrubs, grasses, forbs and annuals. These plants form the ecological backbone of the P-J savannah ecosystem: they provide food, shelter, and nesting sites for birds, mammals, insects, and reptiles. Under natural conditions, understory shrubs include sagebrush, rabbit brush, yucca and snakeweed. Grass cover may be a mixture of dropseeds, galleta, blue grama and others (Brown, D.E., and C.H. Lowe, 1994).

The natural open areas are typically composed of grasses, e.g. cheatgrass *Bromus tectorum* blue grama *Bouteloua gracilis*, galleta *Pleuraphis jamesii*, dropseeds *Sporobolus cryptandrus* and

Indianrice grass *Oryzopsis hymenoides*, and shrubs, e.g. rabbitbrush *Chrysothamnus nauseosus*, sagebrush *Artemisia* spp., threadleaf groundsel *Senecio flaccidus*, banana yucca *Yucca baccata* and broom snakeweed *Gutierrezia sarothrae*.

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

The fauna of the Juniper Savannah is somewhat diverse than that of other habitats. Mule deer *Odocoileus hemionus* and elk *cervus canadensis* may roam the area in transit during late fall and winter months. Other big game species, the black bear *Ursus americanus* and wild turkey *Meleagris gallopavo*, are not found in the project area, as marginal foraging habitat exists. Mule deer may frequent the area during the cold winter months. Construction of the proposed project in this residential and rural setting will not have an effect on the natural habitat necessary for the continued survival of these species.

Most abundant small mammals include blacktail jack rabbits *Lepus californicus*, mountain cottontails *Sylvilagus nuttalli*, pinyon mice *Peromyscus truei*, valley gophers *Thomomys bottae*, porcupines *Erethizon dorsatum*, Mexican woodrats *Neotoma mexicana* and Ord's kangaroo rats *Dipodomys ordi*.

Characteristic breeding birds of this ecosystem include common night hawks *Chordeiles minor*, pinyon jay *gymnorhinus cyanocephalus*, Northern flickers *Colaptes auratus*, Western kingbirds *Tyrannus verticalis*, horned larks *Eremophila alpestris*, loggerhead shrikes *Lanius ludovicianus*, sparrows *Spizella* spp., grey-headed juncos *Junco hyemalis* and common ravens *Corvus corax*.

Reptiles include striped plateau lizards *Sceloporus virgatus*, plateau whiptails *Cnemidophorus velox* and short-horned lizards *Phrynosoma douglassii*.

#### 4.0.2 Effects

The proposed project area has been previously graded and cleared of the P-J Savannah type except for introduced grasses, invasive rabbit brush, and small trees along the northern boundary. Near the entrance a few large Pinon and Juniper trees remain. Initial field surveys indicate that suitable foraging and nesting habitat for small mammals and birds is not present on the project area, therefore the proposed project would not cause a loss of potential nesting, cover and forage habitat for the terrestrial flora and fauna species.

#### 4.0.3 Mitigation

Indirect mitigation is recommended for all fauna and flora on the proposed area. Natural vegetative habitat can be restored over time, if the area is left alone and without periodic clearing and burning. The proposed undertaking will have minimal effect on the existing vegetation and potential habitat in the area.

Upon completion of the project, NECA will reclaim and reseed the site with native vegetation in accordance with a NECA *Construction Yard Reclamation Plan* (NECA RP, 2019). Onsite topsoil

removal and stockpiling will begin on the site as soon as the use lease is approved by the authorities. The reclamation seed mixture will contain greater than fifty percent native seed. The American Association State Highway & Transportation Officials Standards (AASHTO) at Section 625 Turf Establishment (mulching and seed mix) for Federal Projects (FP-03), and Supplemental Specifications (AASHTO, 2004) would serve as a standard for reclaiming the site.

Seeding will be established by the Dry Rangeland Method. Seedbed preparation shall be accomplished with a disc harrow, chiseling tool or with other equipment, which will provide an even mixture of fertilizer into the soil. All areas to be seeded shall have fertilizer uniformly applied to the surfaces and tilled into a minimum of three inches of the soil.

After tillage is completed the seed shall be planted by disc drill with depth bands at approximately one-half inch. On slopes too steep or rocky (greater than 3:1 slope) seed may be broadcasted, and covered by dragging, hand raking or other approved method. The type of seed and pure live seed rate is as shown in Table 2. Straw mulch will follow seeding at a rate of two tons per acre.

Table 2. Seed Type and Rate for the Tsaila Construction Yard. Expressed in Pure Live Seed (PLS).

Grassland Savannah Vegetation Type				
Common Name	Scientific Name	Variety	Drilled Rate	Broadcast Rate
Alkali Sacaton	<i>Sporobolus airoides</i>	Salado	0.5	1
Western Wheatgrass	<i>Pascopyrum smithii</i>	Arriba	4	8
Galleta	<i>Pleuraphis jamesii</i>	Viva	4	8
Blue Grama	<i>Bouteloua gracilis</i>	Alma	1	2
Scarlet Globemallow	<i>Sphaeralcea coccinea</i>	VNS	1	2
Four-wing Saltbush	<i>Atriplex canescens</i>	Rincon	3	6
Total			13.5#/Acre	27#/Acre

Application rates of seed as specified are for Pure Live Seed (PLS). PLS is determined by multiplying the sum of germination and hard or dormant seed by purity, usually tested in the laboratory. PLS is as specified by the buyer and normally shown on the seed bags.

#### 4.1 Endangered Species Act & Navajo Endangered Species List

##### 4.1.1 Existing Conditions

The Navajo Department of Fish and Wildlife's *Biological Resource Land Clearance Policy and Procedures* (BRLCP&P) was consulted. The land clearance procedure qualifies the proposed construction yard and surrounding area as an Area 3 location, Less Sensitive Area – fewest restrictions on development. Suitable ESA and NESL species and habitat is not found within the project area or adjacent to the project zone of influence.

##### 4.1.2 Effects

The project is not expected to affect any federally listed species, nor significantly impact any tribally listed species or other species of concern. Impacts posed by the proposed project can be expected to be minimal. Previous 2005 field surveys and recent surveys indicate that T&E species are not present on the proposed project area, therefore the proposed project would not cause an incremental loss of potential nesting, cover and forage habitat for any T&E species.

The proposed project area is in an RPC Area 3 Less Sensitive location – fewest restrictions on development. And will not have an effect on the habitat or other elements necessary for the continued survival of conservation species.

#### 4.1.3 Mitigation

Construction activities shall be confined to the proposed project area to avoid further disruption of any foraging habitat. Mitigation measures as described in Section 3.4.3 Terrestrial Fauna and Flora reseeded mitigation will apply to the overall mitigation for the project. No other direct mitigation is recommended for the terrestrial fauna and flora species.

## 5.0 CONCLUSIONS

The preferred alternative and project description is logical and desirable. Previous environmental assessments on the property and previous biological evaluation have been considered. The proposed project should have no effect on ESA threatened and endangered species, NESL sensitive species, or MBTA species. There is no federal designated critical habitat in vicinity of the project, and no wetland or riparian habitat occurrences in the area. The proposed action would have no effect on any sensitive wildlife species.

### RCP Designation/BRCF Request

Relative to the Navajo Department of Fish and Wildlife Biological Resource Land Clearance Policies and Procedures (RCP), the proposed project is located in an *Area 3 – Less Sensitive Development Area*. An area with fewest restrictions on development, with the least impact on wildlife species. We request a biological resource compliance form for the proposed action.

### REFERENCES

Brown, D.E., 1994. *Biotic Communities of Southwestern United States and Northwestern Mexico*. University of Utah Press, Salt Lake City, Utah.

Navajo Department of Fish and Wildlife Resource Conservation Plan (NDF&W RCP), 2008. *Biological Resource Land Use Clearance Policies and Procedures (RCP) RCS-44-08*, Biological Resource Land Clearance Policy & Procedure, Navajo Department of Fish and Wildlife, Window Rock, Arizona.

Navajo Department of Fish and Wildlife, Natural Heritage Program (NDF&W-NHP), 2008. *Navajo Nation Endangered Species List, Species Account*, Navajo Department of Fish and Wildlife, Natural Heritage Program, Window Rock, Arizona.

Navajo Engineering & Construction Authority Reclamation Plan, 2019. NECA Statement of Purpose, Navajo Engineering and Construction Authority, Shiprock, New Mexico.

U.S. Department of the Interior, Fish and Wildlife Service (USF&WS), 1984. *Canyon DeChelly, Arizona National Wetlands Inventory Map*, U.S. Department of the Interior, Fish and Wildlife Service, Washington D.C.

**TSAILE PORTABLE TEREX HOT ASPHALT MIX PLANT SITE  
ENVIRONMENTAL ASSESSMENT**

**Navajo Land Department Environmental Compliance & Review  
Navajo Nation, Window Rock, New Mexico**



**PLS: Section 28 T34N R29E G&SRM  
L&L: 36° 19' 21.6" N 109° 13' 41.7" NAd 83  
UTM: 659,039 m E 4,021,196 m N  
Elevation: 6,992' amsl**

**Prepared by**

**NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY**

**No. 1 Uranium Blvd**

**P.O. Box 969**

**Shiprock, New Mexico 87420**

**DENALI ENVIRONMENTAL SERVICES**

**P.O. Box 1127**

**Fort Defiance, Arizona 86504**

**Denali1946@msn.com**

**September, 2019**



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**TSAILE PORTABLE TEREX HOT ASPHALT MIX PLANT SITE  
ENVIRONMENTAL ASSESSMENT  
Navajo Route N12, Project No. N12 (19-4)1, 2, & 4**

**Introduction**

Navajo Engineering and Construction Authority (NECA) of Shiprock, New Mexico was selected by bid to reconstruct and widen Navajo Route N12 from Wheatfields to Lukachukai, Arizona. The Authority will be making permit application with the Navajo Land Department to construct a temporary hot asphalt mix plant (HAMP) one mile north of Tsaile, Arizona. The land would be withdrawn for the batch plant scheduled for the spring 2020. The proposed action would be a land use permit approval from the Navajo Nation.

**1.0 DESCRIPTION OF THE PROPOSED ACTION AND PROJECT LOCATION**

**1.1 Description of the Proposed Action**

NECA has selected a site to construct a proposed hot asphalt mix plant to commensurate the reconstruction and widening of Navajo Route N12. The operator plans to apply for a temporary land use permit for the proposed 11.5 acre site. Approximately 59,441 standard tons (53,924 metric tons) of pavement aggregate will be required to reconstruct and widen N12 from the Wheatfields Lake area extending north to Lukachukai, a distance of 10.68 miles. The Asphalt Batch plant operations would include hot asphaltic mix plant, gravel, crusher fines and washed sand stock piles, two Caterpillar 988 front end loaders, 15-20 belly dump trucks, and a 2000 gallon water truck. Truck haulage of hot asphaltic paving material from the plant during construction operations would be constant during the permit period. The entire proposed project area would be disturbed during construction operations.

Electrical power for the hot asphalt mix plant is provided by diesel powered generators onsite. No electrical powerlines are needed for the HAMP operations. New access road to the parcel will not be required, as the proposed plant would be located adjacent to the existing Navajo Route N12 right of way. The entire parcel will be fenced to avoid public access and livestock accidents. No other infrastructure facilities would be required.

Upon completion of the project, NECA will reclaim and reseed the site with native vegetation in accordance with the American Association State Highway & Transportation Officials (AASHTO) Standards and Federal Projects (FP-14), in Section 625 (mulching and seed mix) Specifications. The guideline would serve as a standard for reclaiming the site.

Topsoil removal and stockpiling will begin on the site as soon as the land use permit is approved by the Navajo Nation. Seeding will be established by the dry rangeland method. Seedbed preparation shall be accomplished with a disc harrow, chiseling tool or with other equipment, which will provide an even mixture of fertilizer into the soil. All areas to be seeded shall have fertilizer uniformly applied to the surfaces and tilled into a minimum of three inches of the soil.

After tillage is completed the seed shall be planted by disc drill with depth bands at approximately one-half inch. On slopes too steep or rocky (greater than 3:1 slope) seed may be broadcasted, and covered by dragging, hand raking, or other approved method. The type of seed and pure live seed rate is as shown in Table 1. Straw mulch will follow seeding at a rate of two tons per acre.

Table 1. Seed Type and Rate of for the Tsaiile Asphalt Hot Mix Plant and Construction Yard.

Grassland Savannah Vegetation Type				
Common Name	Scientific Name	Variety	Drilled Rate	Broadcast Rate
Alkali Sacaton	<i>Sporobolus airoides</i>	Salado	0.5	1
Western Wheatgrass	<i>Pascopyrum smithii</i>	Arriba	4	8
Galleta	<i>Pleuraphis jamesii</i>	Viva	4	8
Blue Grama	<i>Bouteloua gracilis</i>	Alma	1	2
Scarlet Globemallow	<i>Sphaeralcea coccinea</i>	VNS	1	2
Four-wing Saltbush	<i>Atriplex canescens</i>	Rincon	3	6
Total			13.5#/Acre	27#/Acre

Application rates of seed as specified are expressed in Pure Live Seed (PLS). PLS is determined by multiplying the sum of the germination and hard or dormant seed by purity. Adherence to the reclamation plan will minimize potential impacts to the foraging wildlife species.

NECA will file a Notice of Intent (NOI) with the U.S. Environmental Protection Agency in Washington D.C. for Stormwater Discharge Associated with Industrial Activity under the a Section 402 (p) NPDES permit in accordance with the Clean Water Act, a Multi-Sectional General Permit (MSGP). NECA would prepare a *Stormwater Pollution Prevention Plan* (SWPPP) to maintain surface and ground water quality, while stabilizing soil erosion and enhancing re-vegetation onsite. Erosion controls would be installed and maintained in accordance with the *Stormwater Pollution Prevention Plan* for the project. A copy of the plan will be kept onsite (NECA USEPA NOI, 2019).

In accordance with the Spill Prevention Control and Countermeasure Plan, 40 CFR 112.5 (b), NECA will facilitate a plan for the proposed project. The plan will address the potential for accidental discharge of oil or waste oil into or upon navigable waters of the U.S. This plan is prepared to prevent and minimize the impact of a spill at the facility, and to expedite control and cleanup activities. Any contaminated soils will be removed and transported to Envirotech of Farmington, New Mexico.

## 1.2 Purpose and Need

The purpose of the permit application is to support the widening construction of Navajo Route N12. The proposed HAMP will provide road materials and pavement to construct widening of an all-weather road for safe travel. Navajo Route N12 is used by all sectors of the general public, including commerce, government, transportation, and the public health and welfare. The Tsaiile Chapter has passed a resolution in support of the plant site, see Appendix B.

The need is to provide an all-weather highway as a means of transportation so that the people of the surrounding communities would be able to daily commute from their homes to their place of employment, provide for their families, and, in the ultimate, provide the Diné People a better quality of life. A better road transportation system would boost the local economy and human services by

providing access to local stores, shopping centers, health care centers (clinics and hospitals), primary, elementary, high schools and higher education institutions for their children, as well as maintenance and services for their homes and vehicles. The proposed initiative would also increase the potential for economic development and jobs.

**1.3 Location** The proposed project is located on USGS topographic map entitled *Tsaile, AZ* 7.5 minute quadrangle map at Figure 1. Waypoint location descriptions of the proposed project are shown in Table 2 below.

Table 2. United State Geological Survey Maps Waypoint Descriptions of Tsaile Hot Asphalt Mix Plant Site, Tsaile, Arizona.

Project Description	Public Land Survey G&SRPM	Latitude and Longitude NAD 83	UTM, Zone 12
Northwest Corner	Section 28 T34N R29E	36° 19' 22.2" N 109° 13' 47.4" W	658,895 m E 4,021,209 m N
Southwest Corner	Section 28 T34N R29E	36° 19' 16.2 N 109° 13' 44.1 W	658,980 m E 4,021,025 m N
Northeast Corner	Section 28 T34N R29E	36° 19' 26.6 N 109° 13' 41.0 W	658,052 m E 4,021,348 m N
Southeast Corner	Section 28 T34N R29E	36° 19' 18.9 N 109° 13' 36.7 W	659,165 m E 4,021, 114 m N

At 6,992' amsl elevation, the proposed hot asphalt mix plant is located in Wheatfields/Tsaile Chapter, Apache County, Arizona.

#### 1.4 Project Authorization

The Navajo Land Department is the lead tribal entity, as authorized by the Navajo Nation Code, which establishes appropriation for the permitting activity. The proposed land use permit approval would allow NECA to utilize the proposed construction yard for three years.

The Navajo Nation Historic Preservation Department requires NHPA compliance and consultation with all development projects on the Navajo Nation. NNHPD has determined that NHPA § 106 responsibilities are adhered to, as no historic properties would be affected. The Cultural Resource Compliance Form for the proposed project, at NNHPD Number HPD-19-760, has been created for this undertaking as shown in Appendix C.

The Navajo Department of Fish and Wildlife, Navajo Natural Heritage Program (NDF&W-NNHP), under a Public Law 93-638 contract with the Navajo Regional Office-BIA, enforces compliance with



the Endangered Species Act, and the Navajo Endangered Species List-species of concern. The NNHP Biological Resource Compliance Form for the proposed project at 19danl03 was received from the program at Appendix D.

Tsaile/Wheatfields Chapter has passed a resolution approving the proposed site, as shown at Appendix B. Other public involvement for the project consists of public attendance and participation at land use planning meetings, grazing committee meetings, and government project planning meetings.

### **1.5 Purpose of Environmental Assessment**

The environmental assessment is an instrument required by federal law and regulations to determine if potential impacts of a federal action are of such significant as to require the preparation of an environmental impact statement. The proposed federal action is approval of a revocable use permit. The approval of the permit would allow the operator to withdraw a tract of land, on which to construct and operate the proposed HAMP. This document addresses potential impacts and mitigation for the permit approval.

## **2.0 ALTERNATIVES INCLUDING THE PROPOSED ACTION**

### **2.1 Alternative Site Considered and Eliminated from Detailed Analysis**

An alternate site of adequate size for the hot asphalt mix plant is not available in other areas. The alternative locations were considered and eliminated after an analysis of area, soil type, topography, and numerous sighting of archaeological evidence.

### **2.2 No Action Alternative**

This alternative would not allow NECA to acquire a permit for the proposed project. Consequently, hot asphalt plant operation would not be created for the widening of Navajo Route N12. The no action alternative at the proposed site would require survey of other areas for consideration.

### **2.3 NECA Hot Asphalt Mix Plant Site Operations (Preferred Alternative)**

NECA proposes to establish hot asphalt mix plant operations at the Tsaile location. The existing site has favorable characteristics for hot plant operations. The proposed hot plant operation would be used in the widening of Navajo Route N12. The propose site would not require new access road construction.

## **3.0 AFFECTED RESOURCES AND ENVIRONMENTAL EFFECTS**

### **3.1 Resources Not Considered in Detail (Non-Critical)**

Initial evaluation of the alternatives indicated that there would likely be little to no direct, indirect, or cumulative effects on several resources. These resources are discussed in Sections 3.1.1 through 3.1.12 to add to the overall understanding of the environmental setting of the project area.

#### **3.1.1 Climate**

Canyon DeChelly, Arizona is the nearest weather station to the project area. The proposed project area is located in a semi-arid climate. The project area experiences four distinct climatic seasons and has an annual average maximum temperature of 69.0° F and average minimum temperature of 44.2°



F in January. Summer highs reach the 92.5° F range with summer lows in the 59.9° F average. Winter annual highs are usually in the 38.0° F range. Average annual precipitation is 9.14 inches in the project area. The average annual snowfall is 5.9 inches (WRCC 2019). Due to the small size and nature of the proposed project areas, climate would have no effect on the proposed project.

### **3.1.2 Geology and Seismicity**

The proposed yard would be located on the east flank of the Defiance Plateau, on the Monitor Butte Member of the Chinle Formation. The parent layer of the project area is made up of siltstone, sandstone, and limestone conglomerate. No active faults have been identified or mapped in the project area (Cooley, M.E, J.W. Harshbarger, J.P. Akers, and W.F. Hardt, 1969). Due to the dormancy of any active geologic structures, the proposed project area would have no effect on geology and seismicity.

### **3.1.3 Fisheries**

There are no fisheries or fishery habitat occurrences in the propose permit area. No mitigation is required for any fishery adversity.

### **3.1.4 Socioeconomics and Environmental Justice**

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

According to the tribal census, there are currently more than 1,021 housing units located in the Wheatfields/Tsaile Chapter. And approximately 2,044 people reside in the Chapter. Native Americans make up 97.0% of the population. The chapter's economy is primarily based on wage-earning employment. Currently most residents in the chapter area are wage earners, working at various federal, tribal government and commercial jobs in the area. Dine' College, BIA Chinle Agency, government schools and Chinle School District, Navajo Nation government, and the Tsaile Health Center are the major employers in the chapter area. The Chinle Indian Health Service Hospital, commercial retail stores and hotels are located in Chinle Arizona (NN DED/LSRI, 2004).

In the past, the economy was primarily based on livestock production, but this is no longer the predominate source of income; currently livestock production makes up a small percentage of the chapter's economy. However, the retired elderly in the area still carry on the ranching life style, as raising livestock has been a sustainable economy in the past. Ranches are relatively small; not large enough to sustain a viable operating ranch for the entire family. The younger family members that have jobs in the region and wish to be with their elders, have moved back to the old homesteads. New houses are built on the family traditional use areas. The farm and ranch setting provides a better quality of life, in contrast to apartment living in nearby border towns.

**Environmental Justice Executive Order 12898**, the mandate requires federal agencies to assess projects to ensure there would be no disproportionately high or adverse environmental, health, or safety effects on minority and low income populations. Minorities comprise a large proportion of the

population residing in the action area (97.0%). The proposed construction will be for the beneficial use of the local population. The project would have no disproportionate effects on minorities or low-income populations; the proposed lease will benefit all sectors of society. The Wheatfields/Tsaile Chapter has approved a supporting resolution for the project, shown at Appendix B. The proposed hot asphalt mix plant operations and new infrastructure construction would allow the people to lead better lives in the community and surrounding areas, and would further provide a better quality of life for the Diné People.

### **3.1.5 Land Use and Zoning**

Rangeland is the predominant land use in the proposed project area. Traditional land use in the proposed project area is used for rangeland, livestock production and individual home sites. In the rural areas, ranching is the predominant life style in the region; raising livestock has been a sustainable economy in the past. The surrounding land use adjoining the proposed project area has historically been used for multi-family grazing land. The tribal trust areas are currently grazed by domestic livestock: sheep, cattle, and horses. Grazing permits are issued to local Navajo families. According to local chapter officials, there are no existing and future land plans to utilize this parcel for other purposes. The Wheatfields/Tsaile Chapter has passed a supporting resolution supporting the proposed permit application as shown in Appendix B.

Undisturbed vicinity properties are open rangeland of the native grassland, comprised of pinyon-juniper trees, shrubs, perennial grasses and annual weed species. The existing Navajo Route N12 is located adjacent to the project area. A NTUA 114 Kv powerline parallels N12 running north. Water lines are located adjacent to the project area, service to the nearby existing homes.

### **3.1.6 Prime Farmland**

Dry farm land is very limited in the proposed project area. There are no irrigated fields. A few agriculture fields (family plots) are located north of the project area. These fields would be used to grow traditional crops such as corn, beans, and squash. No mitigation is required for any farmland adversity.

### **3.1.7 Recreation**

Located southwest of the project area, Canyon DeChelly National Monument was established on February 14, 1931. The park has Anasazi ruins, notably the White House, Mummy, and Massacre Cave ruins. Spider Rock is located on the northeastern end of the park. The Monument is operated by the National Park Service.

Wheatfields Lake and Tsaile Lake would offer fishing, boating, and picnicing outdoor recreation. The Navajo Department of Fish and Wildlife designates the Chuska Mountains area and Defiance Plateau as big game hunting units. Big game hunting species include deer, elk, bear, and wild turkey. Small game hunting would include birds such as doves and grouse, and small mammals such as prairie dogs and squirrels.

Rodeos or "Chicken Pulls" are also a traditional sport and form of outdoor recreation in the region. Rodeo grounds are located near the community. Several rodeos are held in Wheatfields and Tsaile

Communities during the spring and summer. Horseback riding is another recreational source, as horses and horse stables were observed.

The Wheatfields/Tsaile Community has limited organized sports opportunities. Recreation school facilities include basketball gymnasiums, baseball fields, track and field, and outside basketball courts. These sport facilities are part of the public school system. Softball fields are also available.

Livestock raising is a recreational tradition to the land users in the vicinity. In contrast to their government jobs, fence building, ranching, farming activities would provide the ultimate form of outdoor recreation to the local families. This type of outdoor recreation (life style) would provide the relaxation, at the same time feeling of accomplishment, and family member reinforcement.

Recreation opportunities would not be impacted in this development; no mitigation is required for any recreational adversity.

#### **3.1.8 Traffic**

The existing dirt roads are located adjacent to the proposed project area. Motorized traffic using the existing roads will not be a factor during construction and operation of the hot plant. The proposed project area is located in a predominantly rural setting. Traffic will not be a significant factor in this proposed action. No mitigation is proposed.

#### **3.1.9 Noise**

Noise from construction and operation activities will not have a significant adverse effect on the local population and environment. Construction activities will generate noise levels in the 90 to 100 db range for short durations throughout the day. No mitigation is required for any noise adversity.

#### **3.1.10 Floodplain**

The proposed gravel pit is not located on any floodplain; nor located in a flood prone area. The site topography generally dip west at approximately three degrees, which allows for ample drainage. Flood Insurance Rate Maps, as published by the Federal Emergency Management Agency, do not extend on to the project area. The project area is excluded from any floodplain designation by the agency.

#### **3.1.11 Wetlands and Riparian Habitat**

The US Fish and Wildlife Service Canyon DeChelly, AZ National Wetlands Inventory Map was reviewed. The proposed project and action area would not traverse any wetland areas as defined by the USACE Wetlands Delineation Manual of 1987 (USACE, 1987). Wetlands or riparian habitat occurrences do not exist on the project site (U.S. ACOE, 1987). No mitigation measures are recommended for wetland/riparian areas.

#### **3.1.12 Hazardous, Toxic, and Radiological Waste**

Other than the existing tract, there are no other previous industrial uses of the area. The proposed project area and adjoining property have never been used as commercial service or recycling facility. The proposed project area does not contain any damaged or discarded automotive or industrial

batteries, pesticides, paints or other chemicals (stored or used). No fill dirt has been brought onto the property that originated from a contaminated site. There is no evidence of leaks and spills of hazardous substance or spills of petroleum products on the properties.

No Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste sites, nor RCRA Subtitle D, non-hazardous solid waste sites occur on or near the project area. No Comprehensive Environmental Response Conservation and Liabilities Act (CERCLA) hazardous substance (including radiological waste) occur near the project area. No Toxic Substance Control Act (TSCA) waste sites occur on or near the existing site. Hence, there will be no residual hazardous effects on the proposed project.

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## **CRITICAL ELEMENTS**

### **3.2 Topography and Soils**

#### *3.2.1 Existing Conditions*

Located east of the proposed project area, the Chuska Mountain is the prominent land form in the area. At an elevation of 6,992 feet above mean sea level, general land form at the proposed site is characterized as flat tableland, and mesa side slopes to the east. General topographic gradient of the project area slopes three degrees to the west, surface water flow to the west. The surface topography and geology/soils along the proposed project area is not expected to present any specific problems for the project.

The proposed project is located in the Desert Grassland-Savannah Plant Community. Soil survey entitled: *Chinle Area, Parts of Apache & Navajo Counties, Arizona, & San Juan County, New Mexico* indicate the project soils are of the Aquima-Ustic Haplocambids complex. Parent soil texture range from clays to sandy loams (NRCS, 2019).

#### *3.2.2 Effects*

Under normal mining excavation operations, onsite topography would not require any special adjustments, such as cut and fill, for the proposed project. Topography at the project area would not be a problem. No significant mitigation would be required for onsite topography.

#### *3.2.3 Mitigation*

Upon completion of the project, NECA will reclaim and reseed the site with native vegetation in accordance with a proposed *NECA Reclamation Plan* (NECA RP, 2019). Topsoil removal and stockpiling will begin on the site as soon as the permit is approved by the BIA.

### **3.3 Water Resources and Water Quality**

#### *3.3.1 Existing Conditions*

NECA has selected an area on flat tableland, adjacent to the existing N12 highway. The proposed project area is located on the west flank of the Defiance Uplift, within the Aqua Sal watershed. The bulk of the surface water of the proposed project area would drain west toward the Aqua Sal Wash. The wash would contain an intermittent water flow during the spring runoff. Primary discharges of these drainages would occur during the spring thaw, and during occasional intense summer thundershowers in late summer (Cooley, M. E., J. W. Harshbarger, J. P. Akers, & W. F. Hardt, 1969).



Navajo Tribal Utility Authority (NTUA) would operate and maintain the water system in the region and in the communities of Tsaile and Lukachukai. There are no visible water wells, or tanks in the project area vicinity, or at locations in the immediate upper watershed.

Tsaile Lake, located south of the project area, will be used as a water source for the proposed HAMP operations. An approved water use permit will be acquired from the Navajo Department of Water Resources, Technical, Construction and Operations Branch (NDWR TC&OB) for the use of the lake. The proposed mining lease, or other related activities would not have impact on any springs, wells or aquifer recharge areas. NECA's three year lease is not expected to exceed the limitation of the NDWR TC&OB water use permit. No impacts to the surface and natural ground water in the vicinity of the propose project may be expected by the approval of the permit application.

In accordance with the NPDES, a *Stormwater Pollution Prevention Plan* (SWPPP) would be developed to protect and contain the surface water in the vicinity of the project area. Temporary erosions controls, including straw bales, silt fences, rolled excelsior bales, and rip rap, will be installed and maintained according to the SWPPP.

#### 3.3.2 Effects

The proposed permit application, or other related activities would not have impact on any springs, wells or aquifer recharge areas. No impacts to the surface and natural ground water in the vicinity of the proposed project may be expected by the approval of the permit and water supply application.

