

RESOLUTION OF THE RESOURCES AND DEVELOPMENT COMMITTEE
of the 25th NAVAJO NATION COUNCIL—Second Year, 2024

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING THE GRANT OF RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT TO LYBROOK MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION TO CONSTRUCT, OPERATE AND MAINTAIN THE WATER SYSTEM IMPROVEMENT PROJECT LOCATED ON NAVAJO NATION TRUST LANDS IN NAGEEZI CHAPTER (RIO ARriba COUNTY, NEW MEXICO); WAIVING CONSIDERATION AND THE VALUATION REQUIREMENT PURSUANT TO TITLE 25 CODE OF FEDERAL REGULATIONS SECTION 169.110 (a)

BE IT ENACTED:

SECTION ONE. AUTHORITY

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

SECTION TWO. FINDINGS

- A. The Lybrook Mutual Domestic Water Consumers Association ("Lybrook MDWCA") has submitted an application for a right-of-way and a temporary construction easement to construct, operate and maintain the Lybrook MDWCA Water System Improvement Project, which will loop two dead-end water lines to improve water quality in the Nageezi Chapter, Rio Arriba, New Mexico. The terms and conditions for the right-of-way and temporary construction easement are attached and incorporated as **Exhibit A** and **Exhibit B**, respectively.
- B. The right-of-way and temporary construction easement consist of Navajo Nation Trust Lands located in Rio Arriba County, New Mexico, the location of which is more particularly described in the Legal Descriptions and survey maps attached and incorporated as **Exhibit C**.


- C. Lybrook MDWCA requests a waiver of consideration for this right-of-way and temporary construction easement. In accordance with the terms and conditions contained in **Exhibit A**, the right-of-way has been assessed at \$16,122.87. In accordance with the terms and conditions contained in **Exhibit B**, the temporary construction easement has been assessed at \$12,960.00. Therefore, the total consideration to be waived is \$ 29,082.87.
- D. 25 C.F.R. §169.110(a) addresses how much monetary compensation must be paid for a right-of-way over and across tribal land. It states:
- (a) A right-of-way over or across tribal land may allow for any payment amount negotiated by the tribe, and we will defer to the tribe and not require valuation if the tribe submits a tribal authorization expressly stating that it:
 - (1) Has agreed upon compensation satisfactory to the tribe;
 - (2) Waives valuation; and
 - (3) Has determined that accepting such agreed-upon compensation and waiving valuation is in its best interest.
- E. A Field Clearance Checklist stating that no grazing permittee has been identified in relation to Lybrook MDWCA's Water System Improvement Project is attached as **Exhibit D**.
- F. Nageezi Chapter Resolution #NC-22-061 supporting the approval of the right-of-way and temporary construction easement for the Lybrook MDWCA Water System Improvement Project is attached as **Exhibit E**.
- G. The environmental and archeological studies have been completed and are attached hereto as **Exhibit F**.
- H. The application for the right-of-way and temporary construction easement is attached as **Exhibit G**.
- I. Executive Official Review Document No. 020131, including a "Document Review Request Form" from the Department of Justice deeming the document "legally sufficient", and a memorandum from the Navajo Nation Environmental Protection Agency dated February 15, 2023, is attached as **Exhibit H**.

SECTION THREE. APPROVAL

- A. The Resources and Development Committee of the Navajo Nation Council hereby grants approval of the right-of-way and temporary construction easement to Lybrook MDWCA to construct, operate and maintain the Lybrook MDWCA Water System Improvement Project. The location is more particularly described in **Exhibit C**.
- B. The Resources and Development Committee of the Navajo Nation Council hereby approves the right-of-way subject to, but not limited to, the terms and conditions incorporated herein as **Exhibit A**.
- C. The Resources and Development Committee of the Navajo Nation Council hereby approves the temporary construction easement subject to, but not limited to, the terms and conditions incorporated herein as **Exhibit B**.
- D. The Resources and Development Committee of the Navajo Nation Council hereby waives consideration for the right-of-way and temporary construction easement and waives valuation pursuant to 25 C.F.R. § 169.110 (a), finding that the Navajo Nation has agreed upon compensation satisfactory to the tribe, the Navajo Nation hereby waives valuation and has determined that accepting such agreed-upon compensation and waiving valuation is in the best interests of the Navajo Nation.
- E. The Resources and Development Committee of the Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute any and all documents to affect the intent and purpose of this resolution.

CERTIFICATION

I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 25th Navajo Nation Council at a duly called meeting at Mentmore, (Navajo Nation) New Mexico, at which quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, on this 17th day of January 2024.

A handwritten signature in black ink, appearing to read "B. Jesus", is written over the printed name.

Brenda Jesus, Chairperson
Resources and Development Committee
Of the 25th Navajo Nation Council

Motion: Honorable Rickie Nez

Second: Honorable Casey Allen Johnson

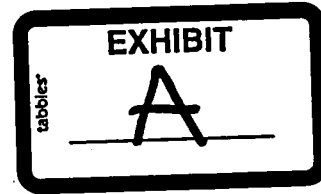


EXHIBIT " D "

NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS

LYBROOK MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION (GRANTEE)

1. The term of the right-of-way shall be for twenty (20) years, beginning on the date the right-of-way is granted by the Secretary of Interior.
2. Consideration for the right-of-way is assessed at \$ 16,122.87 and shall be paid in full to the Controller of the Navajo Nation, in lawful money of the United States, and a copy of the receipt for such payment provided to the Navajo Nation Minerals Department, or its successor, within 10 days of approval of and consent to the grant of the right-of-way by the Navajo Nation.

If consideration has been waived, the Navajo Nation contributes the amount listed above to the project because the project serves a public purpose and will benefit Navajo residents.
3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of construction, operation, & maintenance of Lybrook MDWCA water system. The Grantee may not develop, use or occupy the right-of-way for any other purpose, nor allow others to use or occupy the right-of-way for any other purpose, without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation. The Grantee may not develop, use or occupy the right-of-way for any unlawful purpose.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
 - a. Title 25, Code of Federal Regulations, Part 169; subject to the terms of this right-of-way.
 - b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archaeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices;
 - c. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., and the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq.; and
 - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq. Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.

6. The Grantee shall clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uprooted or otherwise accumulated during any surface disturbance activities.
7. The Grantee shall reclaim all surface lands disturbed related to the right-of-way, as outlined in a restoration and revegetation plan, which shall be approved by the Navajo Nation Environmental Protection Agency (NNEPA) prior to any surface disturbance. The Grantee shall comply with all provisions of such restoration and revegetation plan and shall notify the Director of the NNEPA immediately upon completion of the surface disturbance activities so that a site inspection can be made.
8. The Grantee shall at all times during the term of the right-of-way and at the Grantee's sole cost and expense, maintain the land subject to the right-of-way and all improvements located thereon and make all necessary and reasonable repairs.
9. The Grantee shall obtain prior written permission to cross existing rights-of-way, if any, from the appropriate parties.
10. The Grantee shall be responsible for and promptly pay all damages when they are sustained.
11. The Grantee shall indemnify and hold harmless the Navajo Nation and the Secretary of the Interior and their respective authorized agents, employees, landusers and occupants, against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of right-of-way by the Grantee.
12. The Grantee shall not assign, convey, transfer or sublet, in any manner whatsoever, the right-of-way or any interest therein, or in or to any of the improvements on the land subject to the right-of-way, without the prior written consent of the Navajo Nation and the Secretary of the Interior. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation.
13. The Navajo Nation may terminate the right-of-way for violation of any of the terms and conditions stated herein. In addition, the right-of-way shall be terminable in whole or part by the Navajo Nation for any of the following causes:
 - a. Failure to comply with any term or condition of the grant or of applicable laws or regulations;
 - b. A non-use of the right-of-way for the purpose for which it is granted for a consecutive two year period; and
 - c. The use of the land subject to the right-of-way for any purpose inconsistent with the purpose for which the right-of-way is granted.
 - d. An abandonment of the right-of-way.
14. At the termination of this right-of-way, the Grantee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. Upon the written request of the Navajo Nation, the Grantee shall provide the Navajo Nation, at the Grantee's sole cost and expense, with an environmental audit assessment of the premises at least sixty (60) days prior to delivery of said premises.
15. Holding over by the Grantee after the termination of the right-of-way shall not constitute a renewal or extension thereof or give the Grantee any rights hereunder or in or to the land subject to the right-of-way or to any improvements located thereon.