#### 3.3.3 Mitigation

NECA would also prepare a *Stormwater Pollution Prevention Plan* (SWPPP) as required by Section 402 (p) of the Federal Water Pollution Control Act (formerly the Clean Water Act). A Notice of Intent for a National Pollution Discharge Elimination System (NPDES) multi-sector construction permit application would be applied for with the U.S. Environmental Protection Agency in Washington D.C. In accordance with the NPDES, a *Stormwater Pollution Prevention Plan* (SWPPP) would be developed and maintained at the borrow pit. Temporary erosions controls, including straw bales, silt fences, rolled excelsior bales, and rip rap, will be installed and maintained according to the SWPPP. These measures are to maintain surface water quality and control surface soil erosion onsite.

### 3.4 Vegetation and Wildlife - Biotic Resources

The proposed Tsaile Hot Asphalt Mix Plant Site is located in the Pinyon-Juniper Savannah Ecosystem, at an elevation of 6,992' amsl.

#### 3.4.1 Existing Conditions

In this biome Pinyon pine and Juniper trees and grasses are located on the entire project area. Under natural conditions, growing amid the P-J canopy under story are shrubs, grasses, forbs and annuals. These plants form the ecological backbone of the savannah ecosystem: they provide food, shelter, and nesting sites for birds, mammals, insects, and reptiles. Under natural conditions, understory shrubs include sagebrush, rabbit brush, yucca and snakeweed. Grass cover may be almost a mixture of dropseeds, galleta, blue grama and others (Brown, D.E., and C.H. Lowe, 1994).

The natural open areas are typically composed of grasses, e.g. cheatgrass *Bromus tectorum*, blue grama *Bouteloua gracilis*, galleta *Pleuraphis jamesii*, dropseeds *Sporobolus cryptandrus* and



Indianrice grass *Oryzopsis hymenoides*, and shrubs include rabbitbrush *Chrysothamnus nauseosus*, sagebrush *Artemisia spp.*, threadleaf groundsel *Senecio flaccidus*, banana yucca *Yucca baccata* and broom snakeweed *Gutierrezia sarothrae*.

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

The fauna of the Juniper Savannah is somewhat diverse than that of other habitats. Mule deer *Odocoileus hemionus* and elk *cervus canadensis* may roam the area in transit during late fall and winter months. Other big game species, the black bear *Ursus americanus* and wild turkey *Meleagris gallopavo*, are not found in the project area, as marginal foraging habitat exists. Construction of the proposed site in this residential and rural setting will not have an effect on the natural habitat necessary for the continued survival of these species.

Most abundant small mammals include blacktail jack rabbits *Lepus californicus*, mountain cottontails *Sylvilagus nuttalli*, pinyon mice *Peromyscus truei*, valley gophers *Thomomys bottae*, porcupines *Erethizon dorsatum*, Mexican woodrats *Neotoma mexicana* and Ord's kangaroo rats *Dipodomys ordi*.

Characteristic breeding birds of this ecosystem include common night hawks *Chordeiles minor*, pinyon jay *gymnorhinus cyanocephalus*, Northern flickers *Colaptes auratus*, Western kingbirds *Tyrannus verticalis*, horned larks *Eremophila alpestris*, loggerhead shrikes *Lanius ludovicianus*, sparrows *Spizella spp.*, grey-headed juncos *Junco hyemalis* and common ravens *Corvus corax*.

Reptiles include striped plateau lizards *Sceloporus virgatus*, plateau whiptails *Cnemidophorus velox* and short-horned lizards *Phrynosoma douglassii*.

#### 3.4.2 Effects

The existing site would be upgraded to accommodate the HAMP, and heavy equipment mobility of the construction yard, ingress and egress. Truck haulage of material aggregate and pavement from the plant during construction operations would be constant during the permit period. The entire proposed project area would be disturbed during construction operations. Vegetation and soils will be impacted. Initial field surveys indicate fauna species are not present on the proposed project area. Therefore the proposed project would not cause a huge loss of potential nesting, cover and forage habitat of terrestrial fauna species.

#### 3.4.3 Mitigation

Upon completion of the project, NECA will reclaim and reseed the site with native vegetation in accordance with a NECA Reclamation Plan (NECA RP, 2019). Topsoil removal and stockpiling will begin on the site as soon as the permit is approved by the Navajo Nation.

NECA would also file a National Pollution Discharge Plan, Clean Water Act Section 402 (p), Notice of Intent with the U.S. Environmental Protection Agency in Washington DC, as the company would also prepare a *Stormwater Pollution Prevention Plan* (SWPPP) to maintain surface and ground water quality, stabilize soil erosion and enhance re-vegetation onsite.

### **3.5 Federal Endangered Species Act (ESA) and Navajo Endangered Species List (NESL) Species of Concern**

Onsite field surveys for ESA threatened and endangered species was conducted by the staff of Denali Environmental Services September 5 and September 9, 2019. Onsite habitat was evaluated for all Endangered Species Act (ESA), Navajo Endangered Species List species of concern (NESL), and Migratory Bird Treaty Act (MBTA) species. All conservation status species listed in the *Navajo Nation Endangered Species List, Species Account* book, that have the potential to occur in the proposed project and action areas, were considered (NNHP, 2008). None of the special management fauna and flora species was observed at the time of the onsite field survey. A Biological Resource Compliance Form is exhibited at Appendix D. The proposed action alternative would have no effect on the listed federally ESA, NESL, and MBTA special management species or their habitat.

### **3.6 MIGRATORY BIRD TREATY ACT LISTING**

#### *3.6.1 Existing Condition*

Migratory birds and their habitats are protected under the Migratory Bird Treaty Act (MBTA) (16 USC §703-712) and EO 13186. All federal agencies are required to consider management impacts to protect migratory non-game birds. Executive Order 13186 calls for increased efforts to more fully implement the MBTA. The U.S. Fish and Wildlife Service (USFWS) list of Birds of Conservation Concern (BCC) was reviewed, specifically as they pertain to the Colorado Plateau physiographic area. The area indicates there are 27 avian species occurring on the southern Rocky Mountains and Colorado Plateau. See Table 3.

Most priority bird species occur on the USFWS, Division of Migratory Bird Management "Birds of Conservation Concern 2008" (BCC 2008 list). The Service designates the Southern Rockies / Colorado Plateau region as Bird Conservation Region (BCR) 16, which the Navajo Indian Reservation and Eastern Navajo Agency are included.

#### *3.6.2 Effects*

Although migratory birds could potentially occur in the area, none were observed during the environmental site visit. The proposed action alternative would result in a short-term and small scale loss of vegetation due to construction. This construction project would disturb a fraction of the project area, which was previously totally disturbed during previous mining. The proposed project activities are expected to be confined to the project areas. Temporary loss of native vegetation is anticipated at the project area. Eolian deposits of native seed from the undisturbed vegetation would also help to propagate native plant species.

Once the construction equipment is removed, wildlife and migratory bird species would be expected to return to the area. To avoid any potential effects to migratory bird species or migratory bird habitat, construction of the project would take place outside the nesting season. No long-term loss of vegetation or wildlife habitat is expected. As a result, the proposed construction would have no significant effects on migratory bird species.

Table 3. U.S. Fish and Wildlife Service, Division of Migratory Bird Management "Bird of Conservation Concern 2008" for the Southern Rockies/ Colorado Plateau (US F&WS, 2008).

SPECIES	HABITAT ASSOCIATION	EFFECTS	EFFECT RATING
Gunnison Sage Grouse <i>Centrocercus minimus</i>	Inhabits shrub-steppe dominated by sagebrush that provide canopy cover, shelter, & forage.	No conflict anticipated. Specie not present.	Zero
American Bittern <i>Botaurus lentiginosus</i>	Wading bird inhabits wetlands, usually dense marsh reeds, rushes and sedges.	No suitable habitat present.	Zero
Bald Eagle <i>Haliaeetus leucocephalus</i>	Nests in old growth ponderosa pine and Douglas fir forest. Forages on fish and waterfowl. Inhabits the coast, rivers, large lakes; also mountains, open country.	No conflict anticipated. Specie not present.	Low
Ferruginous hawk <i>Buteo regalis</i>	Inhabits open grasslands or desert scrub ecosystems. Nest often occurs on rock spires and butte formations. In woodland edge habitat, nests on flat-topped junipers.	No conflict anticipated	Low
Golden Eagle <i>Aquila crysaetos</i>	Open grasslands or desert scrub, In mountainous canyon terrain. Nest on cliffs and trees	Little conflict anticipated	Low
Peregrine Falcon <i>Falco peregrinus</i>	Inhabits rugged terrain with rocky cliffs and canyons 30 to 1,000 ft. high, adjacent to rivers lakes, or streams.	Little conflict anticipated	Low
Prairie Falcon <i>Falco mexicanus</i>	Nests and forages in grassland, and open Juniper Savannah.	Little conflict anticipated	Low
Snowy Plover <i>Charadrius alexandrinus nivosus/tenuirostris</i>	Shore bird inhabits barren sandy beaches and flats.	Suitable habitat not present, no conflict anticipated.	Zero
Mountain Plover <i>Charadrius montanus</i>	Inhabits grassland plains; usually found on grassy or bare dirt fields.	Little conflict anticipated	Low
Long-billed Curlew <i>Numenius americanus</i>	Nests in wet & dry upland fields. In migration, a shore bird of wetlands and agriculture fields.	Suitable habitat not present. Specie not present.	Zero
Yellow-billed Cuckoo <i>Coccyzus americanus</i>	No suitable riparian habitat present. Inhabits open woods, orchards, and streamside willow and alder groves.	No conflict anticipated. Specie not present.	Zero

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Flammulated Owl <i>Otus flammcolus</i>	Inhabits pine-oak woodland, ponderosa pine forest.	Suitable habitat not present.	Zero
Burrowing Owl <i>Athene cunicularia</i>	Inhabits grassland shrub-steppe dominated by mixed grasses. Casual vagrant to prairie dog colonies, occupying abandoned holes.	Not present, Low conflict anticipated.	Low
Lewis's Woodpecker <i>Melanerpes lewis</i>	Inhabits woodland forests of pine-oak. Nests in oak cavities and pine snags. Forages and stores acorns and insects.	No suitable habitat.	Zero
SW Willow Flycatcher <i>Empidonax traillii</i>	Inhabits brushy habitats in wet areas; also in pastures, mountain meadows.	No suitable habitat.	Zero
Gray Vireo <i>Vireo vicinior</i>	Found in juniper savannah and open JP woodland, with scrub component. Inhabits mountains and chaparral-juniper scrubland.	Species not present. No conflict anticipated.	Low
Pinyon Jay <i>Gymnprjomus cyanocephalus</i>	Juniper Savannah, woodland, pine-oak ecosystems associated with high open habitats w/ openings, scattered trees or shrub components.	A multi ecosystem inhabitant, little conflict anticipated.	Low
Juniper Titmouse <i>Baeolophus ridgwayi</i>	Inhabits juniper-pinyon woodland.	Suitable habitat. Species not present.	Low
Veery <i>Catharus fuscescens</i>	Inhabits dense moist woodlands and streamside thickets. Casual in the Southwest.	No suitable habitat.	Zero
Bendire's Thrasher <i>Toxostoma bendirei</i>	Brushy desert shrub, especially areas of tall vegetation, cholla cactus, creosote bush and yucca.	No suitable habitat. Species not present.	Zero
Grace's Warbler <i>Dendroica graciae</i>	Inhabits coniferous or mixed forests of southwest mountains, especially yellow pines. Usually forages high in the trees. Southeast Arizona.	Suitable habitat present. Specie not present.	Low
Brewer's Sparrow <i>Spizella breweri</i>	Inhabits mountain meadows and sagebrush flats.	Suitable habitat present. Specie not present.	Low
Grasshopper Sparrow <i>Ammodramus savannarum</i>	Inhabits moderately open grassland habitats, with patchy bare ground, and avoid areas with extensive shrub cover. Feeds and nests on ground.	Little conflict anticipated.	Low
Chestnut-collared Long-Spur <i>Calcarius ornatus</i>	Inhabits upland grassland, generally found in dense grass; gregarious in fall and winter	Little conflict anticipated.	Low

Black Rosy-Finch <i>Leucosticte atrata</i>	Inhabits high mountains, rocky summits, alpine cirques and snowfields; winters in open country at lower elevations, spreading onto the plains.	No suitable habitat on the project area.	Zero
Brown-capped Rosy Finch <i>Leucosticte australis</i>	Inhabits high mountains, rocky summits, alpine cirques and snowfields; winters in open country at lower elevations, spreading onto the plains.	No suitable habitat on the project area.	Zero
Cassin's Finch <i>Carpodacus cassinii</i>	Woodland Ecosystem. Species inhabits evergreen woodlands. Northern Arizona, NW New Mexico	Suitable habitat.	Low

### 3.6.3 Mitigation of Migratory Birds

NDF&W policy mandates that prior to construction the proposed activity would require a preconstruction survey of potential nesting birds on the lease area, should construction occur during the breeding season. Any bird nests found within the proposed project area will be reported to the NNHP biologist for appropriate mitigation prior to construction activities.

NECA will minimize the possibility of unintentional take of migratory birds. Should the proposed project involve vegetative disturbance (brush and tree removal), no construction activities from May 15 to July 31 will be permitted without a migratory bird nest survey. If any active nests are located within the proposed project area, project activities will not be permitted until written approval by the NNHP biologist. The operator will monitor any active nests located from a nest survey. Following construction activities, the construction staging areas would require reclamation. Avoidance to the breeding season will minimize potential impacts to migratory birds.

## 3.7 Air Quality

### 3.8.1 Existing Conditions

Air quality in the area near the proposed project is generally good and is not located in any of the areas designated by the USEPA as "non-attainment areas" for any listed pollutants regulated by the Clean Air Act. The primary sources of air pollution are dust from blowing wind on disturbed or exposed soil, wood burning from residential heating and cooking, and exhaust emissions from motorized equipment. No visibility studies have been conducted in the project area. However, regional visibility in the project area can be considered good.

The proposed action, an asphaltic hot mix plant is not listed among the standard of performance for new stationary source in accordance with 40 Code of Federal Regulation part 60, National Ambient Air Quality Standard.

### 3.8.2 Effects

Air quality will be affected locally by dust and a negligible amount of hydrocarbons generated by construction equipment. These pollutants will not be generated in sufficient concentrations to produce measurable adverse effects to human health. Locally, the primary ambient air pollutant in



the project area is occasional wind-blown dust from loose topsoil common during times of gusting winds during the spring, and dust from vehicular traffic along unimproved roads in the area.

#### *3.8.3 Mitigation*

Disturbed soils during any road upgrade and maintenance would be dampened by watering for dust suppression and soil compaction.

### **3.8 Esthetics and Visual Resources**

#### *3.9.1 Existing Conditions*

No esthetics or visual studies have been conducted in the project area. However, regional visibility in the project area can be considered good.

#### *3.9.2 Effects*

Ground disturbing activities with regard to the proposed undertaking will be extensive with the use of heavy equipment. Currently, the primary ambient air pollutant in the project area is an occasional wind-blown dust devil, from loose topsoil common during times of gusting winds during the spring and summer. Dust from vehicular traffic along unimproved roads, in the vicinity, are common in the area.

#### *3.9.3 Mitigation*

Upon completion of the project, NECA will reclaim and reseed the site with native vegetation in accordance with the NECA Reclamation Plan. All disturbed surface areas would be re-vegetated consistent with the American Association State Highway & Transportation Officials (AASHTO) and Federal Projects (FP-14) Specifications Standards at Section 625 (mulching and seed mix). The guideline would serve as a standard for reclaiming the site. Adherence to the reclamation plan will minimize potential impacts to the foraging wildlife species.

### **3.9 Cultural Resources**

#### *3.10.1 Existing Conditions*

Carrizo Archaeological Group (CAG) of Farmington, New Mexico completed the cultural resource inventory and report. CAG crafted a field report for the 11.5 acre project area entitled: *Cultural Resource Inventory of the Proposed NECA 11.5 Acre Hot Plant in the Tsaille/Wheatfields Chapter, Apache County, Arizona*. A Cultural Resource Compliance Form, NNHPD Number HPD-19-760 has been created for this undertaking, as shown in Appendix C.

#### *3.10.2 Effects*

As part of the archeological inventory, interviews regarding traditional cultural properties (TCPs) were conducted with chapter officials. No sacred sites or traditional cultural resources were identified within the proposed site. According to the archaeology field inventory no historic properties would be affected.

#### *3.10.3 Mitigation*

The project sponsor acknowledges the following statement with respect to cultural resources during construction: *In the event of the discovery [“discovery” means any previously unidentified or incorrectly identified cultural resources including but not limited to archaeological deposits, human remains, or locations reportedly associated with Native American religious/traditional beliefs or practices], all operations in the immediate vicinity of the discovery must cease, and the Navajo Nation Historic Preservation Department must be notified at (928) 871-7148.*

#### **4.0 CUMULATIVE IMPACTS AND CONSIDERATIONS FOR SELECTION OF THE PREFERRED ALTERNATIVE**

Cumulative effects are effects of the project in consideration with other past, present, or reasonably foreseeable projects in the local area. There are no past projects that resulted in identifiable long-term effects having a cumulative relationship with the effects of the proposed project.

In the future, there would be no other proposals or other permit applications planned in the reasonably foreseeable future in the area. The proposed permit application action will not have significant impact on the human environment. The approval of the requested area would have minimal effect on the resource use patterns in the project area. The grazing permit holders would relinquish trust land to the development.

Climate change results from the incremental addition of greenhouse gases (GHG) emissions from millions of individual sources, which collectively may have an impact on a global scale. Climate change is a particularly complex challenge given its global nature and the inherent interrelationships among its sources, causation, mechanisms of action, and impacts (CEQ, 2016). With respect to cumulative impacts on regional air quality and climate change from greenhouse gas emissions, the lack of scientific tools designed to predict climate change on regional or local scales limits the ability to quantify potential future impacts of the proposed project. Analyzing greenhouse gases emission and the effects of climate change relevant to a proposed action – particularly how climate change may change an action's effects of a proposed project – is currently not available (Garfin, G., A. Jardine, R. Merideth, M. Black, and S. LeRoy, eds., 2013).

#### **5.0 PUBLIC INVOLVEMENT**

In a public meeting, the Wheatfields/Tsaile Chapter was consulted, and passed resolution in support of the project. The Navajo Land Development, General Land Development Office would review and consider the permit application, and process the application for approval.

#### **6.0 COORDINATION AND REVIEW OF THE EA**

Carrizo Archaeological Group of Farmington, New Mexico conducted the project archeological survey and crafted a field report. According to the field inventory "No Historic Properties Affected" is recommended for the proposed site. A NHPD concurrence letter and *Cultural Resource Compliance Form* at Appendices C is created for the project.

NECA conducted consultation with the Navajo Department of Fish and Wildlife, Navajo Nation. The consultation would assure mandated protection of ESA and Navajo threatened and endangered species. A NDF&W-NHP concurrence letter and *Biological Resource Compliance Form* at Appendices D is created for the project.

#### **7.0 CONCLUSIONS & COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS**

The preferred alternative is reasonable. No significant adverse impacts to the human environment have been identified in the development of this environment assessment.

**Clean Air Act, as amended and recodified (42 U.S.C. 7401 et seq.)** *Compliance.* The proposed project is not expected to violate any Federal air quality standards and would not degrade the attainment of air quality objectives of the air shed.

**Clean Water Act § 402** *Compliance.* The Environmental Protection Agency administers Section 402 of the Clean Water Act (formerly the Federal Water Pollution Control Act). Operators are normally required to obtain all CWA permits and approvals prior to any disturbance activities. NECA would acquire a NPDES permit for the project.

**Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)** *Compliance.* No Federally listed species or special management species (NESL) or their habitats have been identified in or near the project area. ESA requires all federal departments and agencies to conserve threatened and endangered species and the habitats on which they depend, and to consult with the U. S. Fish and Wildlife Service (USFWS), on all actions authorized, funded or carried out by the agency to ensure that the action will not likely jeopardize the continued existence of any threatened and endangered species or adversely modify critical habitat.

**Executive Order 11988, Floodplain Management** *Compliance.* This order directs all Federal agencies to avoid to the extent possible the adverse effects associated with the modification of floodplains, and to avoid support of floodplain development wherever there is a practicable alternative. Floodplains would have no effect on the proposed project.

**Executive Order 12898 Environmental Justice** *Compliance.* The order direct all Federal agencies to identify and address disproportionate adverse effects of their programs, policies and activities on minority and low-income populations. The proposed action will benefit all sectors of society; no minority or low income populations would be directly adversely affected from proposed action. Indirect effects could include positive effects due to overall benefit related to the project site in the area. The project would increase the quality of life for the residents.

**Farmland Protection Policy Act (7 U.S.C. 4201 et seq.)** *Compliance.* There are no effects on prime farmland or farmland of statewide importance because no prime farmland exists in the project area.

**Migratory Bird Treaty Act, as amended (16 U.S.C. 703 et seq.)/ EO 13186** *Compliance.* Migratory birds and their habitats are protected under the Migratory Bird Treaty Act (MBTA) (16 USC §703-712) and EO 13186. All federal agencies are required to consider management impacts to protect migratory non-game birds. Executive Order 13186 calls for increased efforts to more fully implement the MBTA. The proposed action would have no significant effect on the bird species or their habitat.

**National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.)** *Compliance.* At Navajo Nation review, the final EA would be in full compliance with NEPA.

**National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.)** *Compliance.* The Navajo Nation Historic Preservation Department requires NHPA compliance and consultation with

all development projects on the Navajo Nation. NNHPD has determined that NHPA § 106 responsibilities are adhered to, as no historic properties would be affected.

**Recourse Conservation and Recovery Act (RCRA), Comprehensive Environmental Response Conservation and Liabilities Act (CERCLA), or Toxic Substance Control Act (TSCA) Compliance.** There are no Recourse Conservation and Recovery Act (RCRA), Comprehensive Environmental Response Conservation and Liabilities Act (CERCLA), or Toxic Substance Control Act (TSCA) sites on the proposed site.

## **8.0 LIST OF PREPARERS / CONSULTATION AND COORDINATION**

This environmental assessment was prepared by Mr. Leonard Robbins, PES, Denali Environmental Services, P. O. Box 1127, Fort Defiance, Arizona 86504.

## **REFERENCES**

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Western Regional Climate Center (WRCC) – Canyon DeChelly, Arizona, Website activated December 17, 2019.

**APPENDIX A**

**Land Boundary Survey & Description**



**Figure 1. Tsaille Asphalt Hot Mix Plant & Construction Yard**  
Navajo Engineering & Construction Authority, Shiprock, NM  
Tsaille, AZ 7.5 Minute Quadrangle Map, 11.5 Acres  
Northwest Corner

PLS: Section 28 T34N R29E

L&L:  $36^{\circ} 19' 22.2''$  N  $109^{\circ} 13' 47.4''$  W

UTM: 658,895 m E 4,021,209 m N

Southwest Corner

PLS: Section 28 T34N R29E

L&L:  $36^{\circ} 19' 16.2''$  N  $109^{\circ} 13' 44.1''$  W

UTM: 658,980 m E 4,021,025 m N

Northeast Corner

PLS: Section 28 T34N R29E

L&L:  $36^{\circ} 19' 26.6''$  N  $109^{\circ} 13' 41.0''$  W

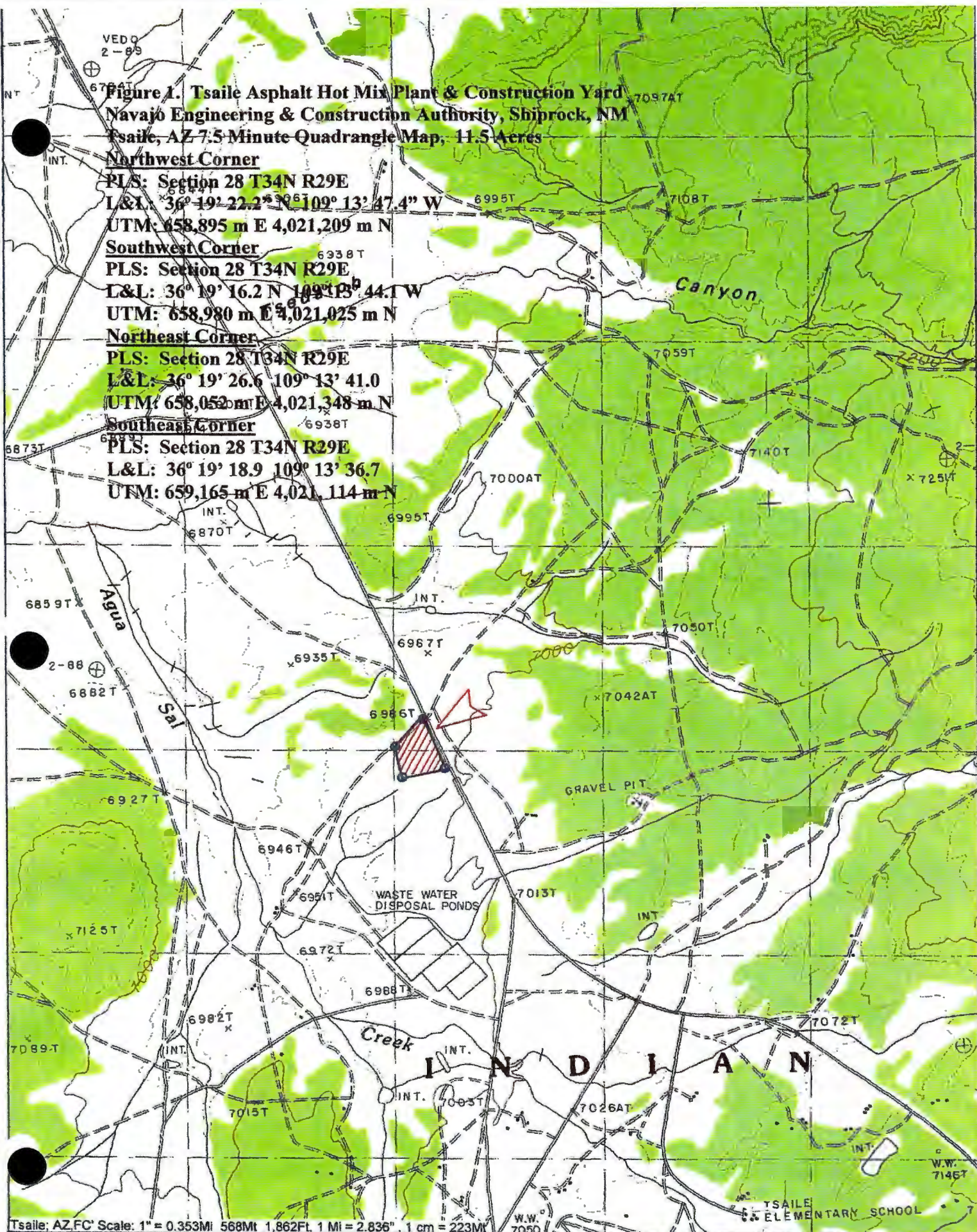
UTM: 658,052 m E 4,021,348 m N

Southeast Corner

PLS: Section 28 T34N R29E

L&L:  $36^{\circ} 19' 18.9''$  N  $109^{\circ} 13' 36.7''$  W

UTM: 659,165 m E 4,021,114 m N



Tsaille, AZ FC Scale: 1" = 0.353 Mi 568 Mt 1,862 Ft 1 Mi = 2,836" 1 cm = 223 Mt



**APPENDIX B**

**Local Chapter Resolution**





Tsailz/Whzatfields Chapter  
Post Office Box C18  
Tsailz, Arizona 86556  
Phone: (928) 724-2220 Fax: (928) 724-2223

Tsééhilí

TóDzis'á

Tsézhine

Zane P. James, President  
Charles R. Chee, Grazing Committee

Devon Bagay, Vice President

Kuhyonre E. Nita'ani, Secretary/Treasurer  
Nelson Bagaye, Council Delegate

TWFFY19- 118

**RESOLUTION OF THE  
TSAILE/WHEATFIELDS CHAPTER #038**

**SUPPORTING AND RECOMMENDING THE RESOURCES AND DEVELOPMENT COMMITTEE OF THE NAVAJO NATION COUNCIL TO APPROVE A REVOCABLE USE PERMIT CONSISTING OF 11.5 ACRES AND 130 FEET OF ACCESS ROAD ON THE NAVAJO TRUST LANDS FOR THE NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY TO ESTABLISH, OPERATE, AND MAINTAIN A HOT PLANT SITE, AND AN AGGREGATE STOCK PILE AREA FOR N12 ROAD CONSTRUCTION ALONG NAVAJO ROUTE 12, NAVAJO NATION, APACHE COUNTY, ARIZONA.**

**WHEREAS:**

1. Pursuant to Navajo Nation Council Resolution No. CJ-20-55, dated December 2, 1955, the Tsaille/Wheatfields Chapter is vested with authority and charged with the responsibility to promote, protect and preserve the interest and general welfare, including the health and safety of its community people; and
2. The Indian Self-Determination Act (P.L. 93-638) of the U. S. Congress and Local Governance Initiatives entitles and support us, Navajo Indians, in initiating plans making decisions, recommendation, request, etc., according to our actual needs and desires; and
3. The Navajo Engineering and Construction Authority, P.O. Box 969, Shiprock, New Mexico 87420, has been awarded Road Construction Project N12 (19-4) 1,2 & 4, Tsaille/Wheatfields consisting of 10.68 miles; and
4. The proposed work entails grading, drainage, aggregate base course, hot asphaltic concrete pavement, arch structures and miscellaneous construction; and
5. The Navajo Engineering and Construction Authority propose to submit an application for Revocable Use Permit for approximately 11.5 acres, and 130 feet access road on Navajo Trust Lands to establish, operate and maintain a Hot Plant Site and an aggregate stock pile area located 1.10 miles north of Tsaille Junction along Navajo Route N12 in Section 28, Township 34 North, Range 29 East of the Gila Salt River Meridian within the Tsaille/Wheatfields Chapter, Navajo Nation, Apache County, Arizona. The location is shown on the map attached hereto as Exhibit "A" and made a part of hereof; and
6. The disturbed area will be reclaimed and reseeded with a native seed mix upon completion of the projects.