16. The Navajo Nation and the Secretary of the Interior shall have the right, at any reasonable time during the term of the right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any improvements located thereon.
17. By acceptance of the grant of right-of-way, the Grantee consents to the full territorial legislative, executive and judicial jurisdiction of the Navajo Nation, including but not limited to the jurisdiction of the Navajo Nation, including but not limited to the jurisdiction to levy fines and to enter judgments for compensatory and punitive damages and injunctive relief, in connection with all activities conducted by the Grantee within the Navajo Nation or which have a proximate (legal) effect on persons or property within the Navajo Nation.
18. By acceptance of the grant of right-of-way, the Grantee covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision shall be construed to negate or impair federal responsibilities with respect to the land subject to the right-of-way or to the Navajo Nation.
19. Any action or proceeding brought by the Grantee against the Navajo Nation in connection with or arising out of the terms and conditions of the right-of-way shall be brought only in the Courts of the Navajo Nation, and no such action or proceeding shall be brought by the Grantee against the Navajo Nation in any court of any state.
20. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.
21. Except as prohibited by applicable federal law, the law of the Navajo Nation shall govern the construction, performance and enforcement of the terms and conditions contained herein.
22. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of the Grantee, and the term "Grantee," whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.
23. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the right-of-way and all lands burdened by the right-of-way, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the right-of-way; and the right-of-way and all lands burdened by the right-of-way shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.
24. The Navajo Nation reserves the right to grant rights-of-way within the right-of-way referenced herein for utilities, provided that such rights-of-ways do not unreasonably interfere with the Grantee's use of the right-of-way.

EXHIBIT D

NAVAJO NATION TEMPORARY CONSTRUCTION EASEMENT TERMS AND CONDITIONS

LYBROOK MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION (GRANTEE)

1. The term of the temporary construction easement (TCE) shall be for three (3) years, beginning on the date the TCE is granted by the Secretary of Interior.
2. Consideration for the TCE is assessed at \$ 12,960.00 and shall be paid in full to the Controller of the Navajo Nation, in lawful money of the United States, and a copy of the receipt for such payment provided to the Navajo Nation Minerals Department, or its successor, within 10 days of approval of and consent to the grant of the TCE by the Navajo Nation.

Consideration for the grant of the TCE is hereby waived.

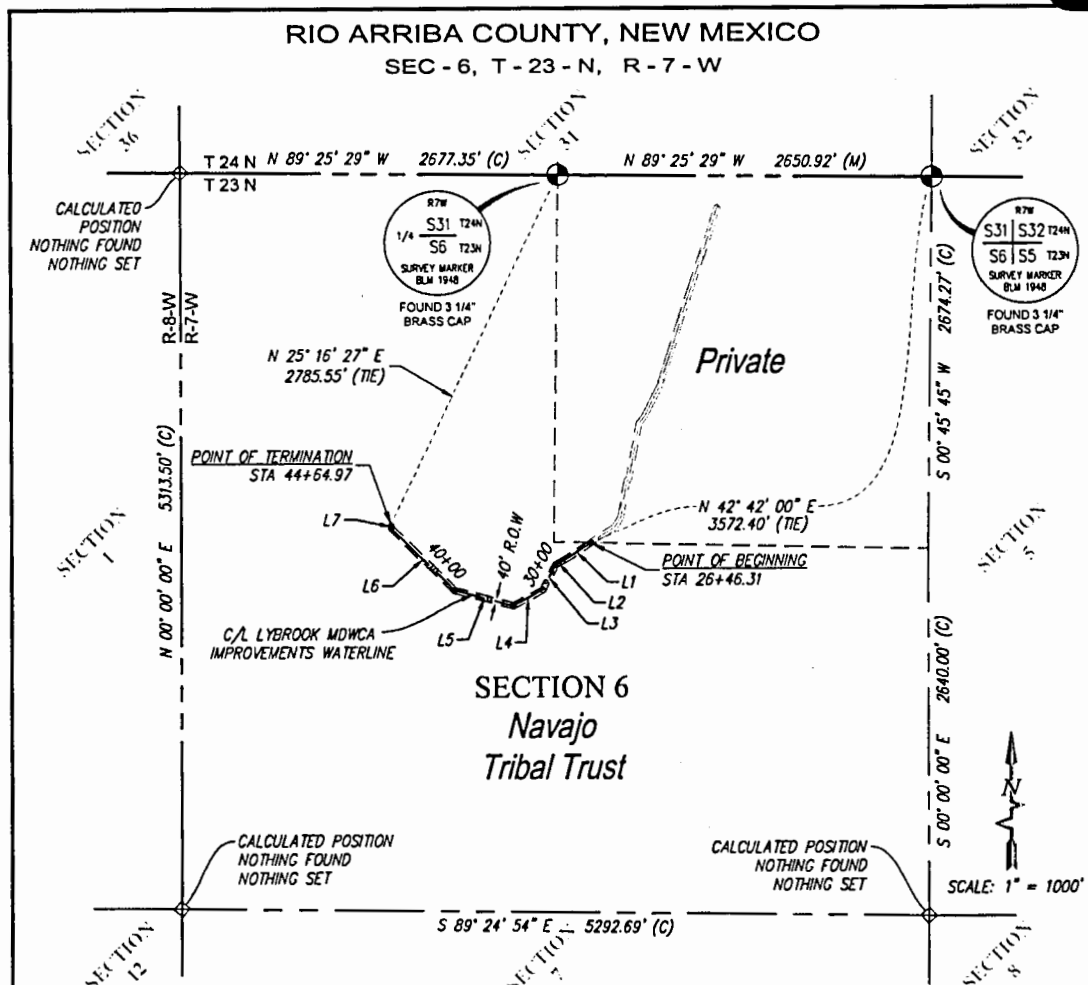
☐ NO ☐ YES

If consideration has been waived, then the Navajo Nation contributes the amount listed above to the project because the project serves a public purpose and will benefit Navajo residents.

3. The Grantee may develop, use and occupy the TCE for the purpose(s) of constructing, operating, and maintaining the all-weather roadway. The Grantee may not develop, use or occupy the TCE for any other purpose, nor allow others to use or occupy the TCE for any other purpose, without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation. The Grantee may not develop, use or occupy the TCE for any unlawful purpose.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
 - a. Title 25, Code of Federal Regulations, Part 169;
 - b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archaeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices;
 - c. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., and the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq.; and
 - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq.. Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the TCE.

6. The Grantee shall clear and keep clear the lands within the TCE to the extent compatible with the purpose of the TCE, and shall dispose of all vegetation and other materials cut, uprooted or otherwise accumulated during any surface disturbance activities.
7. The Grantee shall reclaim all surface lands disturbed related to the TCE, as outlined in a restoration and revegetation plan, which shall be approved by the Navajo Nation Environmental Protection Agency (NNEPA) prior to any surface disturbance. The Grantee shall comply with all provisions of such restoration and revegetation plan and shall notify the Director of the NNEPA immediately upon completion of the surface disturbance activities so that a site inspection can be made.
8. The Grantee shall at all times during the term of the TCE and at the Grantee's sole cost and expense, maintain the land subject to the TCE and all improvements located thereon and make all necessary and reasonable repairs.
9. The Grantee shall obtain prior written permission to cross existing TCEs, if any, from the appropriate parties.
10. The Grantee shall be responsible for and promptly pay all damages when they are sustained.
11. The Grantee shall indemnify and hold harmless the Navajo Nation and the Secretary of the Interior and their respective authorized agents, employees, landusers and occupants, against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of TCE by the Grantee.
12. The Grantee shall not assign, convey, transfer or sublet, in any manner whatsoever, the TCE or any interest therein, or in or to any of the improvements on the land subject to TCE, without the prior written consent of the Navajo Nation and the Secretary of the Interior. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation.
13. The Navajo Nation may terminate the TCE for violation of any of the terms and conditions stated herein. In addition, the TCE shall be terminable in whole or part by the Navajo Nation for any of the following causes:
 - a. Failure to comply with any term or condition of the grant or of applicable laws or regulations;
 - b. A non-use of the TCE for the purpose for which it is granted for a consecutive two year period; and
 - c. The use of the land subject to the TCE for any purpose inconsistent with the purpose for which the TCE is granted.
 - d. An abandonment of the TCE.
14. At the termination of this TCE, the Grantee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. Upon the written request of the Navajo Nation, the Grantee shall provide the Navajo Nation, at the Grantee's sole cost and expense, with an environmental audit assessment of the premises at least sixty (60) days prior to delivery of said premises.