**APPENDIX C**

**Cultural Resource Compliance Form**



**THE NAVAJO NATION**  
Heritage & Historic Preservation Department  
P.O. Box 4950 • Window Rock, Arizona 86515  
(928) 871-7198 (tel) • (928) 871-7886 (fax)



**CULTURAL RESOURCE COMPLIANCE FORM**

**NNHHPD NO.: HPD-19-760**

**CONSULTANT REPORT NO.: CAG 2019-09**

**PROJECT TITLE:** A Cultural Resources Inventory of the Proposed NECA 11.5 Acre Hot Plant Site in the Tsaille/Wheatfields Chapter Apache County, Arizona.

**LEAD AGENCY:** Navajo Nation

**SPONSOR:** Christine Padilla, Navajo Engineering & Construction Authority, PO Box 969, Shiprock, NM, 87420

**PROJECT DESCRIPTION:** Navajo Engineering & Construction Authority (NECA) proposes to use a parcel of land on the Navajo Indian Reservation for temporary asphalt hot plant site, aggregate stockpile area, and construction yard for improvements to Navajo Route 12 in the Wheatfields Chapter, Apache County, Arizona. Usage of the land will consist of barbed wire fencing for access control, erosion control, and the stripping and stockpiling of the topsoil before the grading of the temporary hot plant site. The area of effect totals 11.50 acres (4.65 ha.).

**PROJECT ARCHAEOLOGIST:** Brandi Bitsilli

**NAVAJO ANTIQUITIES PERMIT NO.:** B19650

**DATE INSPECTED:** 9/18/2019

**DATE OF REPORT:** 10/16/2019

**TOTAL ACREAGE INSPECTED:** 15.04

**METHOD OF INVESTIGATION:** Class III pedestrian inventory with transects spaced 10 m apart

**Number of Eligible Properties:** 0

**Number of Non-Eligible Properties:** 0

**Number of Unevaluated Properties:** 0

**Number of Burials:** 0

**Number of TCPs:** 0

**Number of Isolated Occurrences:** 3

**Number of In-Use Sites:** 0

**EFFECT/CONDITIONS OF COMPLIANCE:** No Historic Properties Affected


**PROCEED RECOMMENDED:** Yes

**CONDITIONS:** No

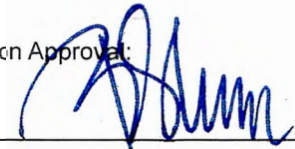

In the event of a discovery ["discovery" means any previously unidentified or incorrectly identified cultural resources including but not limited to archaeological deposits, human remains, or locations reportedly associated with Native American religious/traditional beliefs or practices], all operations in the immediate vicinity of the discovery must cease, and the Navajo Nation Historic Preservation Department must be notified at (928) 871-7148.

**FORM PREPARED BY:** Olsen John

**FINALIZED:** 11/14/2019

  
\_\_\_\_\_  
Richard M. Begay, Department Manager/THPO  
Navajo Nation Heritage and Historic Preservation Department

11/15/19  
\_\_\_\_\_  
Date

Navajo Region Approval:   
\_\_\_\_\_  
BIA- Navajo Regional Office  
 11/22/19

11/22/19  
\_\_\_\_\_  
Date

**HPD Number.: HPD-19-760**

**LOCATION INFORMATION**

LAND STATUS: NN Tribal Trust Land

STATE: AZ

DATUM: NAD83

ZONE: 12

**COUNTY**

Apache

**QUAD**

Tsaile, AZ

**UTM N**

**UTM E**

4021350

659051

4021208

658897

4021025

658985

4021114

659166

**CHAPTER**

Tsaile-Wheatfields

**Township**

33N

**Range**

29E

**Sections**

28





THE NAVAJO NATION  
Historic Preservation Department  
PO Box 4950, Window Rock, AZ 86515  
TEL: (928) 871-7198 / 7134 FAX: (928) 871-7886

TRADITIONAL CULTURAL PROPERTY (TCP) RECORD  
SEARCH VERIFICATION FORM

**\*\*TCP WILL NOT SIGN/APPROVE IF THIS PORTION IS LEFT BLANK\*\***

**Project Information:**

DATE	9/20/2019
RESEARCHER & COMPANY	Jeremy Begay, Jeffrey Begay, Brandi Bitsilli, Lisa Zohnnie, Rius Goodman (CAG)
PROJECT NAME	A CRI of the Proposed NECA 11.5 Acre Hot Plant Site
PROJECT/PERMIT NUMBER	CAG19-09 B19 650
PROJECT LOCATION	Tsaile/Wheatfields, Apache Co, AZ

**\*\*\*TO BE FILLED OUT & SIGNED BY AUTHORIZED NNHPD STAFF ONLY\*\*\***

**A literature search of TCP Records at NNHPD on the above date indicates the following:**

<input checked="" type="checkbox"/>	There are <u>no</u> TCP(s) present within the project area and/or buffer zone. The project may proceed as proposed.
<input type="checkbox"/>	TCP(s) <u>are</u> present within the project area and/or buffer zone. Project may have the potential to adversely affect TCP(s). Please document TCP(s) as a summary (with only general location information) in the body of reports submitted for review to HPD/CRCS. Give full detail on the TCP Documentation Forms in a separate, and clearly labeled, confidential appendix.
<input type="checkbox"/>	Project may proceed with the following stipulations:
<input type="checkbox"/>	Further consultation is required. Consult with the following:
<input type="checkbox"/>	There are no mitigative measures. Project may not proceed.

NNHPD/TCP Program  
Reviewer:

*[Signature]*

Date: 9/18/19

**\*\*Return this form along with report to the NNHPD/Compliance Section\*\***

Note: In addition to the TCP Record search, the consultant must demonstrate that a good-faith effort to consult with 1.) Surface user(s): grazing-permit holder(s) (individuals whose consents for right-of-way have been sought by developer); any other residents in or within view of the proposed project area. 2. Chapter(s) within which the proposed project is located: chapter officers and/or delegate(s) of the Navajo Nation Council; at the request of any of these individuals, the developer's consulting anthropologist will also make a presentation at a meeting of general chapter membership. 3. Other knowledgeable people recommended by the present surface user(s), chapter officials, and chapter members.

**APPENDIX D**

**Navajo Nation Department of Fish & Wildlife  
Biological Resource Compliance Form**

**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.: Tsaile Asphalt Hot Mix Plant & Construction Yard

DESCRIPTION: NECA is applying for an 11.5-acre site for a temporary construction yard and asphalt hot mix plant for the reconstruction of Navajo Route 12. The site was previously used by NECA in 2005 during the N64 project.

LOCATION: Section 28, T34N, R29E, Tsaile, Apache County, Arizona

REPRESENTATIVE: Leonard Robbins, Denali Environmental Services for Navajo Engineering & Construction Authority (NECA)

ACTION AGENCY: Bureau of Indian Affairs and Navajo Nation

B.R. REPORT TITLE / DATE / PREPARER: Request for a Project Specific Review/OCT 2019/Leonard Robbins

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 1 (Highly Sensitive Area).

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: *Odocoileus hemionus* (Mule Deer), species of cultural and economic significance.

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

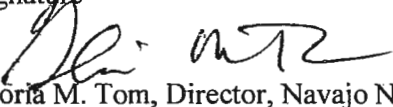
AVOIDANCE / MITIGATION MEASURES: The site is located in high-use winter range for mule deer. The NNDFW highly recommends that NECA fully reclaims the 11.5-acre site. This includes re-seeding with a native, weed-free seed mixture and monitoring for 5 years upon closure of the site. The NNDFW also recommends livestock exclusion for the duration of the reclamation period.

CONDITIONS OF COMPLIANCE\*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/21 NOV 2019

COPIES TO: (add categories as necessary)

☐ \_\_\_\_\_ ☐ \_\_\_\_\_

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

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

Representative's signature

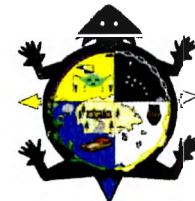
*Brett Hubbs*

Date 12-9-19





**THE NAVAJO NATION**  
Heritage & Historic Preservation Department  
P.O. Box 4950 • Window Rock, Arizona 86515  
(928) 871-7198 (tel) • (928) 871-7886 (fax)



**CULTURAL RESOURCE COMPLIANCE FORM**

**NNHHPD NO.: HPD-19-760**

**CONSULTANT REPORT NO.: CAG 2019-09**

**PROJECT TITLE:** A Cultural Resources Inventory of the Proposed NECA 11.5 Acre Hot Plant Site in the Tsaiile/Wheatfields Chapter, Apache County, Arizona.

**LEAD AGENCY:** Navajo Nation

**SPONSOR:** Christine Padilla, Navajo Engineering & Construction Authority, PO Box 969, Shiprock, NM, 87420

**PROJECT DESCRIPTION:** Navajo Engineering & Construction Authority (NECA) proposes to use a parcel of land on the Navajo Indian Reservation for temporary asphalt hot plant site, aggregate stockpile area, and construction yard for improvements to Navajo Route 12 in the Wheatfields Chapter, Apache County, Arizona. Usage of the land will consist of barbed wire fencing for access control, erosion control, and the stripping and stockpiling of the topsoil before the grading of the temporary hot plant site. The area of effect totals 11.50 acres (4.65 ha.).

**PROJECT ARCHAEOLOGIST:** Brandi Bitsilli

**NAVAJO ANTIQUITIES PERMIT NO.:** B19650

**DATE INSPECTED:** 9/18/2019

**DATE OF REPORT:** 10/16/2019

**TOTAL ACREAGE INSPECTED:** 15.04

**METHOD OF INVESTIGATION:** Class III pedestrian inventory with transects spaced 10 m apart

**Number of Eligible Properties:** 0

**Number of Non-Eligible Properties:** 0

**Number of Unevaluated Properties:** 0

**Number of Burials:** 0

**Number of TCPs:** 0

**Number of Isolated Occurrences:** 3

**Number of In-Use Sites:** 0

**EFFECT/CONDITIONS OF COMPLIANCE:** No Historic Properties Affected

**PROCEED RECOMMENDED:** Yes

**CONDITIONS:** No

In the event of a discovery ["discovery" means any previously unidentified or incorrectly identified cultural resources including but not limited to archaeological deposits, human remains, or locations reportedly associated with Native American religious/traditional beliefs or practices], all operations in the immediate vicinity of the discovery must cease, and the Navajo Nation Historic Preservation Department must be notified at (928) 871-7148.

**FORM PREPARED BY:** Olsen John

**FINALIZED:** 11/14/2019

Richard M. Begay, Department Manager/THPO  
Navajo Nation Heritage and Historic Preservation Department

11/15/19  
Date

Navajo Region Approval:

BIA- Navajo Regional Office

11/22/19

11/22/19  
Date

HPD Number.: HPD-19-760

**LOCATION INFORMATION**

LAND STATUS: NN Tribal Trust Land

STATE: AZ

DATUM: NAD83

ZONE: 12

<u>COUNTY</u>	<u>QUAD</u>	<u>UTM N</u>	<u>UTM E</u>
Apache	Tsaile, AZ	4021350	659051
		4021208	658897
		4021025	658985
		4021114	659166

**CHAPTER**

	<u>Township</u>	<u>Range</u>	<u>Sections</u>
Tsaile-Wheatfields	33N	29E	28



THE NAVAJO NATION  
Historic Preservation Department  
PO Box 4950, Window Rock, AZ 86515  
TEL: (928) 871-7198 / 7134 FAX: (928) 871-7886

TRADITIONAL CULTURAL PROPERTY (TCP) RECORD  
SEARCH VERIFICATION FORM

**\*\*TCP WILL NOT SIGN/APPROVE IF THIS PORTION IS LEFT BLANK\*\***

**Project Information:**

DATE	9/20/2019
RESEARCHER & COMPANY	Jeremy Begay, Jeffrey Begay, Brandi Bitsilli, Lisa Zohnnie, Rius Goodman (CAG)
PROJECT NAME	A CRI of the Proposed NECA 11.5 Acre Hot Plant Site
PROJECT/PERMIT NUMBER	CAG19-09 B19 650
PROJECT LOCATION	Tsaile/Wheatfields, Apache Co, AZ

**\*\*\*TO BE FILLED OUT & SIGNED BY AUTHORIZED NNHPD STAFF ONLY\*\*\***

**A literature search of TCP Records at NNHPD on the above date indicates the following:**

<input checked="" type="checkbox"/>	There are <u>no</u> TCP(s) present within the project area and/or buffer zone. The project may proceed as proposed.
<input type="checkbox"/>	TCP(s) <u>are</u> present within the project area and/or buffer zone. Project may have the potential to adversely affect TCP(s). Please document TCP(s) as a summary (with only general location information) in the body of reports submitted for review to HPD/CRCS. Give full detail on the TCP Documentation Forms in a separate, and clearly labeled, confidential appendix.
<input type="checkbox"/>	Project may proceed with the following stipulations:
<input type="checkbox"/>	Further consultation is required. Consult with the following:
<input type="checkbox"/>	There are no mitigative measures. Project may not proceed.

NNHPD/TCP Program  
Reviewer:

*[Signature]*

Date: 9/18/19

**\*\*Return this form along with report to the NNHPD/Compliance Section\*\***

Note: In addition to the TCP Record search, the consultant must demonstrate that a good-faith effort to consult with 1.) Surface user(s): grazing-permit holder(s) (individuals whose consents for right-of-way have been sought by developer); any other residents in or within view of the proposed project area. 2. Chapter(s) within which the proposed project is located: chapter officers and/or delegate(s) of the Navajo Nation Council; at the request of any of these individuals, the developer's consulting anthropologist will also make a presentation at a meeting of general chapter membership. 3. Other knowledgeable people recommended by the present surface user(s), chapter officials, and chapter members.

# ARCHAEOLOGICAL INVENTORY REPORT (AIRs) DOCUMENTATION PAGE

1. RECEIPT'S ACCESSION NO:	2. (FOR HPD USE ONLY)	3. HPD REPORT NO.
4. TITLE OF REPORT: A Cultural Resources Inventory of the Proposed NECA 11.5 Acre Hot Plant Site in the Tsaille/Wheatfields Chapter, Apache County, Arizona.  Author (s): Brandi Bitsilli, et al.		5. FIELDWORK DATES: September 18 <sup>th</sup> , 2019
		6. REPORT DATE: October 16, 2019
7. CONSULTANT'S NAME AND ADDRESS: Gen. Charge: Jeremy Begay, Senior Archaeologist Org. Name: Carrizo Archaeological Group Org. Address: 1201 N. Mesa Verde Avenue Farmington, NM 87401 Phone: (505)-608-1077		8. PERMIT NO.: B19650
		9. CONSULTANT'S REPORT NO.: CAG 2019-09
10. SPONSOR'S NAME AND ADDRESS: Ind. Responsible: Christine Padilla, Quality Control Manager Org. Name: Navajo Engineering & Construction Authority Org. Address: #1 Uranium Blvd P.O. Box 969 Shiprock, New Mexico 87420 Phone: (505)-210-7027		11. SPONSOR'S PROJECT NO.: N12 (19-4) 1, 2, & 4 Tsaille/Wheatfields, AZ
		12. AREA OF EFFECT: 11.50 acres (4.65 ha) AREA SURVEYED: 15.04 acres (6.09 ha)
13. LOCATION: a. Chapter: Tsaille/Wheatfields b. Agency: Chinle c. County: Apache d. State: Arizona e. Land Status: Navajo Tribal Trust		f. UTM: See Table 1. g. Legal Description: See Table 1. h. USGS 7.5' Map: See Table 1. i. Lead Agency: Bureau of Indian Affairs
14. REPORT OR SUMMARY: ( <i>Attach additional pages if necessary</i> ) a. Description of Undertaking: See Supplemental Sheet b. Existing Data Review: See Supplemental Sheet c. Environmental & Cultural Setting: See Supplemental Sheet d. Field Methods: See Supplemental Sheet: See Supplemental Sheet		
15. CULTURAL RESOURCE FINDINGS: ( <i>Attach additional pages if necessary</i> ) a. Location/Identification of Each Resource: Three isolated occurrences were encountered. b. Evaluation of Significance of Each Resource: The documented resources are not eligible under NRHP, ARPA, AIRFA, or NAGPRA.		
16. MANAGEMENT SUMMARY/RECOMMENDATIONS: Archaeological clearance is recommended for the proposed undertaking with no stipulations since no significant cultural resources were encountered. If any undocumented cultural resources are discovered during construction, NECA must immediately halt all construction activity and report the discovery to NNHPD in Window Rock, Arizona.		
17. CERTIFICATION:  Signature: <u>[Signature]</u> Date: <u>10/16/19</u> General Charge Name: <u>Jeremy Begay, Senior Archaeologist</u>  Signature: <u>[Signature]</u> Date: <u>10/16/19</u> Direct Charge Name: <u>Brandi Bitsilli, Senior Archaeologist</u>		



## CRID 2019-09: Supplemental Sheet

### 13. LOCATION

**Table 1. Designation, UTM Coordinates, Legal Description, and USGS Quad(s) for the project.**

Designation	UTM Coordinates: Zone 12 (NAD 83)		Legal Description						7.5 min USGS Map
	Northing	Easting	¼	¼	¼	Sec	T	R	
NE Corner	4021350	0659051	*	SE	NW	28	33N	29E	Tsaile, Arizona Provisional Edition 1982
NW Corner	4021208	0658897	*	SW	NE	28	33N	29E	
SW Corner	4021025	0658985	*	SW	NE	28	33N	29E	
SE Corner	4021114	0659166	*	SE	NW	28	33N	29E	

### 14. REPORT

#### a. Description of Undertaking

Navajo Engineering & Construction Authority (NECA) proposes to use a parcel of land on the Navajo Indian Reservation for a temporary asphalt hot plant site, aggregate stockpile area, and construction yard for improvements to Navajo Route 12 in the Wheatfields Chapter, Apache County, Arizona. Usage of the land will consist of barbed wire fencing for access control, erosion control, and the stripping and stockpiling of the topsoil before the grading of the temporary hot plant site. The area of effect totals 11.50 acres (4.65 ha.).

#### b. Existing Data Review

Prior to field work, a literature search was conducted at the Navajo Nation Historic Preservation Department's (NNHPD) Cultural Compliance Section (CRCS) and the Traditional Culture Program (TCP), located in Window Rock, Arizona. The CRCS records indicated four previous projects have been conducted within 300 feet (91 meters) of the project area. No archaeological sites were recorded in conjunction with the four projects.

A file search at the NNHPD Traditional Cultural Program's sacred sites archives indication that six sacred areas are located within 5-mile (8.04 km.) radius of the project area. The six existing sacred areas include #106 *Diwozhii Bii' To* meaning "Spring in the Greasewood," #166 *Hosh Naa' Libahi* meaning "Cactus Greyeyes," #200 *K'idziibahi* meaning "Gray Streak (Mountain)," #284 *Tacheeh Si'ani* meaning "Stout Sweathouse," #395 *Tsehili* meaning "Rock Inflow," and #384 *Tsedaa' To* meaning "Rimrock Water". Consultations with NNHPD TCP personnel determined that the proposed undertaking will have no adverse impact on the previously documented TCPs and the project can proceed as planned.

#### c. Environmental and Cultural Setting

The project area is located approximately 10 miles northwest of the Tsaile/Wheatfields Chapter House in Apache County, Arizona, on the west side of Navajo Route 12 and on the south side of an unnamed dirt road. The project area is located in an open sagebrush plane in a mixed pinon and juniper forest. Vegetation consists of juniper, pinon pine, cheat grass, sage, rabbit brush, snakeweed, Russian thistle, Indian rice grass, bunch grass, and ring muhly. Surface sediments in the project area consist of fine to coarse grained aeolian and alluvial sand and silt along with pebble to cobble sized sedimentary clasts. Elevation within the project area is measured at 7,040.68 ft. (2,146 m.).

#### **d. Field Methods**

On September 18<sup>th</sup>, 2019, Carrizo Archaeological Group senior archaeologists Brandi Bitsilli and Jeffrey Begay, and CAG archaeological intern Rius Goodman, conducted the cultural resources inventory of the proposed project area. The project archaeologists were accompanied by NECA Project Coordinator, Mr. Ammerson Barber, a week prior to the field inventory. The project area was surveyed by walking parallel transects, spaced no more than 10 meters (32 feet) apart. A 50 ft. cultural buffer zone was added to the project area. A total area of 15.04 ac. (6.09 ha.) was surveyed in conjunction with this project.

Per NNHPD policy, CAG archaeologists attempted to contact homeowners near the project area to obtain information regarding any TCPs or burials in or near the proposed project area. At the time of visitation, no residents were home to be interviewed. Therefore, it is unknown to know if there are any known TCPs or burials in the project area.

### **15. CULTURAL RESOURCE FINDINGS**

#### **Location/Identification of Each Resource**

Three isolated occurrences were encountered during the inventory. A description of the isolated artifacts as well as their corresponding UTM coordinates are found below in table 3.

**Table 2: Isolated occurrences (IO) identified in the project area.**

Isolated Occurrence #	UTM Coordinates (Zone 12/ NAD 83)		Description
	Northing	Easting	
IO#1	4021305	0659055	(1) Pink chert secondary flake (1) Pink chert tertiary flake
IO#2	4021022	0659000	(1) Side seam crushed metal can
IO#3	4021100	0659143	(1) One-inch diameter iron pipe

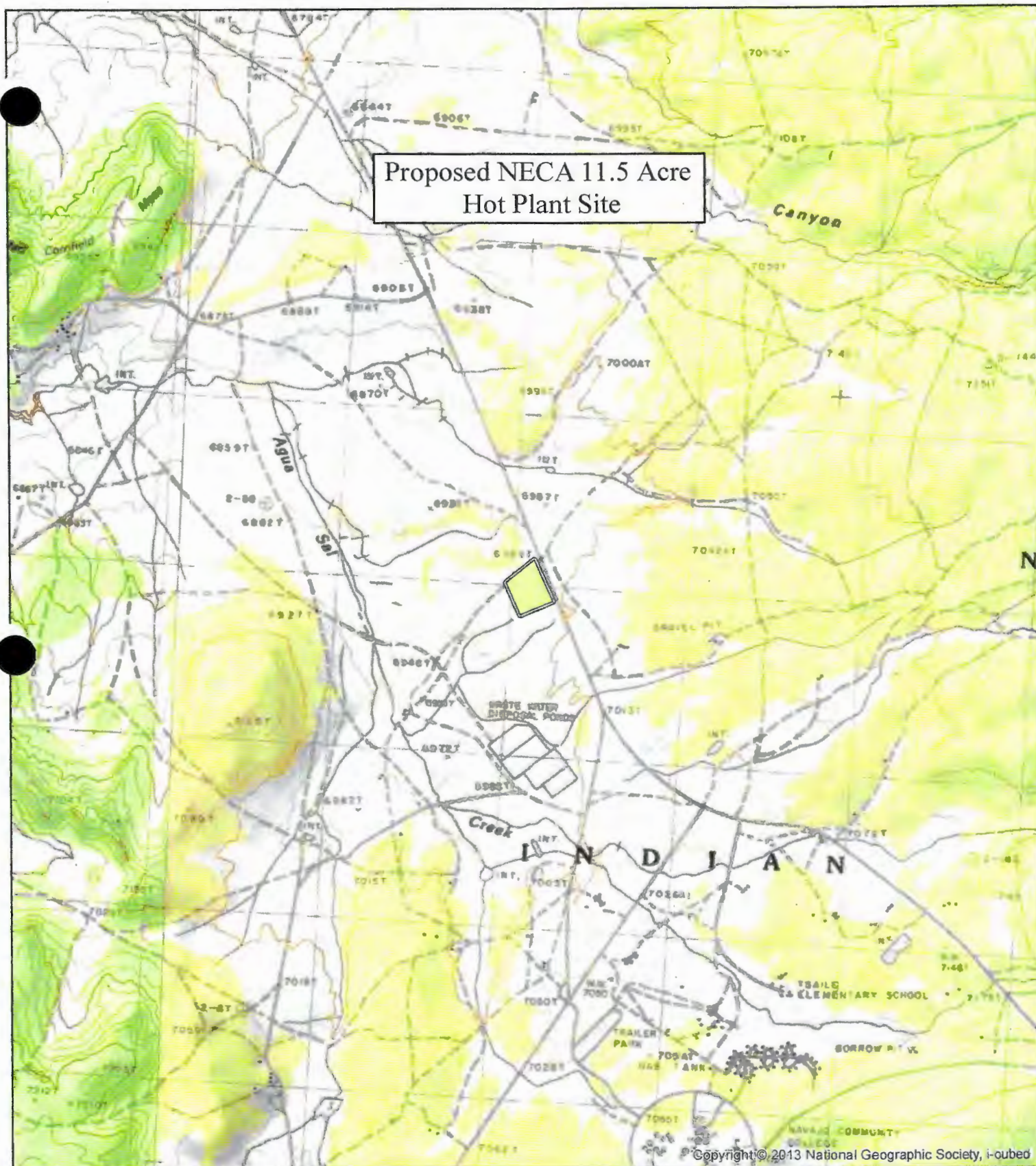


Fig. 1: Map showing the proposed NECA 11.5 Acre Hot Plant project area, CAG 19-09.

Taile, Arizona, P.E. 1982

Scale = 1 : 24,000  
1 in = 2000 ft.

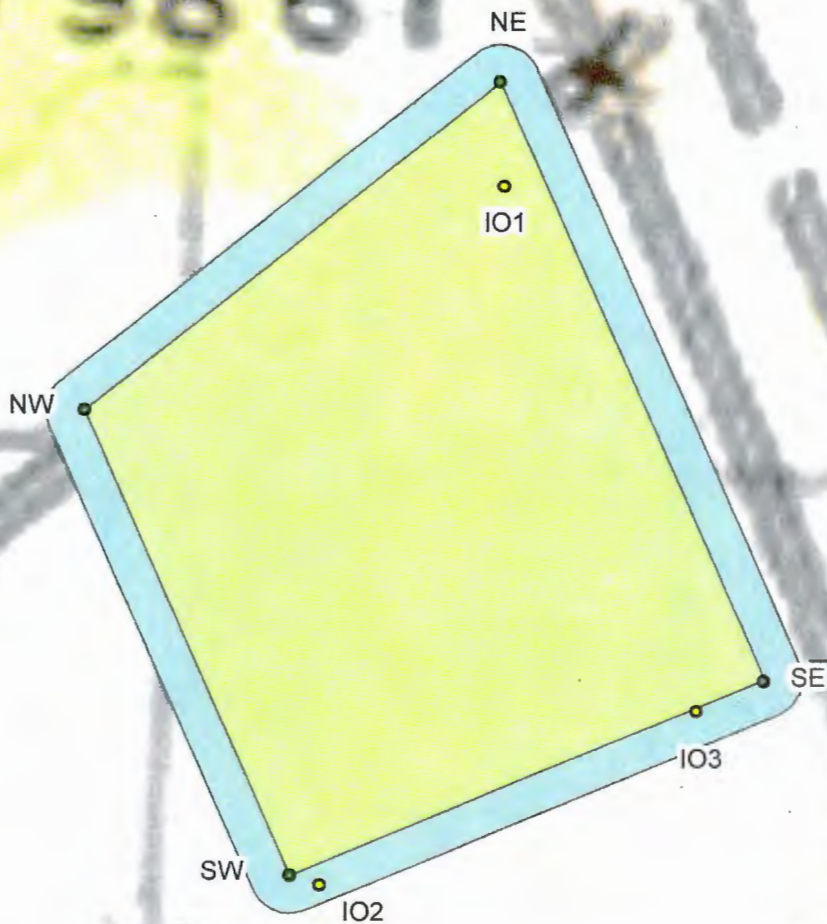


#### Legend

- Hot Plant Site
- Buffer Zone



Proposed NECA 11.5 Acre  
Hot Plant Site



Copyright: © 2013 National Geographic Society, Inc.





2: Enlarged map showing the proposed  
NECA 11.5 Acre Hot Plant project area, CAG 19-09.

Tsaile, Arizona, P.E. 1982.