15. Holding over by the Grantee after the termination of the TCE shall not constitute a renewal or extension thereof or give the Grantee any rights hereunder or in or to the land subject to the TCE or to any improvements located thereon.
16. The Navajo Nation and the Secretary of the Interior shall have the right, at any reasonable time during the term of the TCE, to enter upon the premises, or any part thereof, to inspect the same and any improvements located thereon.
17. By acceptance of the grant of TCE, the Grantee consents to the full territorial legislative, executive and judicial jurisdiction of the Navajo Nation, including but not limited to the jurisdiction of the Navajo Nation, including but not limited to the jurisdiction to levy fines and to enter judgments for compensatory and punitive damages and injunctive relief, in connection with all activities conducted by the Grantee within the Navajo Nation or which have a proximate (legal) effect on persons or property within the Navajo Nation.
18. By acceptance of the grant of TCE, the Grantee covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision shall be construed to negate or impair federal responsibilities with respect to the land subject to the TCE or to the Navajo Nation.
19. Any action or proceeding brought by the Grantee against the Navajo Nation in connection with or arising out of the terms and conditions of the TCE shall be brought only in the Courts of the Navajo Nation, and no such action or proceeding shall be brought by the Grantee against the Navajo Nation in any court of any state.
20. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.
21. Except as prohibited by applicable federal law, the law of the Navajo Nation shall govern the construction, performance and enforcement of the terms and conditions contained herein.
22. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of the Grantee, and the term "Grantee," whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.
23. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the TCE and all lands burdened by the TCE, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the TCE; and the TCE and all lands burdened by the TCE shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.
24. The Navajo Nation reserves the right to grant temporary construction easement within the temporary construction easement referenced herein for utilities, provided that such temporary construction easement do not interfere with the Grantee's use of the temporary construction easement.

**LEGEND**

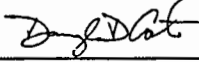
NTT	NAVAJO TRIBAL TRUST	-----	TOWNSHIP / RANGE LINES
NTF	NAVAJO TRIBAL FEE	-----	SECTION LINES
IA	INDIAN ALLOTMENT	-----	INTERIOR BOUNDARY LINES
(M)	MEASURED DIMENSION		
(C)	CALCULATED DIMENSION		
(R)	RECORD DIMENSION FROM GLO NOTES AND PLATS		

Basis of Bearings:

All distances are grid distances measured in U.S. Survey Feet,
and all bearings are U.S. State Plane NAD 1983 New Mexico Central Zone grid bearings.

SURVEYOR'S STATEMENT

I, DARRYL D. COSTER, NEW MEXICO PROFESSIONAL SURVEYOR NO. 21204, DO HEREBY CERTIFY THAT THIS RIGHT-OF-WAY SURVEY WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION BASED ON AN ACTUAL SURVEY ON THE GROUND AS DESCRIBED HEREIN; THAT I AM RESPONSIBLE FOR THIS SURVEY; AND THAT THE SURVEY AND EXHIBIT MEETS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO. FURTHERMORE, THIS RIGHT-OF-WAY SURVEY AND EXHIBIT CONFORM TO THE REQUIREMENTS OF 25 CFR 169.

BY:  5/3/2022
DATE
DARRYL D. COSTER
NM REG. P.S. #21204
SOUDER, MILLER AND ASSOCIATES



Station	Owner	Feet	Miles	Acres	Floods
26+46.31 to 44+64.97	NAVAJO TRIBAL TRUST	1818.66	0.34	1.67	110.22
40 FOOT WIDE RIGHT-OF-WAY LYBROOK MDWCA IMPROVEMENTS PROJECT SECTION 6					
T-23-N, R-7-W, N.M.P.M.,			RIO ARriba COUNTY, NEW MEXICO		
Rev.	Date	Description	By	Chkd	Client: The Navajo Nation
					Town: Lybrook, New Mexico
SOUDER, MILLER & ASSOCIATES					
Engineering • Environmental • Geomatics Serving the Southwest & Rocky Mountains 5454 Venice Avenue NE, Suite D Albuquerque, NM 87113 Phone (505) 299-0942 Fax (505) 299-3430 www.soudermiller.com					
Revised AAV			Checked CMD	Approved DDC	Date: May. 3, 2022
			Scale: 1" = 1000'		
			Project No: 6928709		
			Figure 2A		

RIO ARRIBA COUNTY, NEW MEXICO

SEC - 6, T - 23 - N, R - 7 - W

CENTERLINE DESCRIPTION

A TRACT OF LAND, FOR THE PURPOSES OF A WATER LINE, LOCATED IN SECTION SIX (6), TOWNSHIP TWENTY THREE (23) NORTH, RANGE SEVEN (7) WEST, N.M.P.M., RIO ARRIBA COUNTY, NEW MEXICO, AND BEING A PORTION OF THE NAVAJO TRIBAL TRUST, LYING EITHER 20 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT WATER LINE STATION 26+46.31 FROM WHICH A FOUND BUREAU OF LAND MANAGEMENT (BLM) 3 1/4" BRASS CAP FOR THE NORTHEAST CORNER (NE) OF SECTION SIX (6) BEARS NORTH 42° 42' 00" EAST, A DISTANCE OF 3572.40 FEET;