Scale = 1 : 3,000



**Legend**

- |   |                |   |         |
|---|----------------|---|---------|
|  | Hot Plant Site |  | Corners |
|  | Buffer Zone    |  | IOs     |



EXHIBIT

F

**Stormwater Pollution Prevention Plan (SWPPP)**

**For Construction Activities at:**

Project 1402  
N12 Wheatfield to Tsaille, Arizona  
Wheatfields/Tsaille, Arizona 86556  
Michael Redhorse: 505-406-7489  
Jamie Sagg: 505-406-2150

**SWPPP Prepared for (Owner):**

Navajo DOT – Executive Project Management  
Darryl Bradley: Principal Civil Engineer /Project Manager  
P.O. Box 3690, #16 Old Coal Mine Road  
Mentmore, NM 87319  
505-371-8300  
505-371-8399  
dbradley@navajodot.org

**SWPPP Prepared by (Contractor):**

Navajo Engineering and Construction Authority  
P.O. Box 969  
Shiprock, New Mexico 87420  
505-210-7070  
505-210-7008

**SWPPP Preparation Date:**

08/26/2019

**Estimated Project Dates:**

**Project Start Date:** 11/11/2019

**Project Completion Date:** 09/08/2021

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## SECTION 1: CONTACT INFORMATION/RESPONSIBLE PARTIES

### 1.1 Owner and Operator

#### A. Operator:

NAVAJO ENGINEERING AND CONSTRUCTION  
AUTHORITY

Herman Patterson

P.O. Box 969

Shiprock, New Mexico 87420

505-701-1379

Herman@navajo.net

#### AREA OF CONTROL OF PROJECT:

N12(19-4)1,2, &4

BOP STA. 38+700 TO EOP STA. 55+900

#### Owner:

NAVAJO DOT – EXECUTIVE PROJECT MANAGEMENT

Darryl Bradley: Civil Engineer/Project Manager

P.O. Box 3690, #16 Old Coal Mine Road

Mentmore, NM 87319

505-371-8300

dbradley@navajodot.org



#### B. Subcontractors: See Attached Listing:



**C. Emergency 24-Hour Contact:**

**NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY**

Herman Patterson: Construction Manager – 505-701-1379

Michael Redhorse: Area Project Superintendent – 505-406-7489

Jamie Sagg: Project Engineer – 505-406-2150

Daniel Gourneau: Safety Manager – 505-406-7665

Lemuel Benallie: Safety Officer – 505-406-6078

Malcom Tsosie: Safety Officer – 505-406-2970

**1.2 Stormwater Team**

Stormwater Team		
Name, position, and contact	Responsibilities	I Have Read the CGP and Understand the Applicable Requirements
<b>Herman Patterson</b> <b>Construction Manager</b> <b>505-701-1379</b> <b>Herman@navajo.net</b>	Overall Construction Supervision (NECA)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date: Click here to enter a date.
Michael Redhorse Area Project Superintendent 505-406-7489 Michael@navajo.net	Day-to-day operations of area project sites	<input checked="" type="checkbox"/> Yes Date: 7/14/2017
Jamie Sagg NECA Project Engineer 505-406-2150 Jamie@navajo.net	Day-to-day operations and materials at project site	<input checked="" type="checkbox"/> Yes Date: 10/28/2019
Lee B. Roy NECA ESH Field Officer 928-205-1180 Lee@navajo.net	Field Inspections for 402 permit per month	<input checked="" type="checkbox"/> Yes Date: 7/14/2017
<b>Darryl Bradley</b> <b>Principal Civil Engineer</b> <b>505-371-8300</b> <b>dbradley@navajodot.org</b>	Overall approval of contract work on the project	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date: Click here to enter a date.



## SECTION 2: SITE EVALUATION, ASSESSMENT, AND PLANNING

### 2.1 Project/Site Information

#### Project Name and Address

Project/Site Name: 1402: Wheatfields to Tsale Widen Roadway Project N12

Project Street/Location: BOP STA. 38+700 TO EOP STA. 55+900

City: Wheatfields/Tsale

State: Arizona

ZIP Code: 86507

County or Similar Subdivision: Apache

Business days and hours for the project: MST: Monday thru Thursday: 7:00 AM to 5:30 PM

DST: Monday thru Friday 8:00 AM to 4:30 PM.

#### Project Latitude/Longitude: Beginning of Project.

Latitude: 36.2231° N  
(decimal degrees)

Longitude: - 111.1046 ° W  
(decimal degrees)

Latitude/longitude data source:

☒ Map ☐ GPS ☐ Other (please specify: **Google Earth**)

Horizontal Reference Datum:

☐ NAD 27 ☒ NAD 83 ☐ WGS 84

#### Additional Project Information

Are you requesting permit coverage as a "federal operator" as defined in [Appendix A](#) of the 2017 CGP? ☐ Yes ☒ No

Is the project/site located on Indian country lands, or located on a property of religious or cultural significance to an Indian tribe? ☒ Yes ☐ No

If yes, provide the name of the Indian tribe associated with the area of Indian country: Navajo Nation

### 2.2 Discharge Information

Does your project/site discharge stormwater into a Municipal Separate Storm Sewer System (MS4)? ☐ Yes ☒ No

Are there any waters of the U.S. within 50 feet of your project's earth disturbances? ☒ Yes ☐ No

## Discharge Information

For each point of discharge, provide a point of discharge ID (a unique 3-digit ID, e.g., 001, 002), the name of the first water of the U.S. that receives stormwater directly from the point of discharge and/or from the MS4 that the point of discharge discharges to, and the following receiving water information, if applicable:

Point of Discharge ID	Name of receiving water:	Is the receiving water impaired (on the CWA 303(d) list)?	If yes, list the pollutants that are causing the impairment:	Has a TMDL been completed for this receiving waterbody?	If yes, list TMDL Name and ID:	Pollutant(s) for which there is a TMDL:	Is this receiving water designated as a Tier 2, Tier 2.5, or Tier 3 water?	If yes, specify which Tier (2, 2.5, or 3)?
1	Aqua Sal Creek	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
2	Tsaile Creek	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
3	Tsaile Lake	<input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	Black Pinnacle Spring	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
5	Wheatfields Creek	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

## 2.3 Nature of the Construction Activities

### General Description of Project :

**GRADE, DRAINAGE, AGGREGATE BASE COURSE,  
HOT ASPHALTIC CONCRETE PAVEMENT, ARCH STRUCTURES and MISCELLANEOUS  
CONSTRUCTION FOR LENGTH OF 17.2 km (10.68 miles) OF ROADWAY.**

### Size of Construction Site

Size of Property: Roadway	17.2 Kilometers
Wheatfield : Borrow Pit	2.02 Ha
Total Area Expected to be Disturbed by Construction Activities	20.6 Ha
Maximum Area Expected to be Disturbed at Any One Time	<b>3.00 Ha</b>

**Type of Construction Site** (check all that apply):

☐ Single-Family Residential   ☐ Multi-Family Residential   ☐ Commercial   ☐ Industrial  
☐ Institutional   ☒ Highway or Road   ☐ Utility   ☐ Other \_\_\_\_\_

Will there be demolition of any structure built or renovated before January 1, 1980?   ☐ Yes   ☒ No

If yes, do any of the structures being demolished have at least 10,000 square feet of floor space?   ☐ Yes   ☐ No   ☒ N/A

Was the pre-development land use used for agriculture (see [Appendix A](#) for definition of "agricultural land")?   ☐ Yes   ☒ No

**Pollutant-Generating Activities**

List and describe all pollutant-generating activities and indicate for each activity the type of pollutant that will be generated. Take into account where potential spills and leaks could occur that contribute pollutants to stormwater discharges, and any known hazardous or toxic substances, such as PCBs and asbestos, that will be disturbed during construction.

Potential Source Construction Site Pollutants									
Potential Sources of Sediment to Stormwater Runoff	Primary Pollutant	Other Pollutants							
	Sediment	Nutrients (e.g. Nitrogen)	Heavy Metals	pH (acids/bases)	Pesticides/Herbicides	Oil & Grease	Bacteria & Viruses	Trash, Debris, Solids	Toxic Chemicals
Clearing and Grading, Filling	X	X				X		X	
Topsoil Removal	X	X				X		X	
Stockpiles	X	X				X		X	
Hauling	X					X		X	
Material Delivery and Storage	X					X		X	X
Material use during installation	X								X
Sanitary Facilities	X			X			X	X	X
Equipment Staging/Storage	X					X		X	
Equipment Maintenance	X					X		X	
Vehicle Tracking	X	X				X			
Revegetation/Reseeding	X	X				X			
Spreading, Compaction of Fill Materials	X	X				X			

Removal of Obstructions and General Excavating	X	X				X		X	
BMP Placement	X	X				X		X	

Potential Sources of Pollution (SDS will be on-site, NIOSH Chemical Hazard, ERG)

Material/Chemical	Physical Description	Stormwater Pollutants	Area where Material/Chemical is used on site
Glue, adhesives	White or yellow liquid	Polymers, epoxies	Building construction, general use
PVC cleaner, adhesive	Blue or purple: liquid, clear or opaque liquid	Solvents	PVC pipe joining and related construction
Paints	Various colored liquid	Metal oxides, volatile organic compounds, talc, calcium carbonate, arsenic, other metals	Building construction, Stripping of roadway, surface coatings
Concrete curing compounds	Creamy white liquid	Synthetic resin compound, acrylic compound, wax compound, chlorinated rubber compound	Construction of wing walls, box culverts, ROW monuments,
Hydraulic oil/fluids	Brown oily petroleum hydrocarbon	Mineral oil	Construction/material staging areas, secondary containment areas where equipment are use and possible leaks or spills
Gasoline/Diesel	Colorless, pale brown or pink	Benzene, ethyl benzene, toluene, xylene, Methyl Tert-Butyl Ether (MTBE), petroleum distillate, oil and grease	Construction/material staging areas, secondary containment areas where equipment are use and possible leaks or spills
Antifreeze/coolants	Clear, yellow/green/orange liquid	Ethylene glycol, propylene glycol, copper, lead, zinc	Fuel and staging areas possible leaks or broken hoses from equipment
Sanitary toilets	Various colored liquid	Bacteria, parasites, viruses	Staging areas: Construction yard and locations throughout linear project



Pesticides (insecticides, fungicides, herbicides)	Various colored to colorless liquid, powder, pellets or grains	Chlorinated hydrocarbons, organophosphates, carbamates, arsenic	outside services, reseeder, <b>NOTE:</b> NO herbicides or pesticides allowed on project site
Dumpsters	Various colored liquids	Bacteria, parasites, viruses	Construction yard/Fuel areas
Concrete related materials	White solid/gray liquid	Limestone, sand, high pH, chromium	Construction of wing walls, box culverts, ROW monuments, fence strain posts, misc. construction

ADDITIONAL MATERIAL/CHEMICAL LISTING WILL BE IN THE NIOSH CHEMICAL LISTING AND ER GUIDE BOOK WHICH WILL BE LOCATED AT THE PROJECT SITE.

#### Construction Support Activities

Describe any construction support activities for the project:

#### **WHEATFIELD/TSAILE EQUIPMENT STAGING AND MATERIAL STORAGE YARDS**

**36.5832, -111.0852**

MICHAEL REDHORSE

505-406-7489

Michael@navajo.net

JAMIE SAGG

505-406-2150

Jamie@navajo.net

#### **WHEATFIELDS BORROW PIT**

**36.2385, -109.1261**

CHRISTINE PADILLA

505-686-3163

Christine@navajo.net

#### **N12 TSAILE/ WHEATFIELDS ROAD CONSTRUCTION HOT PLANT**

**36.3224, -109.2284**

CHRISTINE PADILLA

505-686-3163

Christine@navajo.net

## 2.4 Sequence and Estimated Dates of Construction Activities

### Phase I

INSTALLATION OF TEMPORARY EROSION CONTROL MEASURES (TECM)	
Estimated Start Date of Construction Activities for this Phase	12/19/2019
Estimated End Date of Construction Activities for this Phase	9/8/2021
Estimated Date of Application of Stabilization Measures for Areas of the Site Required to be Stabilized	8/9/2021
Estimated Date when Stormwater Controls will be Removed	9/3/2021

### Phase II

CONTINUE WITH TECM DURING SOIL DISTURBING ACTIVITIES INCLUDING REMOVAL OF EXISTING STRUCTURES, CLEARING, INSTALLATION OF WATERLINES, CONSTRUCTION OF SURGE TANK FACILITIES, WATER, DRAINAGE STRUCTURES, STABILIZATION, VARIOUS EXCAVATION AREA, GRADING, BK FILL	
Estimated Start Date of Construction Activities for this Phase	12/19/2019
Estimated End Date of Construction Activities for this Phase	9/8/2021
Estimated Date of Application of Stabilization Measures for Areas of the Site Required to be Stabilized	5/3/2021
Estimated Date(s) when Stormwater Controls will be Removed	9/8/2021

Task Name	Duration	Est Start	Est Finish
<b>Construction Services</b>	<b>472 days</b>	<b>Tue 11/19/19</b>	<b>Wed 9/8/21</b>
Construction Yard Set-up	5 days	Tue 11/19/19	Mon 11/25/19
Temporary Traffic Control	472 days	Tue 11/19/19	Wed 9/8/21
Mobilization	472 days	Tue 11/19/19	Wed 9/8/21
Quality Control Manager	472 days	Tue 11/19/19	Wed 9/8/21
Erosion Control & Maintenance	462 days	Tue 12/3/19	Wed 9/8/21
Clear & Grubbing - Logging BOP to EOP	100 days	Mon 12/2/19	Fri 4/17/20
Detour / CSPA N504 - Bridge	20 days	Mon 12/2/19	Fri 12/27/19
Detour / CSPA N505 - Bridge	20 days	Mon 12/30/19	Fri 1/24/20
N504 Bridge Removal	47 days	Mon 1/27/20	Tue 3/31/20
N505 Bridge Removal	43 days	Wed 4/1/20	Fri 5/29/20
<b>N504 Bridge</b>	<b>69 days</b>	<b>Mon 6/1/20</b>	<b>Thu 9/3/20</b>
Foundation Excavation & Concrete	42 days	Mon 6/1/20	Tue 7/28/20
Pile Driving	10 days	Wed 7/29/20	Tue 8/11/20
Install Precast Arch Culvert units with Precast wingwalls	17 days	Wed 8/12/20	Thu 9/3/20
<b>N505 Bridge</b>	<b>74 days</b>	<b>Fri 9/4/20</b>	<b>Wed 12/16/20</b>
Foundation Excavation & Concrete	36 days	Fri 9/4/20	Fri 10/23/20
Pile Driving	5 days	Mon 10/26/20	Fri 10/30/20

Install Precast Arch Culvert units with Precast wingwalls	17 days	Mon 11/2/20	Tue 11/24/20
Concrete Wall Barrier w/ Transition	16 days	Wed 11/25/20	Wed 12/16/20
<b>Roadway</b>	<b>375 days</b>	<b>Mon 3/2/20</b>	<b>Fri 8/6/21</b>
Clear & Grubbing	15 days	Mon 3/2/20	Fri 3/20/20
Milling	36 days	Mon 3/23/20	Mon 5/11/20
Culvert Pipes & End Sections- 3 Backfill Crew	120 days	Tue 4/28/20	Mon 10/12/20
Roadway Excavation	122 days	Tue 4/28/20	Wed 10/14/20
Unclassified Borrow	30 days	Thu 10/15/20	Wed 11/25/20
Subgrade Stabilization	16 days	Thu 11/26/20	Thu 12/17/20
Finish Subgrade	50 days	Fri 12/18/20	Thu 2/25/21
Untreated CRABC & ABC	43 days	Fri 2/26/21	Tue 4/27/21
Prime Coat	10 days	Wed 4/28/21	Tue 5/11/21
Hot Asphaltic Concrete Paving	55 days	Wed 5/12/21	Tue 7/27/21
ABC/CRAB Shoulders	8 days	Wed 7/28/21	Fri 8/6/21
<b>Miscellaneous Service</b>	<b>460 days</b>	<b>Mon 12/2/19</b>	<b>Fri 9/3/21</b>
Removal of Structures & Obstructions	20 days	Mon 12/2/19	Fri 12/27/19
Remove, Clean & Salvage	43 days	Mon 12/30/19	Wed 2/26/20
Wildlife Crossing Fence	49 days	Thu 2/27/20	Tue 5/5/20
Cattle guards & Gate	86 days	Wed 5/6/20	Wed 9/2/20
Minor Concrete	39 days	Thu 9/3/20	Tue 10/27/20
Erosion Control Matting	30 days	Wed 10/28/20	Tue 12/8/20
Placed Riprap CI 2	15 days	Wed 12/9/20	Tue 12/29/20
Wire Enclosed - CI 2	113 days	Wed 12/30/20	Fri 6/4/21
R/W Monument & Reference Marker	24 days	Mon 6/7/21	Thu 7/8/21
Permanent Signs /Pavement Markings	15 days	Mon 7/19/21	Fri 8/6/21
Straw Mulching & Seeding Dry Method	20 days	Mon 8/9/21	Fri 9/3/21
<b>Punch &amp; Closeout</b>	<b>3 days</b>	<b>Mon 9/6/21</b>	<b>Wed 9/8/21</b>
Punch List Items	3 days	Mon 9/6/21	Wed 9/8/21
Project Completion	0 days	Wed 9/8/21	Wed 9/8/21



## 2.5 Authorized Non-Stormwater Discharges

### List of Authorized Non-Stormwater Discharges Present at the Site

Type of Authorized Non-Stormwater Discharge	Likely to be Present at Your Site?
Discharges from emergency fire-fighting activities, if needed	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Waters used to wash vehicles and equipment	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Water used to control dust	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Type of Authorized Non-Stormwater Discharge	Likely to be Present at Your Site?
Water to use for processing material, Fill for linear construction	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Water for compaction of culvert installation	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Uncontaminated, non-turbid discharges of water used for construction	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Construction dewatering water from the un-named wash/Kaibeto Creek	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Water for compaction, concrete structures	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

## 2.6 Site Maps, additional attached to Appendix A of this SWPPP.



## SECTION 3: DOCUMENTATION OF COMPLIANCE WITH OTHER FEDERAL REQUIREMENTS

### 3.1 Endangered Species Protection

#### Eligibility Criterion

- ☒ **Criterion A:** No ESA-listed species and/or designated critical habitat present in action area.

Using the process outlined in Appendix D of this permit, you certify that ESA-listed species and designated critical habitat(s) under the jurisdiction of the USFWS or NMFS are not likely to occur in your site's "action area" as defined in Appendix A of this permit.

**Basis statement content/Supporting documentation:** A basis statement supporting the selection of Criterion A should identify the USFWS and NMFS information sources used. Attaching aerial image(s) of the site to your NOI is helpful to EPA, USFWS, and NMFS in confirming eligibility under this criterion. Please Note: NMFS' jurisdiction includes ESA-listed marine and estuarine species that spawn in inland rivers. Check the applicable source(s) of information you relied upon:

- ☒ Specific communication (Biological Resources Compliance Form) with staff of the NNDFW. December 02, 2016 per Jeffrey Cole , Wildlife Manager, NNDFW
- ☒ Specific communication (Categorical Exclusion Determination/Approval under 23 CFR 771.117a) with staff of the FLH-FHWA. October 26, 2016, David Cremer, Senior Environmental Specialist

See FONSI Attachment in Appendix L of this SWPPP

### 3.2 Historic Preservation

#### Appendix E, Step 1

Do you plan on installing any of the following stormwater controls at your site? **NO**

- ☐ Dike
- ☐ Berm
- ☐ Catch Basin
- ☐ Pond
- ☐ Stormwater Conveyance Channel (e.g., ditch, trench, perimeter drain, swale, etc.)
- ☐ Culvert
- ☐ Other type of ground-disturbing stormwater control:

### 3.3 Safe Drinking Water Act Underground Injection Control Requirements: N/A

#### SECTION 4: EROSION AND SEDIMENT CONTROLS

##### Temporary Stabilization:

The temporary erosion and sediment control measures to be used are listed below:

##### Ditch Blocks (Furrow Ditches):

Ditch blocks will be constructed along the uphill perimeter of disturbed areas of the site to divert run-on/run-off around the construction site. The ditch blocks will be used to collect runoff from the disturbed areas and direct the runoff to natural sediment impoundments or off-site. Ditch blocks and furrow ditches may be constructed if recommended temporary erosion control measures are ineffective and field adjustments are needed.

##### Gravel Bags Barriers

A flexible design building block made of bags filled with weighted materials including, gravel. These bags are used to divert arroyo channels, act as barrier walls in sediment basins, and retaining walls between fill slopes and watercourses during construction operations. The gravel bags will be placed immediately upslope of culvert inlets, in arroyo or drainage channels, or at the base of fill slopes to reduce the velocity of the runoff and minimize erosion, as deemed necessary. Gravel bags shall also be used as stabilization measures on rocky soil areas

- ❖ Place gravel bags across swales or drainage ditches to reduce the velocity of flow and enhance solids settlement.
- ❖ Gravel bags may be used if field conditions make the recommended temporary erosion control measures ineffective and field adjustments are needed.

##### Silt fences:

Silt fence consist of Geotextile fabric stretched between posts, with the lower edge securely embedded in soil, per the **ASTM 6462-03 requirement**, downstream of the disturbed areas. They intercept runoff from sheet flow and provide filtration, sedimentation, and velocity reduction. Silt fences will be constructed along the toe of fill slopes or at ROW limits, around drop inlets, near culverts, sheet flow and low flow directions. Silt fence is intended to be used as a temporary feature of the site. Silt fence will intercept sediment from disturbed areas during construction operations. Design and placement criteria for silt fences are as follows:

- ❖ The silt fences should be placed just beyond the clearing limits of the fill areas before construction or at ROW limits of the project area(s).
- ❖ Silt fence will be placed perpendicular to the drainage ditches carrying runoff flows from all disturbed areas.
- ❖ For stream flow paths with slopes less than 2%, silt fences should be no more than 60 m (200 feet) apart.
- ❖ For stream flow paths with slopes between 50:1 and 5:1, silt fences should be no more than 30 m (100 feet) apart.
- ❖ For stream flow paths with slopes between 5:1 and 2:1, silt fences should be no more than 15 m (50 feet) apart.

- ❖ For stream flow paths with slopes between 2:1 and greater, silt fences should be no more than 6 m (20 feet) apart. Maximum slopes should not exceed 1:1.
- ❖ Silt fence should also be located by the culvert inlets and outlets in accordance to the SWPPP site plan, before runoff reaches drainage and leaves the construction site.

Silt fences and other BMPs may be adjusted due to field conditions to fully implement this Plan. Installation to follow **manufacturer** installation instructions. **NOTE:** some of this site maybe solid rock; the use of silt fence may not be practical and an alternative such as check dams or other field acceptable alternative may be used. Many items will not work due to the inability to fix the BMP in position hence the check dam recommendation.

#### **Tracking (Surface Roughening):**

Soil surfaces left in a roughened condition by mechanically creating horizontal depressions, or by not fine grading or polishing, should be implemented as a temporary stabilization in disturbed areas to protect the site from wind and water erosion, before other temporary and/or permanent measures are installed. All disturbed areas shall be monitored at the end of each day's operations, unless other temporary or permanent erosion control measures are in place.

Tracking should be implemented on embankments or surfaces or depressions in the slope shall be created (i.e. stair step grading). The track walk will begin at the toe of the slope and proceed up slope moving over after each pass, creating depressions of no less than 5 cm (2 inches). To avoid unsafe conditions for operation of heavy equipment, **no slopes steeper than 2:1 ratio shall be tracked**. Also slopes with **rock shall not be tracked**.

#### **Temporary Mulch:**

Other embankments, not requiring riprap or that cannot be seeded within the specified time, shall receive temporary straw mulch. The straw mulch will be crimped into the slope by using tracked equipment, a crimping disk or a tackifier material applied to the mulch on the steep slopes where crimping is not practical.

#### **Wattles:**

A wattle is a temporary sediment barrier constructed at the perimeter of a disturbed area from the residue materials available from clearing and grubbing the site, and generally, covered with a filter fabric. Design and placement criteria for wattles are as follows:

- ❖ Wattles should be placed at the perimeter of a disturbed area following any clearing and grubbing.
- ❖ Wattles should be placed at the top of cut slopes to divert, slow or disperse flows on cut slope construction
- ❖ Wattles should be used only in areas of very low anticipated sheet flow.
- ❖ Wattles should be buried in trenches 7.5 to 15 cm (3 to 6 inches) deep along a contour and staked with steel fence (Tee Posts) or 51mm X 51mm X 0.6 to 0.91-meter wood stakes. A minimum of two stakes per wattle not more than 60 cm apart. Stakes to be driven a minimum of 60 cm (24 inches) into native soils.
- ❖ Wattles should be placed perpendicular to flow and not more than 30 meters (100 feet) apart.
- ❖ Wattles should extend up a channel wall to a point where bottom of the upslope is at a point of termination on the slope higher than the top of the wattle in the channel.

- ❖ Wattles should be butted end to end tightly.

Wattles barriers may be constructed if required due to field conditions and adjustments to fully implement this Plan. Installation to follow manufacturer specifications.

**Check Dams are:**

A temporary barrier constructed in channels that are anticipated to have high flows and possible heavy sediment loads. Design and placement criteria for check dams are as follows:

- ❖ Drainage area not to exceed 12.89 Ha in area.
- ❖ Placed perpendicular to flow.
- ❖ For stream flow paths with slopes less than 2%, check dams should be no more than 60 m (200 feet) apart.
- ❖ For stream flow paths with slopes between 50:1 and 5:1, check dams should be no more than 30 m (100 feet) apart.
- ❖ Maximum height of check dam overflow should not to exceed 60 cm (24 inches).
- ❖ Center of check dam to be 15 cm (6 inches) lower than outer edge.
- ❖ Terminate dam to insure no undercutting or bypassing, this may require engineered materials.
- ❖ Materials for construction of check dams should consist of native materials, rock, or gravel bags.

Check dams may be constructed if required due to field conditions and adjustments to fully implement this Plan.

**Earthen Berms are:**

A temporary sediment barrier constructed along channels and down slope areas for anticipated low flows and possible heavy sediment loads, and for energy dissipation and sedimentation. Design and placement criteria are as follows:

- ❖ Placed perpendicular to flow.
- ❖ Placed above disturbed cut or fill slopes and existing slopes to prevent run-on or runoff
- ❖ Maximum height of earthen berm not to exceed 60 cm (24 inches).
- ❖ Top of dam to be parallel with ground surface contours.
- ❖ Terminate dam to minimize undercutting or bypassing.
- ❖ Materials to consist of native materials or sandbags.



Implementations of earthen berms as a temporary erosion control measure are not called out in this SWPPP. However, earthen berms may be constructed as permanent control measures if field conditions warrant this.

#### Erosion Control Blankets:

Organic or synthetic blankets consisting of a photo-degradable plastic netting which covers and is entwined in a natural organic or manmade mulching material. The mulching material can be wood fiber, excelsior, straw, coconut fiber, synthetic fiber or a combination of the same. These blankets are used to control erosion on steep slopes or channels, where tracking (i.e. surface roughing) cannot be completed safely and temporary mulch will not hold, until final vegetation can be established. Design and placement criteria are as follows:

- ❖ Placement of blankets to be used on slopes 2:1 or steeper will be installed following completion of slope to final design grades
- ❖ Installation of blankets shall be in accordance with the manufacturer's recommendations:
- ❖ Blankets shall be placed smoothly but loosely on the soil without stretching
- ❖ Blankets shall be placed parallel to the direction of flow.
- ❖ The upslope end of the blanket shall be buried in a trench 15 cm (6") wide by 15 cm (6") deep.
- ❖ Wherever one roll of blanket ends and another begins use a 15 cm (6") wide overlap, with the uphill blanket placed on top of the downhill blanket.
- ❖ Blankets to be anchored in slopes using staples. Staples shall be made of wire 4.2 mm (0.162 inches) or larger in diameter. "U" shaped staples shall have legs 30 cm (12") and a 2.5cm (1") crown. Staples will be placed 3'-0" O.C. or per manufacturer's recommendations.
- ❖ Maintenance of blankets shall be in accordance with the manufacturer's recommendations, and at a minimum, include re-anchor of loosened matting and replacement of missing matting and staples as required.
- ❖ Erosion control blankets may be used if required due to field conditions and adjustments to fully implement this plan.

#### Erosion and Sediment Control Inspection and Maintenance Practices

Below are inspection and maintenance practices that will be used to maintain erosion and sediment controls. **NECA will select three individuals who will be responsible for inspections, maintenance and repair activities, and filling out the field inspection and maintenance report.**

- Less than one half of the site is recommended to be cleared and grubbed at one time.
- Inspection frequency of all control measures will be inspected at least once every 7 calendar days and within 24 hours of the end of a storm event of **FP-14 requirements**.
- FP-14 requirements: **11 mm or 0.43 inches per contract requirements**.
- Inspection frequency may be reduced to at least once every month if :
  1. The entire site is temporarily stabilized,
  2. Runoff is unlikely due to winter conditions, or
  3. Construction is occurring during seasonal arid periods in arid areas and semi-arid areas.

- All control measures will be maintained in good working order; if a repair is necessary, it will be initiated within 24 hours of being reported.
- Built-up sediment will be removed from silt fences when it has reached one-third the height of the fence.
- Silt fence, if added, will be inspected for depth of sediment, tears, to see if the fabric is securely attached to the fence posts, and to see that the fence posts are firmly in the ground.
- The slope dikes, check dams and wattles will be inspected for depth of sediment, and built-up sediment will be removed when it reaches 10 percent of the design capacity or at the end of the job.
- Slope dikes, check dams and wattles will be inspected and any breaches promptly repaired on a daily basis. Slope dikes may be moved to avoid conflicts with current work, but must be replaced after the work is completed for that day.
- Temporary and permanent seeding and landscaping will be inspected for bare spots, washouts, and healthy growth.

A NECA **maintenance inspection report** will be made after each inspection along with a report from the subcontractor of Quality Control, on the completion of any installation or maintenance

#### 4.1 **Natural Buffers or Equivalent Sediment Controls**

Temporary erosion control measures will be in place prior to clearing, grubbing, or grading of any other portions of the site. Areas where construction activity temporarily ceases for more than **21 days** will be stabilized with temporary mulch **within 14 days** of the last disturbance. Once construction activity ceases permanently in an area, that area will be stabilized with surface roughening, permanent seed, and mulch. After the entire site is stabilized, the accumulated sediment will be removed from all temporary and permanent erosion control measures.

#### **Buffer Compliance Alternatives**

Are there any waters of the U.S. within 50 feet of your project's earth disturbances? ☒ YES ☐ NO

Check the compliance alternative that you have chosen:

- ☒ It is infeasible to provide and maintain an undisturbed natural buffer of any size, therefore I will implement erosion and sediment controls that achieve the sediment load reduction equivalent to a 50-foot undisturbed natural buffer.
- ☒ I qualify for one of the exceptions in Part 2.2.1.b. (If you have checked this box, provide information on the applicable buffer exception that applies, below.)

#### **Buffer Exceptions**

Which of the following exceptions to the buffer requirements applies to your site?

- ☒ There is no discharge of stormwater to the water of the U.S. that is located 50 feet from my construction disturbances.



- ☐ For a "linear construction sites" (defined in Appendix A), site constraints (e.g., limited right-of-way) make it infeasible to meet any of the CGP Part 2.2.1.

SEE CONSTRUCTION PLANS AT AREAS WHERE THE ROAD WILL MEET UP ALONG THE AQUA SAL CREEK, TSAILE CREEK AND WHEATFIELDS CREEK...THE DESIGN PREVENT ANY USE OF ANY TYPE OF BUFFER.

- ☐ Buffer disturbances are authorized under a CWA Section 404 permit. FILL AND DREDGING OF MATERIAL TO PLACE SUITABLE MATERIAL IN AN AREA THAT THE 404 PERMIT DEFINES HOW MUCH MATERIAL THAT WILL AFFECT THESE AREAS.

#### 4.2 Perimeter Controls

Temporary erosion control measures will be in place prior to clearing, grubbing, or grading of any other portions of the site. Areas where construction activity temporarily ceases for more than **21 days** will be stabilized with temporary mulch **within 14 days** of the last disturbance. **Once construction activity ceases permanently in an area, that area will be stabilized with surface roughening, permanent seed, and mulch.** After the entire site is stabilized, the accumulated sediment will be removed from all temporary and permanent erosion control measures.

#### Specific Perimeter Controls

##### ASPEN WATTLES: WESTERN EXCELSIOR

**Description:** EARTHEN BERMS WITH WATTLES PRIOR TO EARTH DISTURBANCE

**Installation** 12/3/2019

**Maintenance Requirements** Remove sediment before it has accumulated to one-half of the above-ground height of any perimeter control.

**Design Specifications** MATERIAL PROPERTIES AND DIMENSIONS  
WESTERN EXCELSIOR: ASPEN EXCELSIOR LOGS  
Table 1 -Specified Expected Values

Diameter	10 ft (3.0 m) Length	20 ft (6.0 m) Length	25 ft (7.6 m) Length
9 in (0.23 m)	25.0 lbs (11.3 kg) 2.5 lbs/ft (3.7 kg/m) 5.8 lbs/ft' (93.3 kg/m')	50.0 lbs (22.7 kg) 2.5 lbs/ft (3.7 kg/m) 5.7 lbs/ft' (92.2 kg/m')	62.5 lbs (28.4 kg) 2.5 lbs/ft (3.7 kg/m) 5.7 lbs/ft' (91.9 kg/m')
12 in (0.31 m)	30.0 lbs (13.6 kg) 3.0 lbs/ft (4.5 kg/m) 4.0 lbs/ft' (63.5 kg/m')	60.0 lbs (27.2 kg) 3.0 lbs/ft (4.5 kg/m) 3.9 lbs/ft' (62.5 kg/m')	75.0 lbs (34.0 kg) 3.0 lbs/ft (4.5 kg/m) 3.9 lbs/ft' (62.3 kg/m')
18 in (0.46 m)	50.0 lbs (22.7 kg) 5.0 lbs/ft (7.4 kg/m) 3.0 lbs/ft' (47.9 kg/m')	100.0 lbs (45.4 kg) 5.0 lbs/ft (7.4 kg/m) 2.9 lbs/ft' (46.7 kg/m')	125.0 lbs (56.7 kg) 5.0 lbs/ft (7.4 kg/m) 2.9 lbs/ft' (46.4 kg/m')
20 in (0.51 m)	50 lbs (22.7 kg) 5.0 lbs/ft (7.4 kg/m) 2.4 lbs/ft' (39.0 kg/m')	100.0 lbs (45.4 kg) 5.0 lbs/ft (7.4 kg/m) 2.4 lbs/ftl(37.9 kg/m')	125.0 lbs (56.7 kg) 5.0 lbs/ft (7.4 kg/m) 2.3 lbs/ft' (37.7 kg/m')

Table 2 -Netting

Fiber Composition: High Altitude Machine Curled Aspen Excelsior

Fiber Dimensions : 80% Greater than 6 in.

Netting: 0.50" x 0.50" Heavy Duty Synthetic

Configuration: Cylindrical with Closed Ends

End Closure: Hog Ring or Tied

\*All values shown measured at the time of manufacture.

Document # WE\_EXCEL\_AEL\_SPEC. This document has been developed to provide the characteristic properties of the product described and supersedes all previous versions. For question, to request performance data or installation recommendations, contact Western Excelsior at 1-866-540-9810 or wexcotech@westernexcelsior.com. Updated 8/19/2015.

#### 4.3 Sediment Track-Out

##### Specific Track-Out Controls

<b>Description:</b> CATTLE GUARDS ALONG N12	
<b>Installation</b>	EXISTING
<b>Maintenance Requirements</b>	Sediment that has been tracked-out from the site onto paved roads, or other paved areas outside the site, remove the deposited sediment by the end of the same business day in which the track-out occurs or by the end of the next business day if track-out occurs on a non-business day. Remove the track-out by sweeping, shoveling, or vacuuming cattle guard, or by using other similarly effective means of sediment removal. NECA is prohibited from hosing or sweeping tracked-out sediment into any storm water conveyance, storm drain inlet
<b>Design Specifications</b>	EXISTING N12 CATTLE GUARDS

#### 4.4 Stockpiled Sediment or Soil

- STOCKPILE MANAGEMENT WILL OCCUR ALONG LINEAR PROJECT N6331 FROM BOP 33+920.00 TO EOP 37+564.614 LEFT AND RIGHT.
- 

##### Specific Stockpile Controls

<b>Description:</b> TEMPORARY WATTLES /GRAVEL BAGS AROUND OR NEAR STOCKPILES	
<b>Installation</b>	12/3/2019
<b>Maintenance Requirements</b>	KEEP WATTLES/GRAVEL BAGS MAINTAIN AND FREE OF ANY CONSTRUCTION MATERIAL FROM STOCKPILES FROM GETTIN INTO WASHES. INSPECT BRAVEL BAGS AFTER EACH RAINFALL AND WEEKLY THROUGHOUT THE RAINY SEASON. INSPECT WATTLES/GRAVEL BAGS FOR SEDIMENT ACCUMULATIONS AND REMOVE SEDIMENT WHEN IT REACHES ONE-HALF OF HEIGHT. THE REMOVED SEDIMENT WILL BE INCORPORATED INTO THE CONSTRUCTION ROW. REMOVE WATTLES/GRAVEL BAGS WHEN NO LONGER NEEDED. REMOVE SEDIMENT ACCUMULATIONS AND CLEAN, REGRADE, AND STABILIZE AREA



**Design  
Specifications**

**MATERIAL PROPERTIES AND DIMENSIONS  
WESTERN EXCELSIOR: ASPEN EXCELSIOR LOGS**

**Table 1 -Specified Expected Values**

Diameter	10 ft (3.0 m) Length	20 ft (6.0 m) Length	25 ft (7.6 m) Length
9 in (0.23 m)	25.0 lbs (11.3 kg) 2.5 lbs/ft (3.7 kg/m) 5.8 lbs/ft' (93.3 kg/m')	50.0 lbs (22.7 kg) 2.5 lbs/ft (3.7 kg/m) 5.7 lbs/ft' (92.2 kg/m')	62.5 lbs (28.4 kg) 2.5 lbs/ft (3.7 kg/m) 5.7 lbs/ft' (91.9 kg/m')
12 in (0.31 m)	30.0 lbs (13.6 kg) 3.0 lbs/ft (4.5 kg/m) 4.0 lbs/ft' (63.5 kg/m')	60.0 lbs (27.2 kg) 3.0 lbs/ft (4.5 kg/m) 3.9 lbs/ft' (62.5 kg/m')	75.0 lbs (34.0 kg) 3.0 lbs/ft (4.5 kg/m) 3.9 lbs/ft' (62.3 kg/m')
18 in (0.46 m)	50.0 lbs (22.7 kg) 5.0 lbs/ft (7.4 kg/m) 3.0 lbs/ft' (47.9 kg/m')	100.0 lbs (45.4 kg) 5.0 lbs/ft (7.4 kg/m) 2.9 lbs/ft' (46.7 kg/m')	125.0 lbs (56.7 kg) 5.0 lbs/ft (7.4 kg/m) 2.9 lbs/ft' (46.4 kg/m')
20 in (0.51 m)	50 lbs (22.7 kg) 5.0 lbs/ft (7.4 kg/m) 2.4 lbs/ft' (39.0 kg/m')	100.0 lbs (45.4 kg) 5.0 lbs/ft (7.4 kg/m) 2.4 lbs/ftl(37.9 kg/m')	125.0 lbs (56.7 kg) 5.0 lbs/ft (7.4 kg/m) 2.3 lbs/ft' (37.7 kg/m')

**Table 2 -Netting**

Fiber Composition: High Altitude Machine Curled Aspen Excelsior

Fiber Dimensions : 80% Greater than 6 in.

Netting: 0.50" x 0.50" Heavy Duty Synthetic

Configuration: Cylindrical with Closed Ends

End Closure: Hog Ring or Tied

**\*All values shown measured at the time of manufacture.**

**Document # WE\_EXCEL\_AEL\_SPEC.** This document has been developed to provide the characteristic properties of the product described and supersedes all previous verSions. For question, to request performance data or installation recommendations, contact Western Excelsior at 1-866-540-9810 or wexcotech@westernexcelsior.com. Updated 8/19/2015.

#### 4.5 Minimize Dust

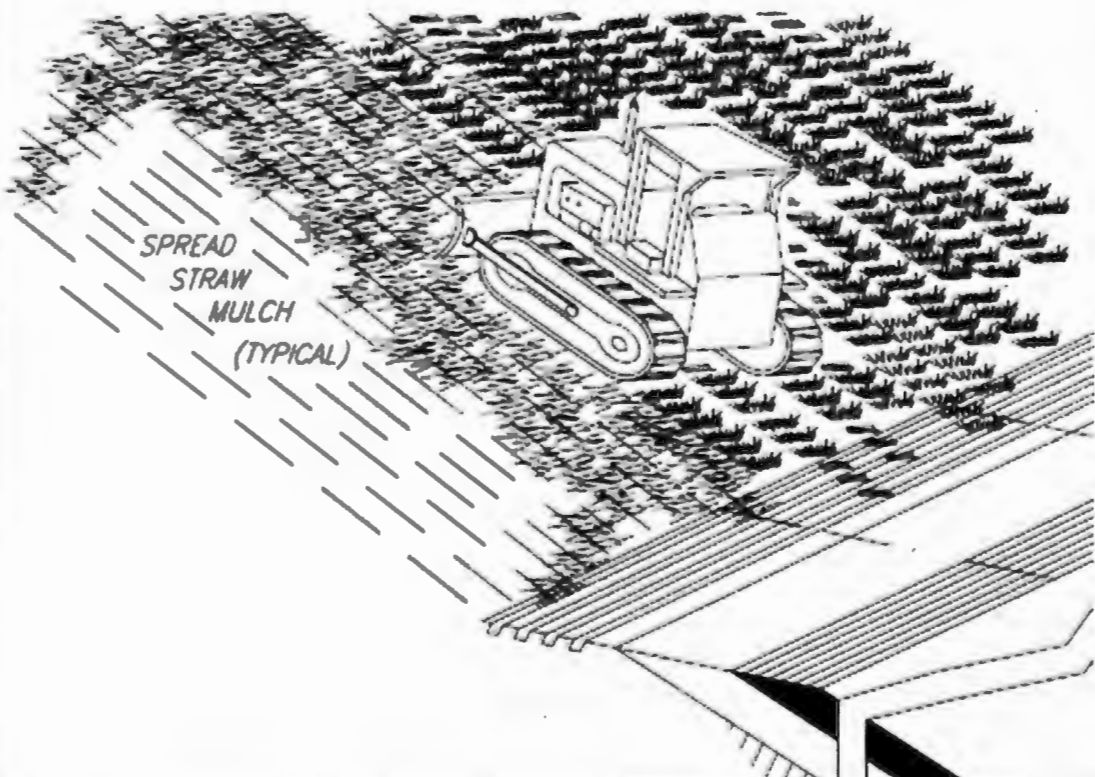
- USE OF WATER TRUCK FOR PROCESSING MATERIAL FOR COMPACTION AND FOR ROADWAY DUST CONTROL.

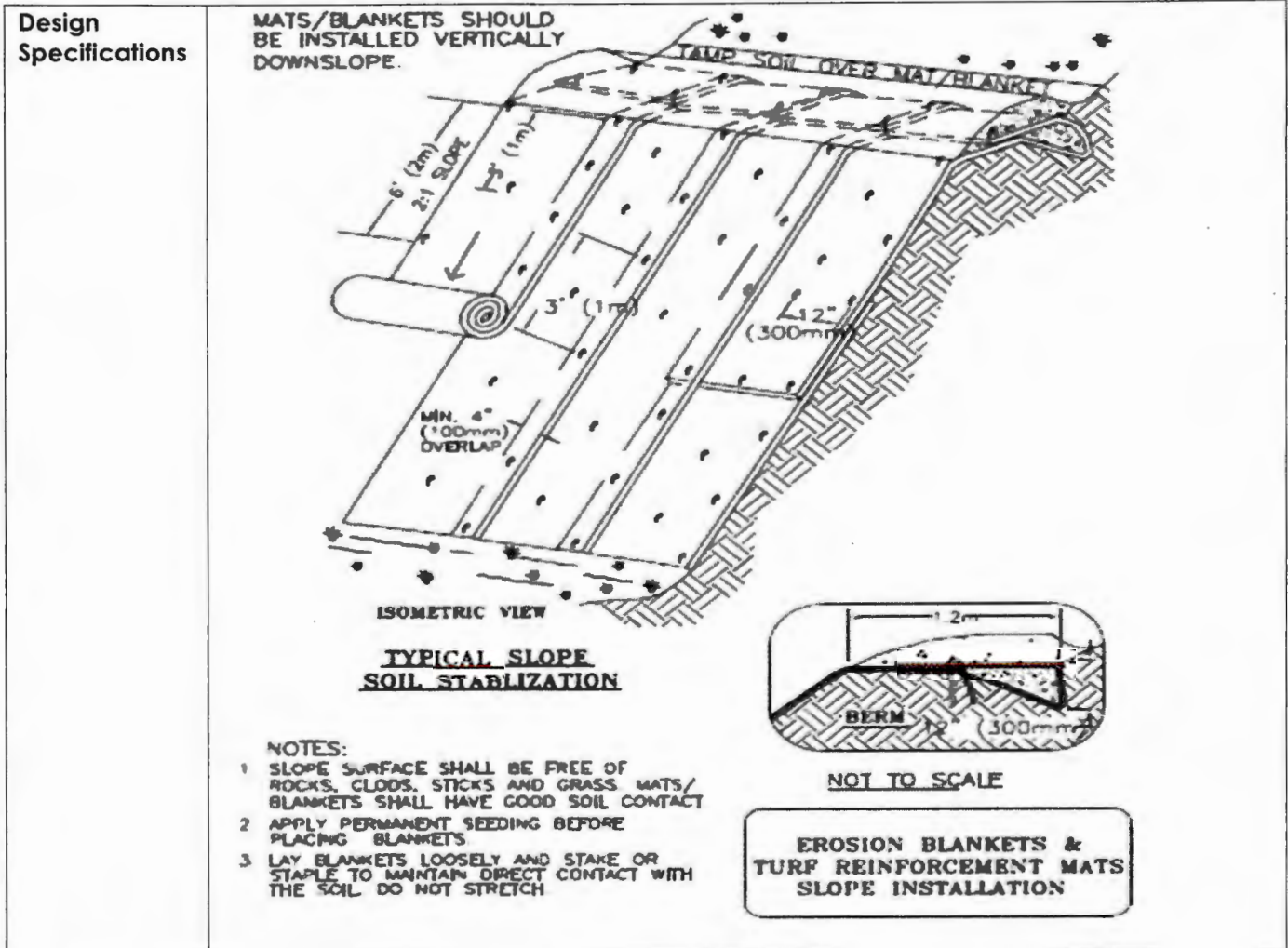
##### Specific Dust Controls

<b>Description:</b> WATER TRUCK	
<b>Installation</b>	3/2/2020
<b>Maintenance Requirements</b>	KEEP WATER FROM LEAVING ROW AND USE WATTLES OR OTHER BMPs TO PREVENT IT.
<b>Design Specifications</b>	NONE, STANDARD 1500 GALLON WATER TRUCK.

#### 4.6 Minimize Steep Slope Disturbances

##### Specific Steep Slope Controls

<b>Description:</b> SLOPE TRACK-WALKING OR MULCHING	
<b>Installation</b>	4/28/2020
<b>Maintenance Requirements</b>	EQUIPMENT BULLDOZER, HAND SPREAD MULCH EROSION CONTROL MATTING
<b>Design Specifications</b>	



#### 4.7 Topsoil

##### Specific Topsoil Controls

<b>Description:</b> WILL BE USING TOPSOIL FOR BACKFILL MATERIAL OF ROADWAY AND SIDE SLOPE AND FOR USE AS PIPE ZONE MATERIAL	
<b>Installation</b>	4/28/2020
<b>Maintenance Requirements</b>	COMPACTION AND PROCESSING OF MATERIAL
<b>Design Specifications</b>	PER FEDERAL PROJECTS (FP) 03 REQUIREMENTS

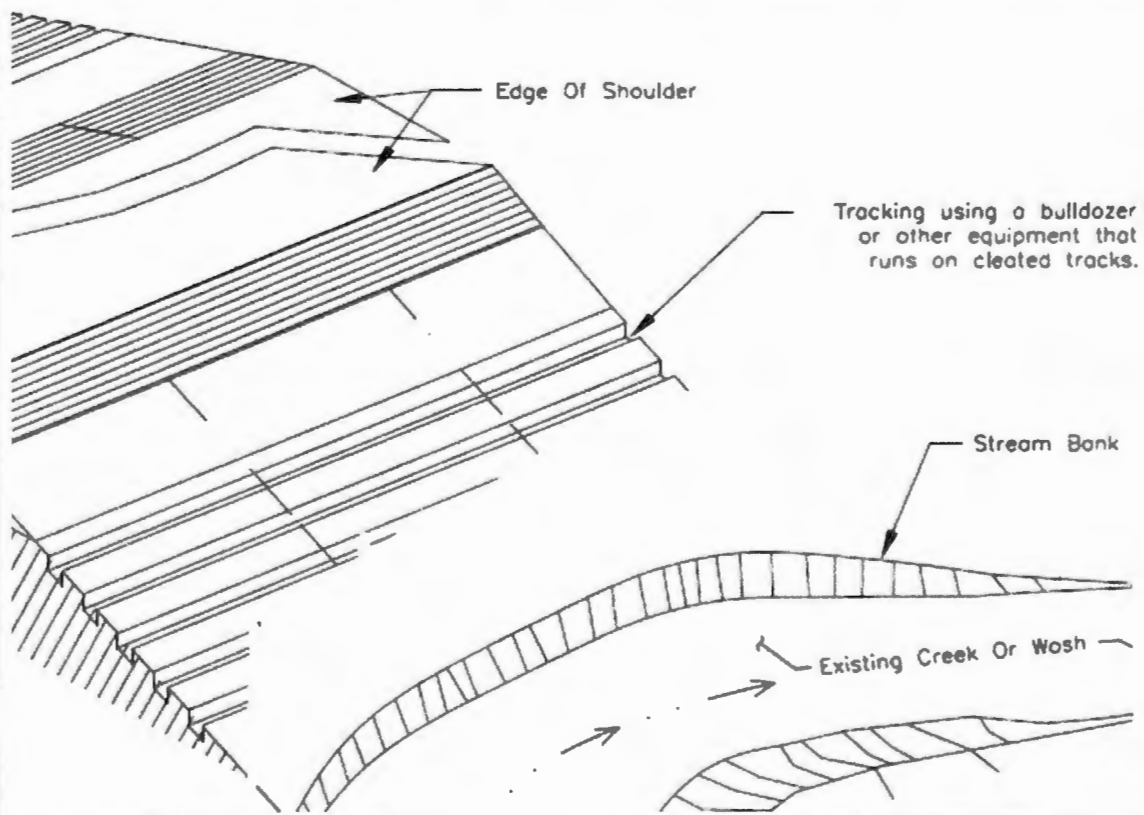


#### 4.8 Soil Compaction

##### General

- SLOPE MATTING ON SIDE OF ROADWAY AND WATTLES IF NEEDED

##### Specific Soil Compaction Controls

<b>Description:</b> COMPACTION OF SIDE SLOPE AND AT PRISM OF FILL PER THE REQUIREMENTS OF THE NDOT SPECIFICATIONS	
<b>Installation</b>	3/2/2020
<b>Maintenance Requirements</b>	USAGE OF TRACK-WALKING IF NEEDED AS THE FILL SLOPE RISES TO CATCH POINT
<b>Design Specifications</b>	



4.9 Storm Drain Inlets: N/A

4.10 Stormwater Conveyance Channels: N/A

4.11 Sediment Basins: N/A

4.12 Chemical Treatment: N/A

4.13 Dewatering Practices: N/A

4.14 Other Stormwater Controls

- GRAVEL BAGS AS NEEDED IN AREAS NOT ACCESSABLE TO WATTLES

**Specific Stormwater Control Practices**

<b>Description:</b> GRAVEL BAGS	
<b>Installation</b>	12/3/2019
<b>Maintenance Requirements</b>	REMOVE SEDIMENT BEFORE IT HAS ACCUMULATED TO ONE-HALF OF THE ABOVE-GROUND HEIGHT OF ANY PERIMETER CONTROL
<b>Design Specifications</b>	BAGS SHALL BE WOVEN POLYPROPYLENE, POLYETHYLENE, OR POLYAMIDE FABRIC, minimum unit weight 4 ounces per square yard; mullen burst strength exceeding 300 psi in conformance with the requirements in ASTM designation D3786; and ultraviolet stability exceeding 70 percent in conformance with the requirements in ASTM designation D4355. Gravel shall be between 0.4 and 0.8 inch in diameter and shall be clean and free from clay balls, organic matter, and other deleterious materials. The filled bags shall be between 28 and 48 pounds in mass.

4.15 Site Stabilization

Once NECA begins construction, consider using the Grading/Stabilization Activities log in Appendix H, of this SWPPP, to document the work compliance with the stabilization requirements in CGP Part 2.2.14.

**Total Amount of Land Disturbance Occurring at Any One Time**

- ☐ Two Hectares or less  
☒ More than Two Hectares

<b>GRADING AND TRACK-WALKING, ALSO THE USE OF EROSION MATTING AND SEEDING</b> <b>Arid, semi-arid, or drought-stricken area</b>	
<input type="checkbox"/> Vegetative <input type="checkbox"/> Non-Vegetative <input type="checkbox"/> Temporary <input checked="" type="checkbox"/> Permanent	
<b>Description:</b> <ul style="list-style-type: none"> <li>TRACK-WALKING, MATTING, AND SEEDING</li> <li>Immediately initiate, and within 14 calendar days of a temporary or permanent cessation of work in any portion of the site complete, the installation of temporary non-vegetative stabilization measures to the extent necessary to prevent erosion; As soon as practicable, given conditions or circumstances on the site, complete all activities necessary to seed the area to be stabilized; and (iii) If construction is occurring during the seasonally dry period, indicate in the SWPPP.</li> </ul>	
<b>Dry Period</b>	<ul style="list-style-type: none"> <li>Beginning date of seasonally dry period: 4/1/2019</li> <li>Ending date of seasonally dry period: 6/30/2019</li> <li>Site conditions during this period: DRY WITH INTERMITTING MONSOON RAINS, BY THEN GROUND CONDITIONS WILL BE MUDDY.</li> </ul>
<b>Installation and completion schedule</b>	SITE PREPARATION, DRILL SEED APPLICATION. PLACEMENT OF MATTING IF NEEDED. <ul style="list-style-type: none"> <li>Approximate installation date: 2/17/2020</li> <li>Approximate completion date: 2/24/2020</li> </ul>
<b>Maintenance Requirements</b>	Repair erosion and/or undermining at the top of the slope. Repair undermining beneath RECP(s), pull back the RECP(s), fill and compact eroded area, reseed and then secure RECP(s) firmly. Reposition or replace RECPs that have moved along the slope or channel and secure firmly. Replace damaged RECPs.

## Design Specifications

# BIOMAC® CC 028.2 DOUBLE NET COCONUT ROLLED EROSION CONTROL PRODUCT

BIOMAC® CC 028.2 is made with uniformly distributed 100% coconut fiber and two polypropylene net securely sewn together with UV stabilized thread. The tightly compressed blankets are wrapped and include a product label and code. The blankets are galletized for easy transportation. The BIOMAC® CC 028.2 has functional longevity of approximately 36 months, but will vary depending on soil and climatic conditions, and is suitable for slopes 1:1 and medium to high flow channels. The BIOMAC® CC 028.2 meets Type 4 specification requirements established by the Erosion Control Technology Council (ECTC) and Federal Highway Administration's (FHWA) FP-03 Section 713.17.

Material	1	2	
	100% Coconut		
Netting	Type		Net Color
Top	Medium weight UV Stabilized Polypropylene		Black
Middle	None		
Bottom	Medium weight UV Stabilized Polypropylene		
Net Opening	Top	Middle	Bottom
	0.5" x 0.5"		0.75" x 0.75"
Thread	Type	Color	
	UV Stabilized Thread	Black	
Roll Size	Standard	"A" Size	Mega
Width	7.5 ft (2.3 m)	3.75 ft (1.1 m)	15 ft (4.6 m)
Length	120 ft (36.6m)	240 ft (73.2 m)	120 ft (36.6 m)
Weight ±10%	57 lbs (25.9 kg)	57 lb (25.9 kg)	114 lb (51.7 kg)
Area	100 yd² (83.6 m²)	100 yd² (83.6 m²)	200 yd² (167.2 m²)
#/Pallet	20	9	16

### Index Value Properties

Property	Test Method	Typical
Mass/Unit Area	ASTM D8475	9.25 oz/yd² (3134 g/m²)
Thickness	ASTM D8525	0.25 in (6.40 mm)
Tensile Strength MD	ASTM D6818	310 lb/yd (432 kN/m)
Elongation MD	ASTM D6818	20.5 %
Tensile Strength TD	ASTM D6818	250 lb/yd (345 kN/m)
Elongation TD	ASTM D6818	20.0 %
Light Penetration	ASTM D8267	16 %
Density / specific Gravity	ASTM D792	N/A
Water Absorption	ASTM D1117	100 %

\*May differ depending upon raw material variations

### Slope Performance Design Values

Property	Test Method	Value
C-Factor	ASTM D8459	0.01

Slope Length (L)	≤ 3:1	2:1-2:1	≥ 2:1
< 50 ft (15 m)	0.040	0.023	0.072
50 ft - 100 ft	0.030	0.054	0.080
> 100 ft (30 m)	0.024	0.034	0.104

\*Large Scale Results obtained by 3<sup>rd</sup> Party GIL Accredited Independent Laboratory

### Batch-Scale Testing\* (NTPP\*\*\*\*)

Test Method	Parameters	Results
ECTC Method 2 Rainfall	30 mm (1.18 in) / hr 30 min	SLR** = 8.45
	100 mm (3.94 in) / hr 30 min	SLR** = 10.43
	150 mm (5.91 in) / hr 30 min	SLR** = 11.90
ECTC Method 3 Shear Resistance	Shear at 0.50 in soil loss	2.95 lb/ft²
ECTC Method 4 Corrosion (top soil, 100% / day incubation)		772 %

\*Batch scale tests should not be used for design purposes

\*\*Soil Loss Ratio = Soil Loss Rate (lb/ft²/day) / Soil Loss with R50P = 1/C Factor

\*\*\*The preceding test results were reproduced with the permission of AASHTO however they do not constitute endorsement or approval of the product, material or device by AASHTO

### Channel Performance Design Values

Property	Test Method	Value
Unvegetated Shear Stress	ASTM D 6480	2.30 lb/ft² (119.7 Pa)
Unvegetated Velocity	ASTM D 6480	10.6 ft/s (3.03 m/s)
Vegetated Shear Stress	N/A	N/A
Vegetated Velocity	N/A	N/A
Manning's n (Value Represents a Range)		0.025

\*Large Scale Results obtained by 3<sup>rd</sup> Party GIL Accredited Independent Laboratory



## SECTION 5: POLLUTION PREVENTION STANDARDS

### 5.1 Potential Sources of Pollution

#### Construction Site Pollutants

<b>Pollutant-Generating Activity</b>	<b>Pollutants or Pollutant Constituents</b> (that could be discharged if exposed to stormwater)	<b>Location on Site</b> (or reference SWPPP site map where this is shown)
Concrete Curb and Gutter	Concrete waste, sediment, form oil	CBC and Crossing
Sidewalks	Concrete waste, sediment, form oil	CBC and Crossing
Concrete Slope Paving Concrete Spillway	Concrete waste, sediment, form oil	CBC and Crossing
Guardrails	Oil, sediment	Roadway Fill areas
Cattle guard/Fencing	Concrete waste	ROW
Fence Removal	sediment	ROW and other areas
ROW markers	Concrete waste, sediment	ROW
Erosion BMPs and Seeding	sediment	B.O.P. to E.O.P., Hot Plant and Borrow pits
Sign and Delineators installation	sediment	Linear roadway
Rumble strips	Asphalt waste	Hot plant
Pavement markings	Paint waste	Roadway
Temporary Traffic Control	sediment	Roadway/alternate roadway
Remove existing CMP	sediment	wash crossing
Stockpile Material	sediment	wash crossing
Equipment Work	petroleum-based material	Throughout site, maintaining
Non-Discharge Watering of site with Water truck	sediment	wash crossing
Form slope blankets, Rebar	waste concrete, form-oil, iron oxides, sediment	wash crossing
Pour Concrete, admixtures	sediment,	wash crossing
Material backfilling	sediment	wash crossing
Roadway construction	sediment	wash crossing
Erosion control matting/seeding	sediment	wash crossing



## 5.2 Spill Prevention and Response

Copy of SPCC Plan to be included in this SWPPP

## 5.3 Fueling and Maintenance of Equipment or Vehicles

- FUELING IN AREAS OF THE PROJECT SO AS IT WILL NOT COME IN CONTACT OR GO BEYOND THE RIGHT OF WAY TO TSAILE CREEK, WHEATFIELDS CREEK, AQUA SAL CREEK AND BLACK PINNALE SPRING.