THENCE SOUTH 57° 13' 23" WEST, A DISTANCE OF 245.03 FEET, FORTY (40) FEET WIDE (L1);

THENCE SOUTH 61° 41' 04" WEST, A DISTANCE OF 53.57 FEET, FORTY (40) FEET WIDE (L2);

THENCE SOUTH 27° 37' 36" WEST, A DISTANCE OF 198.99 FEET, FORTY (40) FEET WIDE (L3);

THENCE SOUTH 61° 51' 13" WEST, A DISTANCE OF 235.89 FEET, FORTY (40) FEET WIDE (L4);

THENCE NORTH 75° 12' 52" WEST, A DISTANCE OF 429.24 FEET, FORTY (40) FEET WIDE (L5);

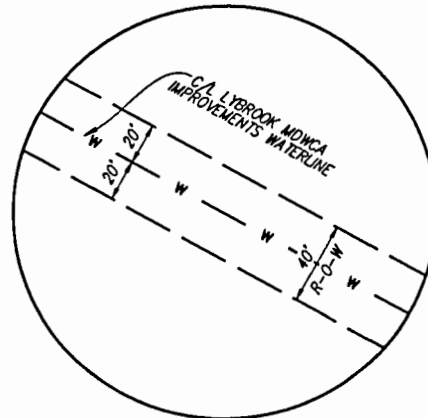
THENCE NORTH 45° 10' 12" WEST, A DISTANCE OF 632.94 FEET, FORTY (40) FEET WIDE (L6);

THENCE NORTH 00° 10' 12" WEST, A DISTANCE OF 23.00 FEET, FORTY (40) FEET WIDE (L7);

TO THE POINT OF TERMINATION, WATER LINE STATION 44+64.97 FROM WHICH A FOUND BUREAU OF LAND MANAGEMENT (BLM) 3 1/4" BRASS CAP FOR THE NORTH QUARTER CORNER (N 1/4) OF SECTION SIX (6) BEARS NORTH 25° 16' 27" EAST, A DISTANCE 2785.55 FEET;

THE SIDELINES OF THE ABOVE DESCRIBED STRIP SHALL BE PROLONGED OR SHORTENED SO TO TERMINATE ON THE SOUTH LINE OF THE NORTHEAST QUARTER (NE 1/4) SECTION SIX (6);

CONTAINING 72,746 SQ. FT. OR 1.67 ACRES, MORE OR LESS.



TYPICAL DETAIL
40' WIDE R-O-W
N.T.S.

Basis of Bearings:

All distances are grid distances measured in U.S. Survey Feet,
and all bearings are U.S. State Plane NAD 1983 New Mexico Central Zone grid bearings.

Station 26+46.31 to 44+64.97	Owner NAVAJO TRIBAL TRUST	Feet 1818.66	Miles 0.34	Acres 1.67	Rods 110.22
40 FOOT WIDE RIGHT-OF-WAY LYBROOK MDWCA IMPROVEMENTS PROJECT SECTION 6					
T-23-N, R-7-W, N.M.P.M.,			RIO ARRIBA COUNTY, NEW MEXICO		
Rev.	Date	Description	By	Chkd	Client: The Navajo Nation
					Town: Lybrook, New Mexico
					Revised AAV
					Checked CMD
					Approved DDC
					Date: May. 3, 2022
					Scale: N.T.S.
					Project No: 6928709
					Figure 2B



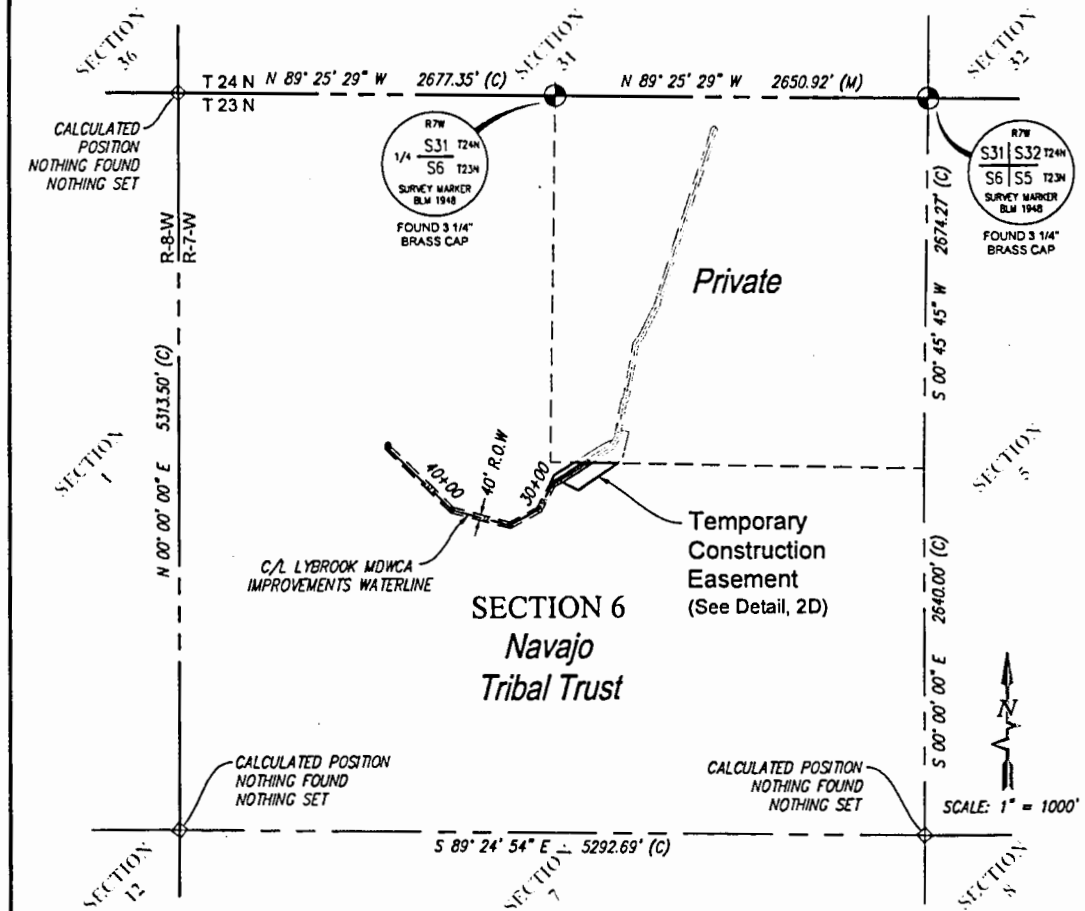
SOUDER, MILLER & ASSOCIATES

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Serving the Southwest & Rocky Mountains
5454 Venice Avenue NE, Suite D
Albuquerque, NM 87113
Phone (505) 299-0942 Fax (505) 297-3430
www.soudermiller.com

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RIO ARRIBA COUNTY, NEW MEXICO

SEC - 6, T - 23 - N, R - 7 - W



LEGEND

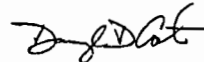
NTT	NAVAJO TRIBAL TRUST	---	TOWNSHIP / RANGE LINES
NTF	NAVAJO TRIBAL FEE	---	SECTION LINES
IA	INDIAN ALLOTMENT	---	INTERIOR BOUNDARY LINES
(M)	MEASURED DIMENSION		
(C)	CALCULATED DIMENSION		
(R)	RECORD DIMENSION FROM GLO NOTES AND PLATS		

Basis of Bearings:


All distances are grid distances measured in U.S. Survey Feet,
and all bearings are U.S. State Plane NAD 1983 New Mexico Central Zone grid bearings.

SURVEYOR'S STATEMENT

I, DARRYL D. COSTER, NEW MEXICO PROFESSIONAL SURVEYOR NO. 21204, DO HEREBY CERTIFY THAT THIS RIGHT-OF-WAY SURVEY WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION BASED ON AN ACTUAL SURVEY ON THE GROUND AS DESCRIBED HEREIN; THAT I AM RESPONSIBLE FOR THIS SURVEY; AND THAT THE SURVEY AND EXHIBIT MEETS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO. FURTHERMORE, THIS RIGHT-OF-WAY SURVEY AND EXHIBIT CONFORM TO THE REQUIREMENTS OF 25 CFR 169.