### Specific Pollution Prevention Practices

GATOR SOCKS OR LINED AREA	
<b>Description:</b> DRIP PAN OR ABSORBENTS SUCH AS GATOR SOCKS FOR LEAKS AND SPILLS IF THEY OCCUR.	
<b>Installation</b>	11/19/2019
<b>Maintenance Requirements</b>	Absorbents will take on the properties of whatever is absorbed; measures must taken as if it was the chemical or liquid itself. Minimize the dust generation and accumulation of these absorbents dispose of as non-hazardous material, depending on material absorbed.
<b>Design Specifications</b>	Fluid Absorbed: Oils, Coolants, Solvents, Water – Universal Color: Gray Dimensions: ext. dia. 3" x 42" L Recycled Content: 99% Pre-Consumer Recycled Cellulose Filler Absorbency: Up to 10 gal. per box Absorbency: per Up to 64 oz. per sock Configuration: Sock Filler: Corn Cob Skin/Outer Mesh: Skin - Polypropylene Weight: 20.1 lbs. Application: Leaks & Drips, Maintenance

## 5.4 Washing of Equipment and Vehicles

### General

- POLLUTION PREVENTION OF WASHING

### Specific Pollution Prevention Practices

POLLUTION PREVENTION OF WASHING	
<b>Description:</b> SEDIMENT WATTLES OR GATOR SOCKS	
<b>Installation</b>	11/19/2019
<b>Maintenance Requirements</b>	WATTLES AND GATOR SOCKS AROUND EQUIPMENT OR VEHICLE.

## 5.5 Storage, Handling, and Disposal of Building Products, Materials, and Wastes

Per requirements listed below, USEPA CGP Parts 5.5.1, 5.5.2, 5.5.3, 5.5.4, 5.5.5, and 5.5.6

### 5.5.1 Building Products

- PRODUCTS WILL BE COVERED TO MINIMIZE EXPOSURE FROM STORMWATER THAT MAY OCCUR DURING THE WORK PERIOD.

#### Specific Pollution Prevention Practices

INSERT NAME OF POLLUTION PREVENTION PRACTICE	
Description: CONSTRUCTION MATERIALS	
Installation	11/19/2019
Maintenance Requirements	Locate storage of materials away from waterways. Supply Safety Data Sheets (SDS) for all materials stored. Store materials in a covered area during the wet season. Do not store materials directly on the ground.

### 5.5.2 Pesticides, Herbicides, Insecticides, Fertilizers: N/A

#### General

- Landscape Materials:** MINIMIZE EXPOSURE TO STORMWATER UNTIL INSTALLED PER CONSTRUCTION PLANS. see below

#### Specific Pollution Prevention Practices

Description: EROSION CONTROL MATTING ON SIDE FILL SLOPES.	
Installation	10/28/2020
Maintenance Requirements	Manually unroll blankets down the slope to prevent stretching or pulling out of the anchor trench. Do not walk on the installed blanket. Follow the manufacturer's recommendations for overlapping and stapling. Prepare slopes (smooth, uniform surface) prior to blanket installation so the blanket makes contact with the entire soil surface when secured.

### 5.5.3 Diesel Fuel, Oil, Hydraulic Fluids, Other Petroleum Products, and Other Chemicals

#### General

- Products will be stored in water-tight container and visquees will be used to minimize exposure from stormwater. Any spills will be cleaned up immediately using dry cleaning methods and dispose of properly and possibly using a secondary containment, such as absorbent socks

#### Specific Pollution Prevention Practices

Description: SPCC REQUIREMENTS AT PROJECT SITE	
Installation	11/18/2019
Maintenance Requirements	Handle all pollutants in a manner that does not cause contamination of storm water. Covers, contains, and protects all materials from vandalism so that, if spilled, the materials would not pose an immediate risk to the wash near-by. Maintain and repair heavy equipment using spill prevention measures such as drip pans and, if necessary, cover. Mobile fuel truck and the pick-up truck with tanks will be parked in a lined area, which is locked when they are not in use.



#### 5.5.4 Hazardous or Toxic Waste

(Note: Examples include paints, solvents, petroleum-based products, wood preservatives, additives, curing compounds, acids.)

##### General

- DISPOSAL OF SCRAP CONSTRUCTION MATERIAL, CONCRETE DEBRIS AND OTHER TRASH MATERIALS.

##### Specific Pollution Prevention Practices

INSERT NAME OF POLLUTION PREVENTION PRACTICE	
<b>Description:</b> STORE WASTE IN COVERED CONTAINERS AND DISPOSE IN ACCORDANCE TO LOCAL REQUIREMENTS	
<b>Installation</b>	11/18/2019
<b>Maintenance Requirements</b>	clean up and removal from site for proper disposal by outside contractor

#### 5.5.5 Construction and Domestic Waste

##### General

- ☐ PROVIDE DUMPSTER TO CONTAIN CONSTRUCTION WASTE. THE DUMPSTER NEEDS TO BE COVERED SO AS MATERIAL WILL NOT GET INTO NEARBY WASHES OR WATERWAYS.

##### Specific Pollution Prevention Practices

<b>Description:</b> TRASH DUMPSTER	
<b>Installation</b>	11/18/2019
<b>Maintenance Requirements</b>	empty dumpster in a timely manner to assure no overflow of construction waste.

#### 5.5.6 Sanitary Waste

##### General

- PORTABLE TOILETS

##### Specific Pollution Prevention Practices

<b>Description:</b> PORTA-A-JOHN FOR EMPLOYEES	
<b>Installation</b>	11/18/2019
<b>Maintenance Requirements</b>	Position portable toilets so as it will not be tipped over and is located far away from wash. Clean out according to subcontractor schedule.

**5.6 Washing of Containers used for Concrete or Other Materials**

- Do not wash out concrete trucks onto the ground. Wash out concrete trucks in designated concrete washout area.
- Do not allow wash-down from concrete aggregate areas to drain directly to surface waters or natural or constructed storm water conveyances.
- Use forms or solid barriers, such as pilings, for concrete pours within 15 feet of surface waters.
- When feasible, schedule larger concrete pours for the dry season.
- Use BMPs whenever feasible to prevent storm water from coming into contact with freshly poured concrete and concrete waste.
- Always monitor for elevating pH levels in storm water runoff, prevent high-pH storm water from discharging.

**Specific Pollution Prevention Practices**

<b>CONCRETE WASTE DUMP</b>	
<b>Description:</b> LINED CONCRETE WASTE DUMP	
<b>Installation</b>	6/1/2020
<b>Maintenance Requirements</b>	Cleanout waste concrete for disposal outside ROW. Keep any form oil or like material in designated areas. Cleanout concrete washout in a timely matter so as it does not overflow.
<b>Design Specifications</b>	WASHOUT CAN USE STACKED WATTLES COVER WITH HEAVY LINER.

**5.7 Fertilizers: N/A**

**5.8 Other Pollution Prevention Practices: N/A**



## SECTION 6: INSPECTION, MAINTENANCE, AND CORRECTIVE ACTION

### 6.1 Inspection Personnel and Procedures

#### Personnel Responsible for Inspections

**MICHAEL REDHORSE**

**JAMIE SAGG**

and OTHER ASSIGNED EMPLOYEES AS PROJECT PROGRESSES

#### Inspection Schedule

<b>Standard Frequency:</b>
<input checked="" type="checkbox"/> Every 7 days
<input type="checkbox"/> Every 14 days and within 24 hours of <b>0.43 inches, per contract requirements</b> , rain or the occurrence of runoff from snowmelt sufficient to cause a discharge
<b>Reduced Frequency</b>
<b>For stabilized areas on "linear construction sites"</b>
<input checked="" type="checkbox"/> Twice during first month, no more than 14 calendar days apart; then once more within 24 hours of <b>0.43 inches, per contract requirements</b> , rain.
<ul style="list-style-type: none"><li>▪ <b>ALONG LINEAR PROJECT N6331 FROM BOP 33+920.00 TO EOP 37+564.614 LEFT AND RIGHT.</b></li><li>▪ 3/9/2020 END DATE OF AREAS TO BE COMPLETED</li></ul>
<b>For arid, semi-arid, or drought-stricken areas during seasonally dry periods or during drought</b>
<input checked="" type="checkbox"/> Once per month and within 24 hours of <b>0.43 inches, per contract requirements</b> , rain.
Insert beginning and ending dates of the seasonally-defined dry period for your area or the valid period of drought: <ul style="list-style-type: none"><li>▪ Beginning date of seasonally dry period: 4/1/2019</li><li>▪ Ending date of seasonally dry period: 6/30/2019</li></ul>
<b>For frozen conditions where earth-disturbing activities are being conducted</b>
<input checked="" type="checkbox"/> Once per month
Insert beginning and ending dates of frozen conditions on your site: <ul style="list-style-type: none"><li>▪ Beginning date of frozen conditions: 11/12/2018 Ending date of frozen conditions: 3/1/2019</li><li>▪ Beginning date of frozen conditions: 11/11/2019 Ending date of frozen conditions: 3/3/2020</li></ul>

#### Rain Gauge Location:

1. **Tsaile Arizona Project Office/Material Yard**
2. **Wheatfields Arizona N12 Borrow Pit**
3. **Tsaile Arizona N12 Hot Plant Site**

**Inspection Report Forms:**

**COPY OF INSPECTION REPORT FORMS IN APPENDIX D IN THIS SWPPP**

**6.2 Corrective Action**

**Personnel Responsible for Corrective Actions**

Michael Redhorse, Area Project Superintendent

Jamie Sagg, Project Engineer

**Other Assigned Employees As Project Progresses**

**Corrective Action Forms**

**COPY OF CORRECTIVE ACTION FORMS IN APPENDIX E IN THIS SWPPP**

**6.3 Delegation of Authority**

**Duly Authorized Representative**

NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY

Herman Patterson

Construction Manager

P.O. Box 969

Shiprock, New Mexico 87420

505-701-1379

Herman@navajo.net

NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY

Michael Redhorse

Area Project Superintendent

P.O. Box 969

Shiprock, New Mexico 87420

505-406-7489

Michael@navajo.net

NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY

Jamie Sagg

Project Field Coordinator/Engineer

P.O. Box 969

Shiprock, New Mexico 87420

928-209-2028

jamie@navajo.net

## SECTION 7: TRAINING

**Table 7-1: Documentation for Completion of Training**

<b>Name</b>	<b>Describe Training</b>	<b>Date Training Completed</b>
CALVERT OWEN	CGP 2008/BMPs	5/15/2009
CHRISTINE PADILLA	CGP 2017/BMPs	9/8/2017
LEE B. ROY	CGP 2017/BMPs	7/14/2017
MICHAEL REDHORSE	CGP 2017/BMPs	7/14/2017
<b>Other Assigned Employees As Project Progresses</b>		

## SECTION 8: CERTIFICATION AND NOTIFICATION

### Navajo Nation Enterprise's Certification

NECA certify under penalty of law that this document and all attachments were prepared in accordance with the **2017 General Construction Permit of the USEPA / NPDES regulations**. This certification is designed to assure that qualified personnel properly gathered and evaluated the information submitted, based on the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. NECA is aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

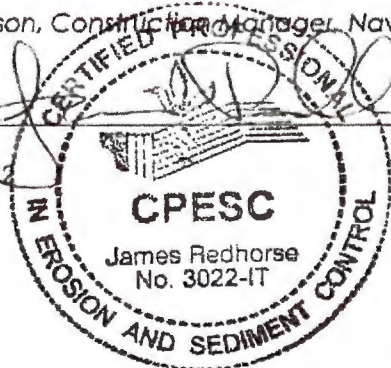
Signed: \_\_\_\_\_

Date: 10-29-19

Herman Patterson, Construction Manager, Navajo Engineering and Construction Authority

Prepared by: \_\_\_\_\_

CPESC-IT #3022



### Owner's Certification

The Owner, under the penalty of the law that the Owner understands the terms and conditions of the general **National Pollutant Discharge Elimination System (NPDES)** permit that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification.

Signed: \_\_\_\_\_

Date: 11/20/19

(NDOT) Representative, Darryl Bradley, Principal Civil Engineer  
Navajo Department of Transportation  
P.O. Box 4620, Window Rock, Arizona 86515



# Spill Prevention Control and Countermeasures Plan 2015 Update

FOR

## Navajo Engineering Construction Authority Portable Hot Asphalt Mix Plant



Date of Plan: December 16, 2015 (Amended July 9, 2018)  
P.E. Certification: New Mexico # 21173

Designated person accountable for spill prevention:

Christine Padillia  
Asphalt Plant Supervisor

Nicholas Robert Porell, P.E.

*iiná bá*

4801 N. Butler Ave.  
Farmington, NM 87401  
[www.iinabá.com](http://www.iinabá.com)  
Phone: (505) 327-1072  
Fax: (505) 327-1517

Project No. NECAUTH-00018

**Spill Prevention Control and  
Countermeasures Plan 2015 Update  
for  
Navajo Engineering Construction Authority  
Portable Hot Asphalt Mix Plant**

Original Date of Plan: March 5, 2003 (Amended July 9, 2018)

Designated person responsible for spill prevention:

Christine Padilla  
Asphalt Plant Manager

**PROFESSIONAL ENGINEER CERTIFICATION**

The undersigned Registered Professional Engineer is familiar with the requirements of Part 112 of Title 40 of the Code of Federal Regulations (40 CFR Part 112) and has visited and examined the facility, or has supervised examination of the facility by appropriately qualified personnel. The undersigned Registered Professional Engineer attests that this Spill Prevention, Control, and Countermeasure Plan (SPCC) has been prepared in accordance with good engineering practice, including consideration of applicable industry standards and the requirements of 40 CFR Part 112; that procedures for required inspections and testing have been established; and that this Plan is adequate for the facility. [40 CFR 112.3(d)]

This certification in no way relieves the owner or operator of the facility of his/her duty to prepare and fully implement this SPCC Plan in accordance with the requirements of 40 CFR Part 112. This Plan is valid only to the extent that the facility owner or operator maintains, tests, and inspects equipment, containment, and other devices as prescribed in this Plan.

Engineer: Nicholas Robert Porell, P.E.

Signature \_\_\_\_\_

Registration Number 21173

State New Mexico

Date: December 16, 2015

**Spill Prevention Control and  
Countermeasures Plan 2015 Update  
for  
Navajo Engineering Construction Authority  
Portable Hot Asphalt Mix Plant**

Original Date of Plan: March 5, 2003

Designated person responsible for spill prevention:

Mr. Joe Jimmie  
Asphalt Plant Manager

**PROFESSIONAL ENGINEER CERTIFICATION**

The undersigned Registered Professional Engineer is familiar with the requirements of Part 112 of Title 40 of the Code of Federal Regulations (40 CFR Part 112) and has visited and examined the facility, or has supervised examination of the facility by appropriately qualified personnel. The undersigned Registered Professional Engineer attests that this Spill Prevention, Control, and Countermeasure Plan (SPCC) has been prepared in accordance with good engineering practice, including consideration of applicable industry standards and the requirements of 40 CFR Part 112; that procedures for required inspections and testing have been established; and that this Plan is adequate for the facility. [40 CFR 112.3(d)]

This certification in no way relieves the owner or operator of the facility of his/her duty to prepare and fully implement this SPCC Plan in accordance with the requirements of 40 CFR Part 112. This Plan is valid only to the extent that the facility owner or operator maintains, tests, and inspects equipment, containment, and other devices as prescribed in this Plan.

Engineer: Nicholas Robert Porell, P.E.

Signature \_\_\_\_\_

Registration Number 21173

State New Mexico



Date: December 16, 2015

**SPILL PREVENTION CONTROL AND COUNTERMEASURES  
COMPLIANCE INSPECTION PLAN  
REVIEW PAGE**

In accordance with 40 CFR 112.5(a) and 40 CFR 112.5(b), a review and evaluation of this SPCC Plan is conducted at least once every five years, or whenever substantial changes are made to either the physical facility or its operations. As a result of this review and evaluation, the Navajo Engineering Construction Authority (NECA) will amend the SPCC Plan within six months of the review to include more effective prevention and control technology if: 1) such technology will significantly reduce the likelihood of a spill event from the facility, and 2) if such technology has been field proven at the time of the review. Any amendments to the SPCC Plan shall be certified by a Professional Engineer within six months after a change in the facility design, construction, operation, or maintenance occurs which materially affects the facility's potential for the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines.

Scheduled five-year reviews and Plan amendments are recorded below. This log must be completed even if no amendment is made to the Plan. Unless a technical or administrative change prompts an earlier review, the next scheduled review of this Plan must occur by December 15, 2020.

Changes to the SPCC of a non-technical nature, such as contact information or a change in site personnel, may be made by a person other than the Professional Engineer.

The SPCC Rule applies to owners or operators of facilities that drill, produce, gather, store, use, process, refine, transfer, distribute or consume oil and oil products.

**Review Date**

**Signature/Title**

March 7, 2000

Ron Everson, Manager of Engineering

June 24, 2003

Ron Everson, Manager of Engineering

Nov. 21, 2008

Ron Everson, Manager of Engineering

Dec. 9, 2015

Brett Grubbs, Manager of Engineering

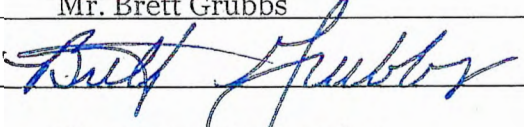
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### MANAGEMENT APPROVAL

Navajo Engineering Construction Authority is committed to the prevention of discharges of oil, chemicals or wastewater to navigable waters and the environment. This plan was prepared to minimize the likelihood of a spill at the facility and to expedite control and cleanup activities should a spill occur. Navajo Engineering Construction Authority maintains the highest standards for spill prevention, control, and countermeasures through regular review, updating, and implementation of this Spill Prevention Control and Countermeasures Plan for the facility located at 4425 CR 120.

Authorized Facility Representative: Mr. Brett Grubbs  
Signature:   
Title: Manager of Engineering

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## ATTACHMENTS

**Figure 1:** Typical Site Plan for Portable Asphalt Hot Mix Plant

<b>Appendix A</b> .....	Blank Forms
<b>Appendix B</b> .....	Completed Forms
<b>Appendix C</b> .....	Certification of the Applicability of Substantial Harm Criteria
<b>Appendix D</b> .....	Containment Volume Calculations
<b>Appendix E</b> .....	Emergency Spill & Waste Disposal Procedures
<b>Appendix F</b> .....	Project Site-Specific Information

## 1. FACILITY OWNER AND OPERATOR

### A. Facility Owner, Address, and Telephone

Mr. Brett Grubbs, Manager of Engineering  
Navajo Engineering Construction Authority  
No. 1 Uranium Blvd.  
Shiprock, New Mexico 87402  
(505) 210-7070

### B. Facility Operator, Address, and Telephone

Mr. Brett Grubbs, Manager of Engineering  
Navajo Engineering Construction Authority  
No. 1 Uranium Blvd.  
Shiprock, New Mexico 87402  
(505) 210-7070

### C. Location of SPCC Plan (40 CFR 112.3(e))

In accordance with 40 CFR 112.3(e), a complete copy of this SPCC Plan is to be maintained in the Control House (Unit #70-131) at the Portable Hot Asphalt Mix Plant facility. An additional copy is to be kept at the main NECA office at the address shown above. The asphalt plant operates from 7:00 AM to 5:30 PM during the summer, and from 8:00 AM to 4:30 PM in the winter, 5 days per week (closed on Saturdays and Sundays).

## 2. FACILITY CONTACT (S)

<u>Name</u>	<u>Title</u>	<u>Telephone</u>
Ms. Christine Padillia	Asphalt Plant Manager	Office (505) 210-7070 Cell
Mr. Frank Smith	Construction Manager	Office (505) 210-7035 Cell (970) 759-3961
Mr. Daniel Gourneau	Safety Officer	Office (505) 210-7017 Cell (505) 406-7665

## 3. FACILITY DESCRIPTION

### A. Facility Operations

Navajo Engineering Construction Authority (NECA) owns and operates a portable TEREX Hot Asphalt Mix facility located at temporary project sites for a period of 3 to 6 months. The project site-specific details are provided in **Appendix F. Figure 1** illustrates the typical layout of the portable plant. Bulk oil products consist of diesel fuel, SST tack oil, asphalt (*a.k.a.* hot oil) and drummed oil.

The diesel tank (#70-140) is a double-walled steel, horizontal aboveground storage tank (AST) with a capacity of approximately 12,000 gallons. The AST is mounted on a trailer designed for fuel and oil road transport. Fuel is supplied to the dryer through flexible hose with locking



valves that were designed and approved for petroleum products. The CAT 725 KW diesel electric generator (#70-115) has a 600 gallon single walled fuel tank. A CAT 61 KW generator mounted on a float trailer (#17-254) also contains a 191-gallon diesel fuel AST. The tanks meet manufacturers' specifications for the storage of diesel fuel. The diesel fuel tanks and the generators are located in a lined earthen bermed secondary containment. The liner is 12 mil reinforced cell poly or similar geotextiles material that is compatible with oil and fuel.

The asphalt (hot oil) is stored in a 25,000 gallon insulated steel tank (#70-130) equipped with a heater and pumps (#70-130). This unit is exempt from the SPCC Rule, as of December 2008, and therefore is not included as a managed tank in this plan. The CEI 1200 oil heater is run by a 420-gallon diesel fuel tank mounted in the gooseneck of the trailer. The SS-1 tack Oil Tanker (#70-118) is a single walled AST with a capacity of 5,450 gallons. The AST is trailer mounted and designed for fuel and oil transport. Piping and flexible hoses connect the hot oil tank to the mixer. Both tanks are located in a lined earthen bermed secondary containment. The liner is 12 mil reinforced cell polyethylene or similar geotextiles material that is compatible with oil and fuel.

New motor oil and hydraulic fluid is stored in 55 gallon steel drums within the secondary containment for the Hot Asphalt Plant. Photographs of the facility ASTs are included in **Appendix F**.

## B. Facility Storage

Tank ID	Description	Total Storage Capacity (gallons)	Contents
#70-140	Fuel Tank	12,000	Diesel #2
#17-115	Fuel Tank	600	Diesel #2
Not Applicable	Fuel Tank	200	Diesel #2
#70-118	Trailer	5,450	Tack Oil
#70-130	Fuel Tank	420	Diesel #2
<b>#70-130</b>	<b>Hot Oil Tank</b>	<b>25,000</b>	<b>Hot Oil</b>
<b>Transient Oil Storage</b>			
Hydraulic Fluid	1 drums	55	Hydraulic Fluid
Multi-grade Oil	1 drums	55	Multi-grade Oil
Waste Oil	4 drums	220 (maximum)	Waste Oil

**Total Capacity:** 44,000 gallons of petroleum products under this plan.

The tank shown in **bold italics** is exempt from the SPCC Rule, but is shown for reference purposes only.

### C. Drainage Pathway and Distance to Navigable Waters

The Portable Hot Asphalt Mix Plant will not be located in drainages or other watercourses. **Appendix F** details the proximity of the temporary plant site to river, streams (perennial and/or intermittent), ditches, flood control channels, storm drains and other waterways. The hydrological systems will be diagramed or described.

### D. Deviations from the Rule Requirements [112.7(a) (2)]

There are no deviations from the SPCC rules in this plan. In all areas, the site is either in compliance or items are listed in Section 4 for implementation with a schedule to complete the items to bring the site into compliance.

### E. Contingency Planning [112.7(d), 112.1(b)]

Contingency Planning is necessary whenever it is determined that secondary containment system for any part of the facility is not practicable and that a possibility of a discharge as described in 112.1 (b) exists.

All oil-bearing containers at NECA are stored within secondary containment; therefore, there is no need for an oil spill contingency plan.

40 CFR Part 109 criteria for State, Local and Regional Oil Removal Contingency Plans are only necessary if the facility makes an impracticability determination for secondary containment in accordance with Section 112.7(d).

## 4. SPILL HISTORY [112.7(A)]

There have been no reportable spill incidents at the Portable Hot Asphalt Mix Plant

Any future spill incidents will be recorded on a *Spill Incident Summary Form*, included in **Appendix A**. Completed forms will be maintained in **Appendix B** of this SPCC Plan for a period of three years. The occurrence of two reportable spills at the site of 42 gallons or one reportable spill of 1,000 gallons may require the preparation of an *Emergency Response Plan* in the future.

## 5. POTENTIAL SPILL PREDICTIONS, VOLUMES, RATES, AND CONTROL [112.7(B)]

Source	Tank Contents	Type of Failure	Volume (gals)	Rate (gals/hr)	Direction of Flow	Containment (gallons)
Aboveground Storage Tanks (AST) Areas 1 & 2						
AST	Diesel #2	Rupture; leakage	12,000	12,000	Contained	13,200
AST	Diesel #2	Rupture; leakage	600	600	Contained	660
AST	Diesel #2	Rupture; leakage	200	200	Contained	224
AST	Tack Oil	Rupture; leakage	5,450	5,450	Contained	5,995
AST	Oil Heater	Rupture; leakage	420	420	Contained	462
Transient Oil Storage						
55-gallon drum	Hydraulic Fluid	Rupture; leakage	55	55	Contained	13,200
55-gallon drum	Multi-grade Oil	Rupture; leakage	55	55	Contained	13,200
55-gallon drum	Used Oil	Rupture; leakage	55	55	Contained	13,200

Loading/Unloading Operations						
Truck/Trailer	Diesel	Rupture; leakage	3,750	3,750	Contained	13,200
Truck/Trailer	Asphalt	Rupture; leakage	3,750	3,750	Contained	27,500
Truck/Trailer	SST Tack Oil	Rupture; leakage	3,750	3,750	Contained	5,995
Other Equipment/Structures						
Aboveground Piping	Diesel	Rupture; leakage	250	250	See Appendix F	Spill Prevention Measures
Aboveground Piping	Asphalt	Rupture; leakage	250	250	See Appendix F	Spill Prevention Measures
Aboveground Piping	SST Tack Oil	Rupture; leakage	250	250	See Appendix F	Spill Prevention Measures

**Note:** Spill rate assumes worst-case catastrophic failure.

A **Facility Response Plan is not required** since NECA is not expected to cause "Substantial Harm" to the environment by discharging oil into, or on the navigable waters or adjoining shorelines (40CFR 112.20). A *Certificate of the Applicability of Substantial Harm Criteria* is included in **Appendix C**. However, the occurrence of two reportable spills at the site of 42 gallons or one reportable spill of 1,000 gallons may require the preparation of an *Emergency Response Plan* in the future.

## 6. PREVENTION MEASURES: GENERAL SPCC PROVISIONS

The following measures are implemented to prevent oil discharges during the handling, use, or transfer of oil products at the facility. Oil-handling employees shall receive training in the proper implementation of these measures.

### A. Containment and Diversionary Structures [112.7(c)]

Methods of secondary containment at the NECA facility include a combination of structures, and land-based spill response to prevent oil from reaching navigable waters.

- **Secondary Containment Areas** Both AST storage areas are contained within bermed secondary containment lined with 12-mil reinforced cell polyethylene, or similar geotextile material that is compatible with oil and fuel.
- **Loading/Unloading Area Secondary Containment** All loading/unloading activities occur within the hot asphalt storage area. An earthen drive-over berm provides access into the area.
- **Sorbent Materials** A spill kit is kept near the Control House.

### B. Inspections, Tests, and Records [112.7(e)]

#### 1. Weekly Inspections

Formal facility inspections are conducted weekly and records of these inspections are documented and signed by the inspector or plant manager. During the weekly inspections, all tanks, containment structures, valves, piping, and other equipment are inspected. The form used for these inspections can be found in **Appendix A**. Inspection, training, and tank integrity testing records are retained for at least three years in **Appendix B** of this plan.

## **2. Integrity Testing**

Formal inspections are conducted weekly to examine the exterior of the tanks and containment areas. These inspections are documented using the *Weekly Facility Visual Inspection Form*, which can be found in **Appendix A**. In accordance with API 653, the ASTs are drained, cleaned, inspected, repaired, and if necessary painted every ten years, or more often when necessary, based on visual inspection or tank containment space monitoring results.

Completed inspection forms and tank cleaning records are retained for at least three years in **Appendix B** of this plan.

## **C. Personnel, Training, and Discharge Prevention Procedures [112.7(f)]**

### **1. Personnel instructions**

Spill prevention training, including a complete review of NECA Facility's SPCC Plan, is conducted for all new employees involved in oil transfer, such as fueling, loading, and unloading procedures. Spill prevention and cleanup procedures are discussed at staff and safety meetings. Temporary employees are required to be aware of spill control and cleanup procedures. SPCC training topics and the *SPCC Plan Training/ Review Record Form* are included in **Appendix A**.

Spill prevention and spill response training is provided for all delivery drivers, whether employees of NECA, or others. Employee training records are retained for at least three years in **Appendix B** of this plan.

### **2. Designated person accountable for spill prevention**

Mr. Joe Jimmie is the designated person accountable for spill prevention at NECA daytime telephone (505) 368-5151, evening telephone (505) 602-3194.

### **3. Spill prevention briefings**

Spill prevention briefings are held quarterly for employees involved in oil handling, to review the SPCC Plan, including spill prevention and response procedures. Employee attendance at the review briefings is recorded on the *SPCC Plan Training/Review Record* form contained in **Appendix A**. SPCC Plan review attendance records are retained for at least three years in **Appendix B** of this plan.

### **4. Spill Control Equipment**

Spill control equipment on-site includes absorbent material, empty drums, loader, and shovels. Emergency spill procedures are detailed in **Appendix E**.

## **D. Site Security [112.7(g)]**

### **1. Fencing**

Fencing and a secured gate enclose the entire site. Gates are locked when the facility is unattended.

### **2. Flow valves locked**

All tank valves are closed when liquid transfer is not occurring; and when the plant is unattended. Flow valves on the tanks are within the secondary containment and are visually apparent when open.



### **3. Starter controls locked**

All pumps are powered with the generator. The generator starter controls are locked when the facility is unattended.

### **4. Pipeline loading/unloading connections securely capped**

Pipeline connections are securely capped when they are not in use and blank flanged when they are in standby service for extended time. All out of service pipelines are evacuated of their contents.

### **5. Lighting adequate to detect spills**

Yard lights are positioned to illuminate the loading/unloading areas. All lighting is designed to adequately light the storage areas to aid in the detection of spills, in identifying problems and to deter vandalism. Lighting is sufficient to address emergency situation at night.

## **E. Facility Truck Loading/Unloading Operations [112.7(h)]**

### **1. Loading/unloading procedures meet DOT regulations**

All NECA drivers comply with Department of Transportation (DOT) regulations in 49 CFR part 177 and facility standard operating procedures. The oil products delivered to the site is covered by DOT regulated carriers.

### **2. Secondary containment for vehicles adequate**

All truck loading/unloading operations are located within the lined secondary containment. No oil is stored in the on-site transport vehicle.

**Truck Unloading Area:** The unloading of liquid oil products will be completed from transports located within the lined secondary containment with access provided by earthen ramps and drive over berms. The secondary containment will hold 110% of the single largest vessel in the containment, as determined in **Appendix D**.

**Truck Loading Area:** There are no truck loading or fueling operations at this facility.

### **3. Complete disconnection warning**

Warning signs are posted in the loading/unloading area and at the ASTs, to prevent vehicular departure before disconnecting the transfer lines. A trained NECA employee is present to observe all loading, unloading, and fueling operations.

### **4. Vehicles examined for lowermost drainage outlets before leaving**

Drains on the trucks are checked before departure to ensure the drain is closed. Transport trucks that deliver oil products use a power take off (PTO) system to transfer oil products at the unloading area. The PTO system must be turned off, which also closes the transfer valve, in order to move the transport vehicle.

## **F. Brittle Fracture Evaluation Requirements [112.7(i)]**

Brittle fracture evaluation is required for field constructed above ground containers undergoing repair, alteration, reconstruction, or change in service that might affect the risk of a discharge, failure, or other catastrophe due to brittle fracture. A brittle fracture evaluation is also required when a discharge or failure has already occurred, due to brittle fracture or other catastrophe. There are no field-constructed tanks at this site, and there has been no brittle fracture failure to date, of the existing tanks, and no known field repairs.

## **G. State Rules [112.7(j)]**

States, Native American Tribes, and the USEPA have authority to regulate containers storing or using oil. In the case of State or Tribal jurisdiction, the USEPA rules defer to the State or Tribal regulations. The Navajo Nation does not have SPCC Rules and neither the States of New Mexico or Arizona have jurisdiction; therefore, the EPA Rules apply in this case. The Navajo Nation falls under the USEPA Region 9 jurisdiction (States of CA, NV, and AZ).

## **H. Drainage Control [112.8(b)]**

### **1. Drainage from diked storage areas inspected to prevent discharge:**

Stormwater is contained in the lined secondary containment. The containment has no outlet and accumulation is typically removed by evaporation. Any significant accumulation is removed by manual pumping. Any sheen is removed by absorbent pads or booms before pumping. The rainwater can then be pumped.

### **2. Valves used on secondary containment must be sealed:**

There are no valves in the secondary containment area; all liquids are removed via pump.

### **3. Plant drainage systems from undiked areas:**

No oil is stored within undiked areas. All piping is also contained within the secondary containment area.

### **4. Final discharge of facility drainage:**

All ASTs at the NECA facility are located within secondary containment. A release from any of the ASTs would be retained within the containment.

### **5. Facility drainage systems and equipment:**

There are no storm water treatment units at this facility. Spills are cleaned up immediately and are not allowed to reach navigable streams.

## **I. Bulk Storage Tanks/Secondary Containment [112.8(c)]**

### **1. Construction Materials used for containers [112.8(c)(1)]**

The Portable Hot Asphalt Plant is engineered and built for the storage, heating, and processing of asphaltic oil and is maintained to meet manufacture's specification. The SS-1 Tack Oil Tank (#70-118) and oil heater diesel fuel tank (#70-130) conform to DOT requirements and specifications for the construction of single-walled steel tanks for road transport and storage of flammable and/or combustible liquids. Each AST is coated on the exterior with primer and/or

paint. Prior to being placed into service at the temporary site, each AST and associated valving is checked for structural and hydraulic integrity. All tanks and drums are labeled as to their contents and have an appropriate National Fire Protection Association/Department of Transportation (NFPA/DOT) placard or similar type placard.

**2. Secondary Containment: bulk storage containers [112.8(c)(2)]**

All active ASTs are located within the lined secondary containment, which has sufficient capacity as determined in **Appendix D**. The containment structure is impervious to spilled oil for a minimum of 24 hours, the length of time anticipated to mobilize a vacuum truck or other emergency spill equipment.

**3. Drainage of diked areas [112.8(c)(3)]**

There are no outlets from the containment. Precipitation is trapped within the containment and is removed by evaporation. Any significant accumulation is removed by manual pumping. Any sheen is removed by absorbent pads or booms before pumping. The rainwater can then be pumped.

**4. Corrosion protection: Completely buried tanks [112.8(c)(4)]**

There are no storage tanks at the site that can be defined as underground storage tanks (USTs).

**5. Corrosion protection: Partially buried or bunkered tanks [112.8(c)(5)]**

There are no partially buried oil tanks at the site.

**6. Inspections [112.8(c)(6)]**

Visual inspections are conducted weekly to examine the exterior of the tanks for signs of deterioration, discharges, or accumulation of oil inside bermed areas. The scope of inspections and procedures is covered in the training provided to employees involved in handling oil at the facility. The routine inspections focus specifically on detecting any change in conditions or signs of product leakage from the tank, piping system, and appurtenances. These inspections are documented using the *Weekly Facility Visual Inspection Form*, which can be found in **Appendix A**.

Integrity testing is performed in accordance with API 653. The ASTs are drained, cleaned, inspected, repaired, and if necessary painted every ten years, or more often when necessary, based on visual inspection or tank containment space monitoring results.

Completed inspection forms and tank cleaning records are retained for at least three years in **Appendix B** of this plan.

**7. Internal heating coils: Leakage [112.8(c)(7)]**

The Hot Oil Tank is equipped with internal heating coils. The pressure of the heating system is monitored and controlled as part of the asphalt concrete preparation process. The heating coils operate as a closed loop system and condensate water is monitored for contamination. The entire heating coil system is contained within the asphalt tank.

#### **8. Discharge Prevention: Good engineering practice [112.8(c)(8)]**

All the ASTs at the NECA Hot Asphalt Mix Plant are equipped with visual site gages, which operate on a float system. All tanks are gauged by stick to determine product volume, and remaining storage volume is calculated prior to filling with additional product. This filling procedure allows tanks to be filled to a safe height, which is designated to be 90% of the tank volume. If more than one person is involved in product transfer operations, all personnel involved must be in verbal contact prior to beginning transfer operations

#### **9. Effluent treatment facilities [112.8(c)(9)]**

There is no petroleum hydrocarbon effluent or process water discharged from this facility.

#### **10. Visible oil leaks [112.8(c)(10)]**

Visible oil leaks are reported to the plant superintendent or the safety officer immediately upon discovery. The leaking tank will be drained and repaired, or the piping isolated and repaired and the operations personnel will clean up any spilled oil immediately. Oil spill cleanup kits and supplies are located near the Unit #70-1131. Refer to **Appendix E** for spill and disposal procedures.

#### **11. Mobile containers positioned to prevent discharge [112.8(c)(11)]**

Mobile containers, such as 55-gallon drums, are located within the hot asphalt secondary containment. Drums are stored on wooden pallets within secondary containment, allowing any leaks to be visually detected.

### **J. Facility Transfer Operations [112.8(d)]**

#### **1. Buried Piping [112.8(d)(1)]**

There is no buried oil-bearing piping at the NECA Hot Asphalt Plant.

#### **2. Terminal Connections [112.8(d)(2)]**

Terminal connections are capped when not in use. No permanent oil-bearing pipes occur within the hot asphalt plant. Transfers are made with flexible hoses that are evacuated when not in service.

#### **3. Pipe Supports [112.8(d)(3)]**

All hoses are flexible and rest on the ground within the containment.

#### **4. Inspection of aboveground valve and piping [112.8(d)(4)]**

Operations personnel observe valves and hoses throughout the day. Valves and hoses are also examined during the weekly inspection discussed in Section I.6 of this plan. Inspection records are retained for at least three years in **Appendix B** of this plan.

#### **5. Vehicular traffic [112.8(d)(5)]**

The current piping system is not exposed to vehicular traffic. All flexible hoses are contained within the AST secondary containment.



### **K. Emergency Contacts for Spill Response [112.7(a)(3)(vi)]**

The following emergency telephone numbers should be posted by the telephone in the Control Van.

<u>Name</u>	<u>Title</u>	<u>Telephone</u>
Ms. Christine Padillia	Asphalt Plant Manager	Office (505) 210-7070 Cell
Mr. Frank Smith	Construction Manager	Office (505) 210-7035 Cell (970) 759-3961
Mr. Daniel Gourneau	Safety Officer	Office (505) 210-3030 Cell (505) 406-7017
<b>iiná bá</b>	24-hour hot line	(505) 325-5667

Any release of oil into the environment that violates applicable water quality standards, causes a film or "sheen" upon or discoloration of the water surface or adjoining shorelines, causes a sludge or emulsion to be deposited beneath the water surface or upon adjoining shorelines, or a hazardous substance in reportable quantity released into all environmental media (land, air, surface water, and ground water) must be reported.

#### **Shiprock Fire Department**

911  
Non-emergency: (505) 368-5719

#### **Shiprock Police Department**

911  
Non-emergency: (505) 368-1350

#### **New Mexico State Highway Patrol (HazMat Unit)**

911 or 505-334-6622

Dialing 911 will reach the San Juan County Police Dispatch, who will contact the Fire Department, or HazMat Unit with the New Mexico State Police, if necessary.

#### **The Facility Emergency Coordinator should be consulted before contacting the following parties:**

National Spill Response Center:	(800) 424-8802
Navajo Nation Dept. of Emergency Management:	(800) 635-7415
EPA Region 9 Spill Line	(800) 300-2193

### **4. IMPLEMENTATION SCHEDULE**

The following schedule shall be followed as a minimum timetable for full implementation of this SPCC Plan. The schedule is based on the effective date of this Plan review:

<b>Activity</b>	<b>Timetable</b>
None at this time	

## 5. CLOSURE AND LIMITATIONS

This SPCC Plan has been prepared for the exclusive use of Navajo Engineering Construction Authority and only applies to the Portable Hot Asphalt Mix Plant. This plan addresses oil product storage in aboveground storage tanks (ASTs) at the facility. **iiná bá's** responsibility in this contract is limited to the review, development, and specifications of an acceptable SPCC Plan. The actual implementation of this Plan, including construction, inspection, training and compliance verification is the responsibility of the NECA Management, and is accepted by signing of this SPCC Plan and accompanying attachments.

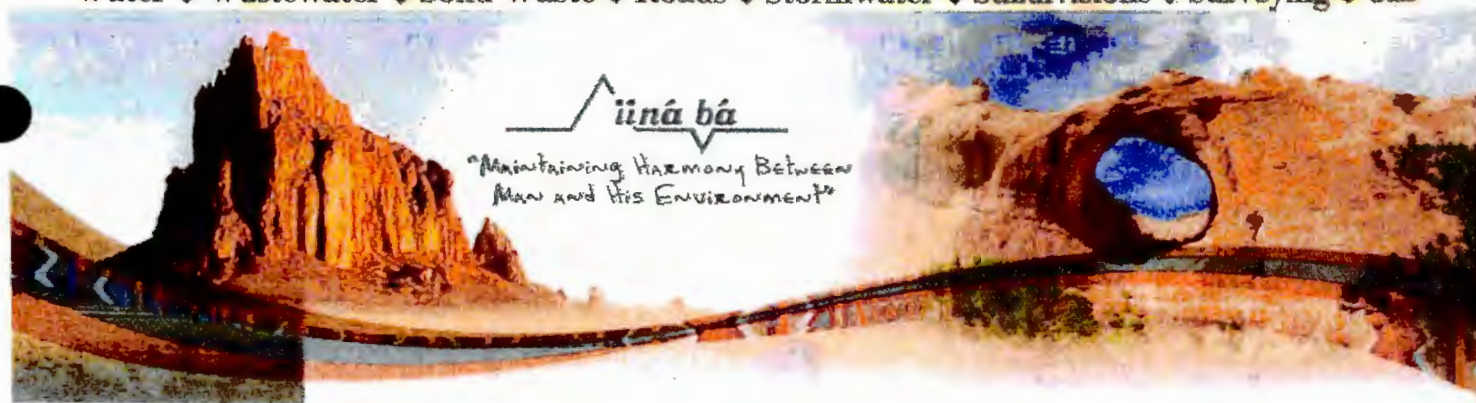
This SPCC Plan shall be reviewed every five years in order to include more effective spill prevention and control technology. Any changes or modifications to this SPCC Plan will require the review and approval of a registered professional engineer before the changes are implemented.

The information in this SPCC is based on inspections by **iiná bá** personnel, data provided to **iiná bá** by Navajo Engineering Construction Authority and guidelines for SPCC Plan preparations outlined in 40 CFR Part 112. All work was performed in accordance with the referenced contract between **iiná bá** and Navajo Engineering Construction Authority, and generally accepted professional practices in environmental engineering.

Reviewed by,

**iiná bá, Inc.**

Nicholas Robert Porell, PE,  
Environmental Engineer



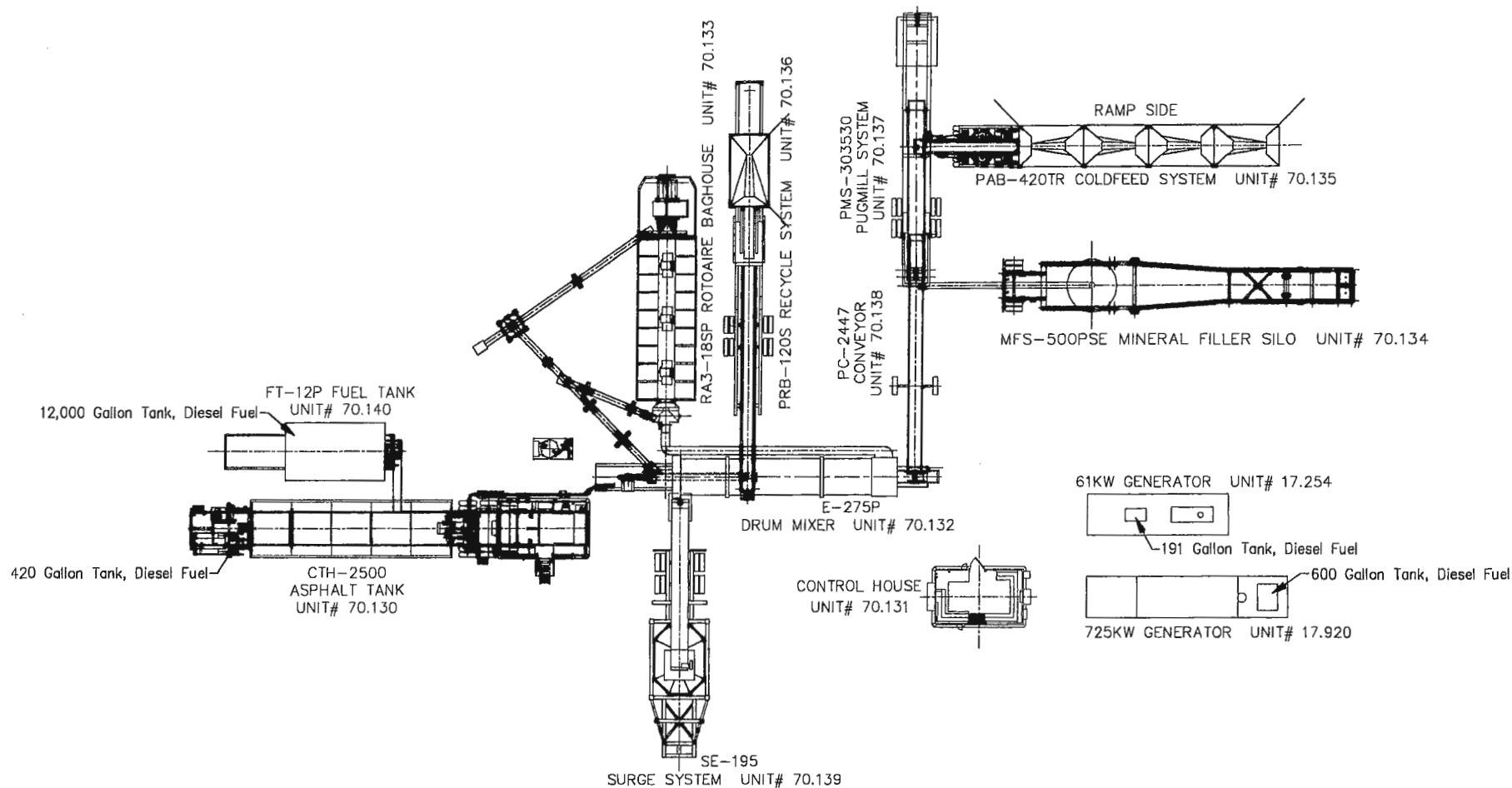
**FIGURE 1—FACILITY DIAGRAM**  
**SPILL PREVENTION CONTROL AND COUNTERMEASURES PLAN 2015 UPDATE**  
**NECA PORTABLE HOT ASPHALT MIX PLANT**  
**SHIPROCK, NEW MEXICO**

**PURCHASE ORDER No. 42398**



**PREPARED FOR:**  
**NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY**  
**NO. 1 URANIUM BOULEVARD**  
**SHIPROCK, NEW MEXICO 87420**

**PREPARED BY:**  
**IINÁ BÁ, INC.**  
**4801 N. BUTLER AVENUE, SUITE 1101**  
**FARMINGTON, NM 87401**  
**www.iinábá.com**  
**PHONE: (505) 327-1072**  
**FAX: (505) 327-1517**  
**DECEMBER 16, 2015**



NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY				
#1 URANIUM BLVD., SHIPROCK, NM 87420				
Shiprock	San Juan County		New Mexico	
Navajo Nation				
TEREX HOT PLANT LAYOUT				
FUEL TANK LOCATIONS				
DESIGNED BY: MC	CHECKED BY: BE	SUBMITTED BY: JH	Drawing Name:	Sheet
DATE: 11/15/10	DATE: 11/15/10	DATE: 08/29/10	LAYOUT: 00000000	1 OF 1





**APPENDIX A — BLANK FORMS**  
**SPILL PREVENTION CONTROL AND COUNTERMEASURES PLAN 2015 UPDATE**  
**NECA PORTABLE HOT ASPHALT MIX PLANT**  
**SHIPROCK, NEW MEXICO**

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# AST & FIRE SAFETY

## WEEKLY FACILITY VISUAL INSPECTION FORM

Facility Name: NECA Portable Hot Asphalt Plant

Date: \_\_\_\_\_

Location: \_\_\_\_\_

Inspected by: \_\_\_\_\_

I) AST Section						
Description	Diesel Fuel	Hot Asphalt	SS-1 Tack Oil	Generator Supply	Generator Supply	Generator Supply
TYPE	Tanker	Insulated Oil	Tanker	Fuel Tank	Fuel Tank	Fuel Tank
SIZE	12,000 gal	25,000 gal	5,450 gal	600 gal	200 gal	420 gal
PRODUCT	Diesel #2	Hot Oil	SST Tack Oil	Diesel #2	Diesel #2	Used Oil
STORAGE LOCATION	Containment	Containment	Containment	Containment	Contained	Contained
STORED WITH COMPATIBLE PRODUCT (Yes or No)						
PUMPS	G-Good	NR-Needs Repair				
Corrosion (Yes or No)						
Hose						
Leakage (Yes or No)						
Nozzles						
Pump Body						
PIPING & DELIVERY SYSTEM						
Corrosion (Yes or No)						
Fittings						
Hoses						
Piping						
Valves/Fire Valve						
Remote Fill Station						
POSTED SIGNS						
SECONDARY CONTAINMENT	G-Good	NR-Needs Repair				
Earthen with Liner						
Dike						
Spill Pallet						
No Weeds (Yes or No)						
Pipe Ballards or Fencing						
Piping Containment						
II) Fire Safety Section Y- Yes N- No						
Evidence of Smoking						
Fuel Leaks						
Ignition Sources						
Procedures Observed						
Training Requirements Followed						
Fire Extinguisher Start by using G-Good or NR-Needs Repair.						
Fencing/Locks						
Emergency Cutoff-Loading Stations						
Deadman Control-Loading Stations						
Bonding Cable-Loading Stations						
Fuel System Bonded and Grounded						
Grounding Rods/Static Protection						

## TANK INVENTORY RECORD

TANK IDENTIFICATION &amp; TYPE OF FUEL: \_\_\_\_\_

TANK CAPACITY: \_\_\_\_\_ MONTH/YEAR: \_\_\_\_\_

FACILITY NAME: NECA Hot Asphalt Mix Plant LOCATION: \_\_\_\_\_

DATE OF WATER CHECK: \_\_\_\_\_ LEVEL OF WATER (INCHES): \_\_\_\_\_

DATE	START STICK INVENTORY (GALLONS)	GALLONS DELIVERED	GALLONS PUMPED	BOOK INVENTORY (GALLONS)	END STICK INVENTORY (INCHES) (GALLONS)	DAILY OVER (+) OR SHORT (-) ("END" - "BOOK")	INITIAL
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							
24							
25							
26							
27							
28							
29							
30							
31							

TOTAL GALLONS OVER  
OR SHORT

LEAK CHECK: TOTAL GAL OVER OR SHORT (Gallons) / 10% TANK VOLUME(Gallons) = \_\_\_\_\_

IS LEAK CHECK  $\geq 1$  ?

YES OR NO (CIRCLE ONE)

IF ANSWER IS "YES", REPORT TO MANAGEMENT AND THE SOURCE OF ERROR OR PRODUCT LOSS IDENTIFIED.  
(REFER TO SPCC 4.1.D)

**KEEP THIS RECORD ON FILE FOR AT LEAST 3 YEARS.**

**SPCC DRAINAGE SYSTEM INSPECTION FORM**  
**NECA Hot Asphalt Mix Plant**  
**(FOLLOWING STORM EVENT)**

Inspection Procedure for Stormwater Drainage of Secondary Containment and detention dams:

1. Make a visual inspection of entire water surface.
2. If water does not contain a sheen of oil, pump, bail or drain water from containment area. A small quantity of water (i.e. <3 inches) may be allowed to evaporate.
3. If there is a sheen on water notify the NECA Superintendent.
4. Use proper equipment and supplies to absorb any oil that maybe present.
5. Contact the NECA Safety Officer to arrange proper disposal of any spent absorbent materials.
6. Record the information requested below.

[illegible]

**Note:** Copy this page and attach extra pages as needed to maintain SPCC plan.



**SPILL INCIDENT SUMMARY FORM**  
**NECA Portable Hot Mix Asphalt Plant**  
**Project Site:** \_\_\_\_\_  
(FOLLOWING SPILL EVENT)

Complete this form for any reportable spill(s) which occur from this facility immediately after they occur.  
Additional reports or documentation may be required.

Date \_\_\_\_\_ Volume \_\_\_\_\_ Cause: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Correction action taken:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plans for preventing recurrence: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature

Title

Printed Name

Date

**SPCC PLAN TRAINING / REVIEW FORM**  
**NECA Hot Asphalt Mix Plant**  
**Project Site:** \_\_\_\_\_

As specified in Part 6.G of the oil spill prevention procedures and practices noted in the SPCC Plan, all personnel are familiar with the procedures and policies in the Plan for the referenced facility. Topics to be covered are listed in Appendix A. A copy of this completed Training form is to be maintained with the SPCC Plan in Appendix B for at least three years.

Instructor: \_\_\_\_\_

Title: \_\_\_\_\_

Meeting date: \_\_\_\_\_

In attendance:

Name

Signature:

Title:

Comments



**APPENDIX B — COMPLETED FORMS**  
**SPILL PREVENTION CONTROL AND COUNTERMEASURES PLAN 2015 UPDATE**  
**NECA PORTABLE HOT ASPHALT MIX PLANT**  
**SHIPROCK, NEW MEXICO**

**PURCHASE ORDER No. 42398**



**PREPARED FOR:**  
**NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY**  
**NO. 1 URANIUM BOULEVARD**  
**SHIPROCK, NEW MEXICO 87420**

**PREPARED BY:**  
**IINÁ BÁ, INC.**  
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**DECEMBER 16, 2015**





**APPENDIX C — CERTIFICATION OF SUBSTANTIAL HARM CRITERIA  
SPILL PREVENTION CONTROL AND COUNTERMEASURES PLAN 2015 UPDATE  
NECA PORTABLE HOT ASPHALT MIX PLANT  
SHIPROCK, NEW MEXICO**

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DECEMBER 16, 2015**



### CERTIFICATION OF THE APPLICABILITY OF THE SUBSTANTIAL HARM CRITERIA

FACILITY NAME: NECA Hot Asphalt Mix Plant  
FACILITY ADDRESSES: PO Box 969, Shiprock, New Mexico, Navajo Nation

1. Does the facility transfer oil over water to or from vessels and does the facility have a total oil storage capacity greater than or equal to 42,000 gallons?  
☐ Yes ☒ No
2. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and does the facility lack secondary containment that is sufficiently large to contain the capacity of the largest aboveground oil storage tank plus sufficient freeboard to allow for precipitation within any aboveground oil storage tank area?  
☐ Yes ☒ No
3. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and is the facility located at a distance such that a discharge from the facility could cause injury to fish and wildlife and sensitive environments?  
☐ Yes ☒ No
4. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and is the facility located at a distance such that a discharge from the facility would shut down a public drinking water intake?
  - If a comparable formula is used documentation of the reliability and analytical soundness of the comparable formula must be attached to this form.
  - For the purposes of 40 CFR part 112, public drinking water intakes are analogous to public water systems as described at 40 CFR 143.2(c).☐ Yes ☒ No
5. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and has the facility experienced a reportable oil spill in an amount greater than or equal to 10,000 gallons within the last 5 years?  
☐ Yes ☒ No

Reference: 40 CFR 112 Appendix C

#### Certification

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document, and that based on my inquiry of those individuals responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete.

Signature

Brett Grubbs

Printed Name

BRETT GRUBBS

Title

MANAGER of ENGINEERING

Date

12-22-15



**APPENDIX D — CONTAINMENT VOLUME CALCULATIONS  
SPILL PREVENTION CONTROL AND COUNTERMEASURES PLAN 2015 UPDATE  
NECA PORTABLE HOT ASPHALT MIX PLANT  
SHIPROCK, NEW MEXICO**

**PURCHASE ORDER No. 42398**



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DECEMBER 16, 2015**

## SECONDARY CONTAINMENT CALCULATIONS:

The minimum dimensions for secondary containment for the lined earthen containments at each Facility tank are calculated as follows (assumes industry standard of 110% of the single, largest tank and a minimum berm height of 1.25 feet or 3.0 feet\*):

### **#70-140 (12,000 gallon #2 diesel fuel):**

13,200 gallons = 1,765 cubic feet

$L \times W \times 1.25 \text{ feet} = 1,765 \text{ cubic feet}$

**L = 55 feet**

**W = 54 feet**

### **#17-115 (600 gallon #2 diesel fuel):**

660 gallons = 83 cubic feet

$L \times W \times 1.25 \text{ feet} = 83 \text{ cubic feet}$

**L = 9 feet**

**W = 8 feet**

### **#Not Applicable (200 gallon #2 diesel fuel):**

220 gallons = 28 cubic feet

$L \times W \times 3.0^* \text{ feet} = 30 \text{ cubic feet}$

**L = 5 feet**

**W = 2 feet**

### **#70-118 (5,450 gallon tack oil trailer):**

5,995 gallons = 802 cubic feet

$L \times W \times 1.25 \text{ feet} = 802 \text{ cubic feet}$

**L = 54 feet**

**W = 12 feet**

### **#70-130 (420 gallon #2 diesel fuel):**

462 gallons = 62 cubic feet

$L \times W \times 1.25 \text{ feet} = 62 \text{ cubic feet}$

**L = 8 feet**

**W = 7 feet**





**APPENDIX E — EMERGENCY SPILL AND WASTE DISPOSAL PROCEDURES  
SPILL PREVENTION CONTROL AND COUNTERMEASURES PLAN 2015 UPDATE  
NECA PORTABLE HOT ASPHALT MIX PLANT  
SHIPROCK, NEW MEXICO**

**PURCHASE ORDER No. 42398**



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DECEMBER 16, 2015**



## SPCC Plan Training Topics:

Topics to be covered regarding oil spill prevention, control and countermeasures practiced by NECA and its contractors at the referenced facility shall include the following:

Common sense regarding the storage of oil and other products is followed.

No tanks or compartments are filled without prior checking of reserves.

All fuel and oil drops are to be made using a sealed delivery system (*e.g. locking ring quick disconnect hoses & piping*).

All deliveries are not to exceed 90% of the maximum tank storage capacity (*e.g. 1,000 gallon AST shall only store 900 gallons at any time*).

No pump operations are performed unless attended continuously. Pump valves or controllers are locked off when not in use. (*This applies mainly to the service trucks, fuel/oil vendors and recycler*).

A fuel/oil delivery will be terminated immediately if overfill alarm(s) is set off (*e.g. whistle indicator stopped*).

Warning signs are posted to check for line disconnection before vehicle departures. (*This applies at all oil storage areas*).

Inspections are completed following the schedule outlined in the Plan.

Inventory reconciliation for all ASTs is performed monthly, and a loss of  $\geq 10\%$  is used to indicate a possible spill.

All drainage, structures and storage systems comply with the design recommendations provided in the Plan.

Facility personnel are responsible to inspect and maintain diked and containment areas following storm events.

Facility personnel will follow NECA procedures for proper disposal of "clean" stormwater and oil contaminated water.

Any damaged drainage, structure or storage system is repaired in a timely manner and appropriate countermeasures and contingencies are developed by the NECA Superintendent until the damage is corrected.

***Should a spill or release occur, the countermeasures outlined in Appendix E will be followed.***

NECA Safety Office is contacted immediately when an oil spill or release is noticed and the Plant Superintendent acts as the INCIDENT COMMANDER until relieved by a more qualified emergency responder. If the superintendent is not available, the designated on-site employee acts in place.

## EMERGENCY SPILL PROCEDURES AND COUNTERMEASURES

### *Emergency Spill Procedures*

The following procedures outline the minimum actions to be taken to respond to a release/spill of oil at the NECA Hot Asphalt Mix Plant covered by this SPCC Plan.

#### **1. Contain release:**

Check cause and stop source of release where possible, without undue risk of personnel injury. Contain release using spill equipment such as booms, absorbents, earthen berms, or vac trucks, without undue risk of personnel injury.

#### **2. Fire Prevention:**

Turn off all sources of ignition including electric breakers, generators and automotive/truck engines.

***IF FIRE OR EXPLOSION APPEARS IMMINENT, CLEAR ALL PERSONNEL FROM AFFECTED AREA (S). USE FIRE EXTINGUISHER ONLY TO AID WITH EVACUATION OF PERSONNEL.***

#### **3. Isolate Affected Area:**

Warn area personnel of release and any dangers associated with the release. Initiate evacuation if necessary. Using caution tape, orange cones and/or other means, to isolate affected area(s), allowing access only to necessary and authorized response personnel.

#### **4. Request Assistance:**

Immediately contact the NECA Safety Department to request assistance. The emergency responders will contact Local Fire Departments, Navajo Nation Police, and Emergency Spill Contractors for assistance, as appropriate.

#### **5. Regulatory Notice:**

Call Environmental Department and National Response Center to report the incident, once immediate life and health threats are stabilized. Be prepared to provide the following information:

- Name of caller and call back phone number.
- Name of Carrier, Shipper/Manufacturer or Responsible Party.
- Estimated volume and type of liquid spilled.
- Location and time of Incident.
- Container type, truck number, vessel name, or other identification information.
- Any Assistance needed

#### **6. Reporting:**

Complete and file the Spill Incident Summary Form for any spill of oil products which are 25 gallons or greater in any one occurrence.(see Appendix A of the SPCC Plan). File copies with the appropriate agencies.

### PROJECT SPECIFIC INFORMATION SHEET

The following information is to be incorporated with the Spill Prevention, Control and Countermeasures (SPCC) Plan for the portable hot asphalt plant operated by the Navajo Engineering and Construction Authority (NECA). This attachment is to be updated when the plant is dismantled and relocated. When the facility is moved, it must be located and installed using the specifications outlined in this SPCC Plan. The portable facility shall not be operated unless the SPCC Plan has been fully implemented. The SPCC Plan shall only apply while the facility is in a fixed (non-transportation) operating mode.

PROJECT: \_\_\_\_\_

PLANT LOCATION [Part 1.B]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DRAINAGE PATHWAY AND DISTANCE TO NAVIGABLE WATERS: [Part 3.C]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PLANT DRAINAGE SYSTEMS FROM UNDIKED AREAS [Part 6.A.(iii)]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FINAL DISCHARGE OF DRAINAGE [Part 6.A.(iv)]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### ***Emergency Contacts***

The following emergency phone numbers are posted by the phone in the plant office and near all other phones at the plant. The person designated as responsible for spill prevention is the Asphalt Superintendent:

☐ Plant Superintendent Christina Padillia	<u>(505)-210-7070</u>
☐ Fire Department _____	<u>(520)-679-3511</u>
☐ Navajo Nation Police:	<u>(520)-679-5600</u>
☐ Arizona State Police:	<u>(520)-524-3998</u>
☐ Navajo Nation Dept. Emergency Management	(800) 635-7415
☐ National Response Center:	(800) 424-8802

---

### ***Waste Disposal Procedures***

The following procedures outline the disposal procedures for wastes generated during normal operation of the Portable Hot Asphalt Mix Plant.

#### ***Contaminated Stormwater:***

Petroleum contaminated rain and/or storm water will be handled by pumping the water into a vacuum truck or 55-gallon DOT approved drums. Drums to be labeled as "non-hazardous contaminated water". The water will be transported offsite for disposal by Envirotech Inc. of Farmington, New Mexico. Waste manifests will be prepared by Envirotech and signed by the Plant Superintendent and copies of all executed waste manifests will be maintained with the SPCC Plan in **Appendix B**. Envirotech will transport the wastewater to an evaporation facility.

#### ***Used Oil:***

Oil recovered from secondary containments will be stored in 55-gallon DOT approved drums for offsite recycling and disposal. Drums to be labeled as "Used Oil." Used oil will be transported to NECA's Shiprock facility for recycling with other oils generated by equipment maintenance.

#### ***Contaminated Soil and Absorbent:***

If the volume of used oil filters, contaminated soils, and absorbents is less than one cubic yard per 40 cubic yards, it will be accepted as regular garbage by the solid waste disposal company for disposal at a permitted landfill offsite.



### PROJECT SPECIFIC INFORMATION SHEET

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PROJECT: \_\_\_\_\_

PLANT LOCATION [Part 1.B]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DRAINAGE PATHWAY AND DISTANCE TO NAVIGABLE WATERS: [Part 3.C]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PLANT DRAINAGE SYSTEMS FROM UNDIKED AREAS [Part 6.A.(iii)]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FINAL DISCHARGE OF DRAINAGE [Part 6.A.(iv)]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### **Emergency Contacts**

The following emergency phone numbers are posted by the phone in the plant office and near all other phones at the plant. The person designated as responsible for spill prevention is the Asphalt Superintendent:

- |  |                |
|--|----------------|
| ☐ Plant Superintendent Christina Padillia  | (505) 210-7070 |
| ☐ Fire Department _____                    | _____          |
| ☐ Navajo Nation Police:                    | _____          |
| ☐ Arizona State Police:                    | _____          |
| ☐ Navajo Nation Dept. Emergency Management | (800) 635-7415 |



**APPENDIX F — PROJECT SITE-SPECIFIC INFORMATION**  
**SPILL PREVENTION CONTROL AND COUNTERMEASURES PLAN 2015 UPDATE**  
**NECA PORTABLE HOT ASPHALT MIX PLANT**  
**SHIPROCK, NEW MEXICO**

**PURCHASE ORDER No. 42398**



**PREPARED FOR:**  
**NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY**  
**No. 1 URANIUM BOULEVARD**  
**SHIPROCK, NEW MEXICO 87420**

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**DECEMBER 16, 2015**

## PROJECT SPECIFIC INFORMATION SHEET

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PROJECT: \_\_\_\_\_

PLANT LOCATION [Part 1.B]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DRAINAGE PATHWAY AND DISTANCE TO NAVIGABLE WATERS: [Part 3.C]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PLANT DRAINAGE SYSTEMS FROM UNDIKED AREAS [Part 6.A.(iii)]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FINAL DISCHARGE OF DRAINAGE [Part 6.A.(iv)]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### ***Emergency Contacts***

The following emergency phone numbers are posted by the phone in the plant office and near all other phones at the plant. The person designated as responsible for spill prevention is the Asphalt Superintendent:

□ Plant Superintendent Joe Jimmy	<u>(505)-368-5151</u>
□ Fire Department _____	<u>(520)-679-3511</u>
□ Navajo Nation Police:	<u>(520)-679-5600</u>
□ Arizona State Police:	<u>(520)-524-3998</u>
□ Navajo Nation Dept. Emergency Management	(800) 635-7415
□ National Response Center:	(800) 424-8802

## PROJECT SPECIFIC INFORMATION SHEET

The following information is to be incorporated with the Spill Prevention, Control and Countermeasures (SPCC) Plan for the portable hot asphalt plant operated by the Navajo Engineering and Construction Authority (NECA). This attachment is to be updated when the plant is dismantled and relocated. When the facility is moved, it must be located and installed using the specifications outlined in this SPCC Plan. The portable facility shall not be operated unless the SPCC Plan has been fully implemented. The SPCC Plan shall only apply while the facility is in a fixed (non-transportation) operating mode.

PROJECT: \_\_\_\_\_

PLANT LOCATION [Part 1.B]:

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DRAINAGE PATHWAY AND DISTANCE TO NAVIGABLE WATERS: [Part 3.C]:

---

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PLANT DRAINAGE SYSTEMS FROM UNDIKED AREAS [Part 6.A.(iii)]:

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---

FINAL DISCHARGE OF DRAINAGE [Part 6.A.(iv)]:

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### ***Emergency Contacts***

The following emergency phone numbers are posted by the phone in the plant office and near all other phones at the plant. The person designated as responsible for spill prevention is the Asphalt Superintendent:

- ☐ Plant Superintendent Joe Jimmy \_\_\_\_\_
- ☐ Fire Department \_\_\_\_\_
- ☐ Navajo Nation Police: \_\_\_\_\_
- ☐ Arizona State Police: \_\_\_\_\_
- ☐ Navajo Nation Dept. Emergency Management (800) 635-7415





**PHOTOGRAPHIC DOCUMENTATION OF FACILITY ABOVEGROUND STORAGE TANKS**  
**NECA Portable Hot Asphalt Mix Plant, Shiprock, New Mexico**



**Photographed By:** John R. Isham, CPG (*iiná bá, Inc.*) and NECCA

**Photograph Period:** Thursday, November 11, 2010 and Thursday, December 10, 2015

**Contract/PO No.:** 42398

**Facility Owner:** Navajo Engineering and Construction Authority



**Photograph 1:** View of 200-gallon diesel fuel tank for No. 2 diesel fuel use.



**Photograph 2:** View of Unit 70.118 5,450-gallon tack oil trailer.





**Photograph 3:** View of Unit 70-130 Terex CEI 1200 hot oil tank.



**Photograph 4:** View of Unit asphalt heater, part of unit #70-130.

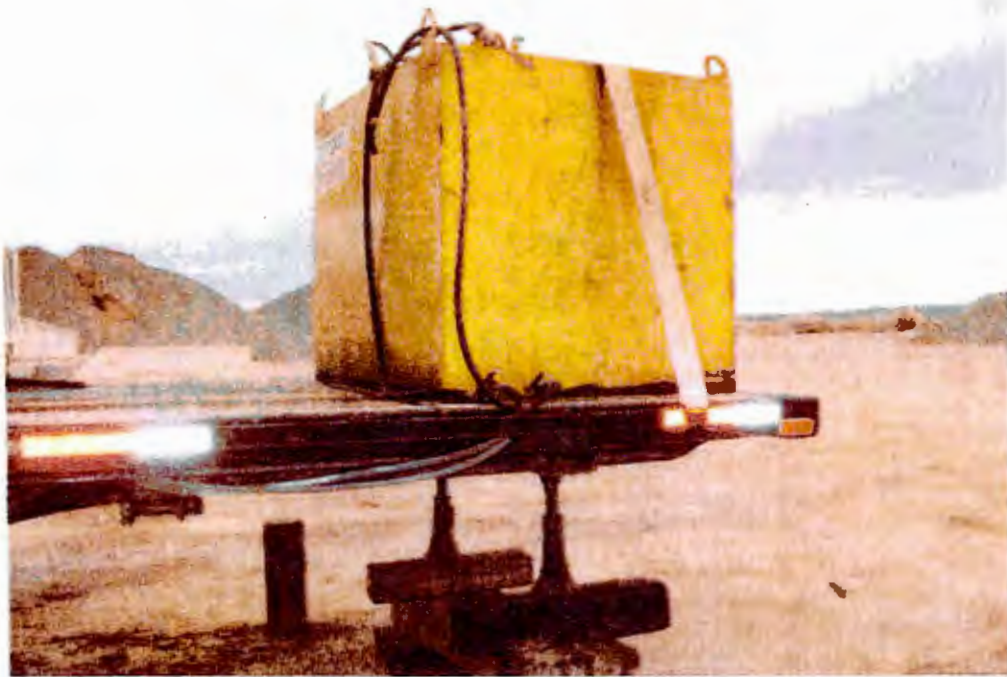


**Photograph 5:** View of Unit 70-140 Terex FT-12P 12,000-gallon, double-walled diesel fuel tank.



**Photograph 6:** View of Unit 70-102 Multiquip 35 KW generator.

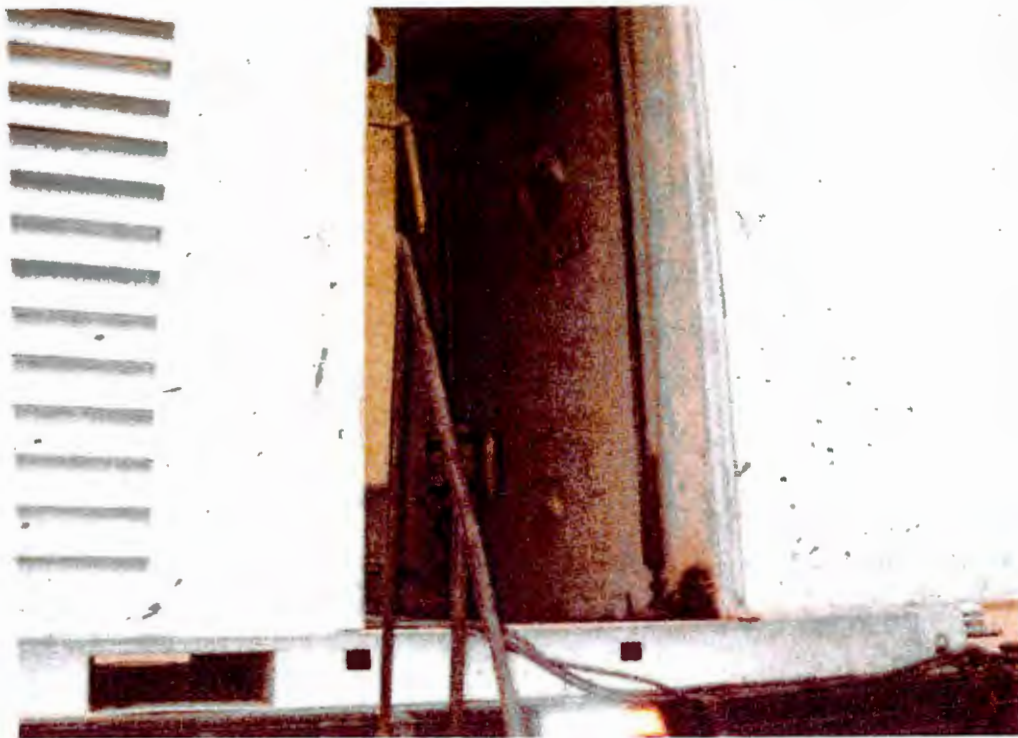




**Photograph 7:** View 600-gallon diesel fuel tank for Unit 17.920 725 KW generator.



**Photograph 8:** View of Unit 17-115 CAT 725 KW diesel generator. Diesel tank is housed inside generator to the right of the doorway.



**Photograph 9:** Closer view of diesel fuel AST for CAT 725 KW generator.



**Photograph 10:** View of Unit 70-140 Terex FT-12P 12,000-gallon double-walled fuel tank.





RECLAMATION PLAN FOR HOT PLANT SITE  
TSAILE/WHEATFIELDS ARIZONA  
NNDOT Project No. N12(19-4)1,2 & 4

The hot plant site is a flat parcel of land immediately adjacent to and contiguous with the existing right-of-way of Navajo Routes N12. It is 11.5 acres in size. No roads are required to access the property. Drainage across the property is generally to the west and east to the existing N12 road.

Areas to be used for aggregate stockpiles will be stripped of approximately 4-inches to 6-inches of topsoil prior to stockpiling of aggregates. The topsoil will be stockpiled at the perimeter of the property closest to the stockpile areas, to be replaced upon completion of the project. The topsoil will be sprayed with water by water trucks equipped with spray bars and compacted by construction equipment traffic during construction of the stockpiles to prevent erosion. Temporary erosion control measures as outlined in the Storm Water Pollution Prevention Plan (SWPPP) will be installed on the downhill side of stockpiles to prevent movement of topsoil from the site.

The ground surface under the rotary drum dryer and tanks containing petroleum products for the hot plant are covered with an impermeable liner to prevent contamination of the ground surface. This is detailed in the Spill Prevention Control and Countermeasure Plan (SPCC) for the hot plant see Section 16 in the Revocable Use Permit package.

All aggregates will be removed from the site upon completion of the project. Upon removal of all equipment and material from the site, the disturbed areas of the site will be graded to return the site to its original contours. Since the site is very flat to begin with, little grading will be necessary after we are finished. The topsoil will be replaced in the aggregate stockpile areas. The ground surface will be ripped to loosen areas compacted by traffic. Any driveways into the site will be obliterated, so there will be no obvious access to the site. The site will be disked and seeded at the same time as the adjoining N12 project using the same specifications and seed mix, Section 625 of FP-14 and the Supplemental Specifications, which is attached. There will be no watering of the site. The seed will be allowed to germinate when natural moisture is sufficient to maintain growth.

Protection of the ground surface from spills of petroleum products is covered by the SPCC Plan for the hot plant. Prevention of erosion is covered by the SWPPP see Section 15 in the Revocable Use Permit package. Temporary erosion control measures installed under the SWPPP will be left in place until the seeding and reclamation is complete. Dust control on the site will be maintained by water trucks equipped with spray bars, which is covered by the Air Quality Permit for the Hot Plant. The temporary barbed wire fence installed around the site to limit access will be removed as part of the reclamation activities.

The site is 11.5 acres in size, and we expect to disturb most of that area. We expect to begin using the site in spring or fall of 2020, pending approval of the Revocable Use Permit. We expect the project to be completed in the late fall of 2021, when reclamation will take place. A copy of the location map for the hot plant site see Attached Exhibit A.

According to the standard terms and conditions that will be attached to the Navajo Nation Resources Committee Resolution, and eventually the Revocable Use Permit, final certification of reclamation will be by the Navajo Nation Environmental Protection Agency (NNEPA). The construction inspectors on the project will monitor the actual reclamation to confirm compliance with the project specifications, the same as the Navajo Route N12 project.



## Section 625. — TURF ESTABLISHMENT

### Description

**625.01** This work consists of soil preparation, watering, fertilizing, seeding, and mulching.

Seeding and mulching methods are designated as dry or hydraulic.

### Material

**625.02** Conform to the following Subsections:

Agricultural limestone	713.02
Fertilizer	713.03
Mulch	713.05
Seed	713.04
Stabilizing emulsion tackifiers	713.12
Water	725.01

### Construction Requirements

**625.03 General.** Apply turf establishment to finished slopes and ditches within 14 days after completion of construction on a portion of the site. Do not seed during windy weather or when the ground is excessively wet, frozen, snow covered, extremely dry, cloddy, hard pan, or not friable.

**625.04 Preparing Seedbed.** Grade the seeding area to line and grade. Remove all weeds, sticks, stones 2 inches in diameter and larger, and other debris detrimental to application, growth, or maintenance of the turf.

If required by the contract, apply limestone and grubproofing.

Cultivate the seeding area to a minimum depth of 4 inches and prepare a firm but friable seedbed before seeding. Do not cultivate aggregate-topsoil courses that were previously dry seeded under Section 305.

**625.05 Watering.** Moisten seeding areas before seeding and maintain the moisture until 10 days after germination.

**625.06 Fertilizing.** Apply fertilizer by the following methods:

(a) **Dry method.** Incorporate the fertilizer into the upper portion of the seedbed before seeding.

(b) **Hydraulic method.** Add fertilizer to the slurry and mix before adding seed. Apply the seed and fertilizer in one application.

**625.07 Seeding.** Apply seed by the following methods:

(a) **Dry method.** Apply the seed with approved power driven seeders, drills, or other mechanical equipment. Hand-operated seeding methods are satisfactory on areas inaccessible to mechanical equipment. Lightly compact the seedbed within 24 hours after seeding.

(b) **Hydraulic method.** Use hydraulic-type equipment capable of providing a uniform application using water as the carrying agent. Add a tracer material consisting of either wood or grass cellulose fiber mulch to the water. Apply the tracer material at a rate of 400 pounds per acre to provide visible evidence of uniform application. Add the seed to the water slurry no more than 30 minutes before application. Seed by hand areas inaccessible to seeding equipment.

**625.08 Mulching.** Apply mulch within 48 hours after seeding by the following methods:

(a) **Dry method.** Spread all mulch material, except wood and grass cellulose fibers, by a mulch spreader utilizing forced air to blow the mulch material onto the seeded area. Apply straw mulch at a rate of 3200 pounds per acre. Anchor the mulch material with an approved stabilizing emulsion tackifier or approved mechanical method. Do not mark or deface structures, pavements, utilities, or plant growth with tackifier.

(b) **Hydraulic method.** Apply mulch in a separate application from the seed using hydraulic-type equipment according to Subsection 625.07(b).

Apply wood fiber or grass straw cellulose fiber mulch at a rate of 1500 pounds per acre.

Apply bonded fiber matrix hydraulic mulch at a minimum rate of 3000 pounds per acre. Apply so no hole in the matrix is greater than 0.04 inches. Apply so that no gaps exist between the matrix and the soil.

Mulch by hand areas inaccessible to mulching equipment.

**625.09 Protecting and Caring for Seeded Areas.** Protect and care for seeded areas including watering when needed until final acceptance. Repair all damage to seeded areas by reseeding, refertilizing, and remulching. Apply supplemental applications of seed, mulch, fertilizer, lime, or ammonium nitrate.

**625.10 Acceptance.** Seed will be evaluated under Subsections 106.02, 106.03, and 713.04.

Mulch, fertilizer, and other turf establishment material will be evaluated under Subsections 106.02 and 106.03.

Turf establishment work will be evaluated under Subsections 106.02 and 106.04.

#### **Measurement**

**625.11** Measure the Section 625 items listed in the bid schedule according to Subsection 109.02 and the following as applicable.

Measure seeding and mulching by the acre on the ground surface or by the slurry unit. A slurry unit consists of approximately 1,000 gallons of water plus the specified turf establishment material. Four slurry units contain the material to cover one acre.

Measure turf establishment and supplemental applications by the acre on the ground surface.

Measure water by the M-gallon in the hauling vehicle or by metering.

#### **Payment**

**625.12** The accepted quantities will be paid at the contract price per unit of measurement for the Section 625 pay items listed in the bid schedule. Payment will be full compensation for the work prescribed in this Section. See Subsection 109.05.



# Project 12(19-4)1,2&4 Tsaile/Wheatfields, AZ

Grade, Drainage, Aggregate Base Course, Hot Asphaltic Concrete Pavement,  
Arch Structures and Miscellaneous Construction for Length of 17.2 km (10.68 miles) of Roadway

## Legend

- NECA HOT PLANT SITE; PROJECT N12
- Tsaile
- Tsaile Junction

NECA HOT PLANT SITE, PROJECT N12

Tsaile Junction

Tsaile

Google Earth

4000 ft





Document No. 014548Date Issued: 06/11/2020**EXECUTIVE OFFICIAL REVIEW**Title of Document: NECA Tsaile Temporary Hot Plant Lease Contact Name: YAZZIE, ELERINA BProgram/Division: DIVISION OF NATURAL RESOURCESEmail: e\_yazzie@navajo-nsn.gov Phone Number: 928-871-6447

			Sufficient	Insufficient
<input type="checkbox"/>	<b>Business Site Lease</b>			
	1. Division:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Controller:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
	(only if Procurement Clearance is not issued within 30 days of the initiation of the E.O. review)			
	3. Office of the Attorney General:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>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</b>			
	1. Division:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>Fund Management Plan, Expenditure Plans, Carry Over Requests, Budget Modifications</b>			
	1. Office of Management and Budget:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Controller:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
	3. Office of the Attorney General:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>Navajo Housing Authority Request for Release of Funds</b>			
	1. NNEPA:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>Lease Purchase Agreements</b>			
	1. Office of the Controller:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
	(recommendation only)			
	2. Office of the Attorney General:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>Grant Applications</b>			
	1. Office of Management and Budget:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Controller:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
	3. Office of the Attorney General:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>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</b>			
	1. Division:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<b>Relinquishment of Navajo Membership</b>			
	1. Land Department:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
	2. Elections:	Date:	<input type="checkbox"/>	<input type="checkbox"/>
	3. Office of the Attorney General:	Date:	<input type="checkbox"/>	<input type="checkbox"/>

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

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

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

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

☐ **Rights of Way**

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

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

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

☐ **Assignment of Mineral Lease**

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

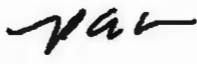


☐ **ROW (where there has been no delegation of authority to the Navajo Land Department to grant the Nation's consent to a ROW)**

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

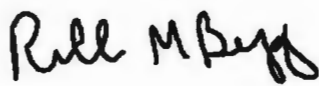
☒ **OTHER: Temporary Hot Plant**

1. NLD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. HHPD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. Dept F&W	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5. DNR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
6. DNR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
7. NNEPA	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
8. DOJ (ic)	✓ Blanket	Date: 8/25/20	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. OPVP	8/3/20	Date: 8/3/20	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### Tier 1 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Najamh Tariq (Navajo Land Title Data System - Windowrock AZ)	Approver	Department of Water Resources	Approved	no comments	No Reply	20-Jul-2020	
Pam Kyselka (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	no comments	No Reply	14-Jul-2020	
Rebecca Gilchrist (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	1. This vote is contingent upon the uploaded Terms and Conditions, dated 08/07/2020, permanently being included in the application approval package. rkg	1. No Reply	07-Aug-2020	
Tamara Billie (Navajo Land Title Data System - Windowrock AZ)	HPD Reviewer	Historic Preservation Department	Approved	1. HPD-19-760	1. No Reply	21-Jul-2020	

### Tier 2 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Leanna Begay (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	no comments	No Reply	07-Aug-2020	
Richard Begay (Navajo Land Title Data System - Windowrock AZ)	Navajo Nation Historic Preservation Officer	Historic Preservation Department	Approved	no comments	No Reply	07-Aug-2020	

Robert Allan DNR (Navajo Land Title Data System	Deputy Director DNR	DNR Administration	Approved	no comments	No Reply	18-Aug-2020
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Robert O. Allan

-  
Windowrock  
AZ)

Steven Prince MIN (Navajo Land Title Data System	Technical Reviewer	Navajo Nation Minerals Management	Approved	no comments	No Reply	10-Aug-2020
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Steven L Prince

-  
Windowrock  
AZ)

W. Mike Halona (NLTDS - Admin)	NLD Department Manager III	NLD	Approved	no comments	No Reply	07-Aug-2020
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W. Mike Halona





# NAVAJO NATION DEPARTMENT OF JUSTICE

## DOCUMENT REVIEW REQUEST FORM



DOJ	
08/24/20 @ 9:54a	
DATE / TIME	
<input type="checkbox"/> 7 Day Deadline	
DOC #:	014548
SAS #:	
UNIT:	NAN

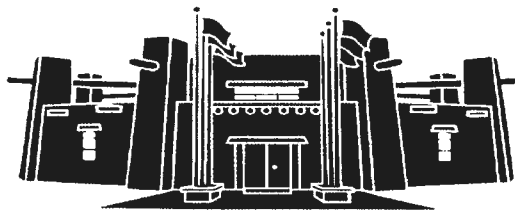
☐ RESUBMITTAL

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

CLIENT TO COMPLETE			
DATE OF REQUEST:	8/21/2020	DIVISION:	NATURAL RESOURCES
CONTACT NAME:	Michelle Hoskie	DEPARTMENT:	GENERAL LAND DEVELOPMENT DEPARTMENT
PHONE NUMBER:	x 6447 or x 6423	E-MAIL:	michellehoskie@navajo-nsn.gov
TITLE OF DOCUMENT: EOR#14548 NECA Tsaile Temporary Hot Plant Lease			
DOJ SECRETARY TO COMPLETE			
DATE/TIME IN UNIT: 8/24/20 10:30 AM		REVIEWING ATTORNEY/ADVOCATE: Irwin Chie 9/03/20	
DATE TIME OUT OF UNIT: 8/25/20 9:05 AM			
DOJ ATTORNEY / ADVOCATE COMMENTS			
- Document is legally sufficient. All of the required documents are attached.			
REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
Jamie HAA	8-24-20	VBlackhat	8/25/20 8:19 AM
DOJ Secretary Called: Michelle Hoskie for Document Pick Up on 8/25/20 at 9:20 By: CJ			
PICKED UP BY: (Print)		DATE / TIME:	

NNDOJ/DRRF-July 2013

-GLDD-



## MEMORANDUM

TO: Honorable Carl R. Slater  
Lukachukai, Round Rock, Tsaile/Wheatfields, Tse Ch'izhi, Rock Point Chapters

FROM: Mariana Kahn  
Mariana Kahn, Attorney  
Office of Legislative Counsel

DATE: December 18, 2020

SUBJECT: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A LEASE TO NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY FOR A TEMPORARY HOT PLANT SITE DURING RECONSTRUCTION OF NAVAJO ROUTE N12 IN THE VICINITY OF TSAILE-WHEATFIELDS CHAPTER, NAVAJO NATION

I have prepared the above-referenced proposed resolution and associated legislative summary sheet. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient with respect to formating. 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).

You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction. If you have any questions regarding this legislation, call or come into the Office of Legislative Counsel to discuss the matter with me.

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0003-21\_

SPONSOR: Carl Slater

**TITLE: An Action Relating To Resources and Development; Approving a Lease to Navajo Engineering and Construction Authority for a Temporary Hot Plant Site During Reconstruction of Navajo Route N12 in the Vicinity of Tsaile-Wheatfields Chapter, Navajo Nation**

*Date posted:* January 08, 2021 at 4:36 PM

Digital comments may be e-mailed [to\\_comments@navajo-nsn.gov](mailto: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.*