BY:  5/3/2022
DARRYL D. COSTER DATE
NM REG. P.S. #21204
SOUDEY, MILLER AND ASSOCIATES



Station		Owner		Feet	Miles	Acres	Rods
---		NAVAJO TRIBAL TRUST		---	---	0.90	---
TEMPORARY CONSTRUCTION EASEMENT							
LYBROOK MDWCA IMPROVEMENTS PROJECT							
SECTION 6							
T-23-N, R-7-W, N.M.P.M.,				RIO ARRIBA COUNTY, NEW MEXICO			
Rev.	Date	Description	By	Chkd	Client: The Navajo Nation	Town: Lybrook, New Mexico	
							
					SOUDEY, MILLER & ASSOCIATES Engineering • Environmental • Geomatics Serving the Southwest & Rocky Mountains 5454 Venice Avenue NE, Suite D Albuquerque, NM 87113 Phone (505) 294-0942 Fax (505) 293-3439 www.soudeymiller.com		
					Date:	May. 3, 2022	
					Scale:	1" = 1000'	
					Project No:	6928709	
					Figure 2C		

RIO ARriba COUNTY, NEW MEXICO

SEC - 6, T - 23 - N, R - 7 - W

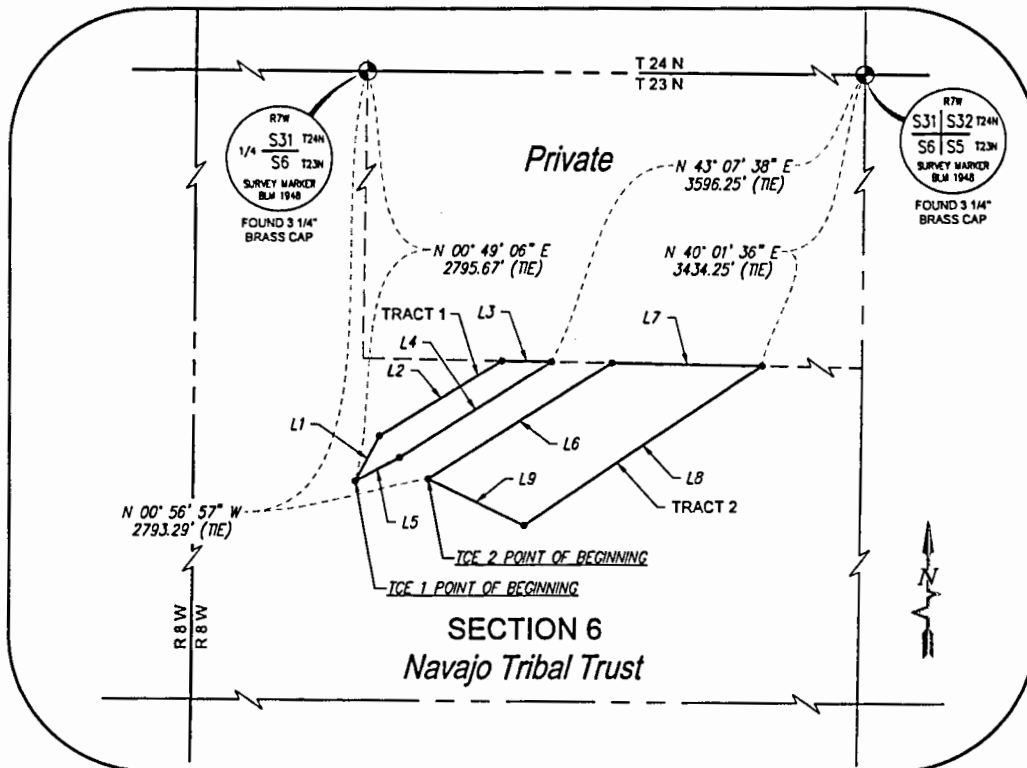
LYBROOK WATERLINE TEMPORARY CONSTRUCTION EASEMENT DESCRIPTION

TWO (2) TRACTS OF LAND, FOR THE PURPOSES OF A TEMPORARY CONSTRUCTION EASEMENT, LOCATED IN SECTION SIX (6), TOWNSHIP TWENTY THREE (23) NORTH, RANGE SEVEN (7) WEST, N.M.P.M., RIO ARriba COUNTY, NEW MEXICO, AND BEING A PORTION OF THE NAVAJO TRIBAL TRUST, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT 1 BEGINNING AT THE EAST CORNER OF HEREIN DESCRIBED TRACT FROM WHICH A FOUND BUREAU OF LAND MANAGEMENT (BLM) 3 1/4" BRASS CAP FOR THE NORTH QUARTER CORNER (N 1/4) OF SECTION SIX (6) BEARS NORTH 00° 49' 06" EAST, A DISTANCE 2795.67 FEET; THENCE NORTH 27° 37' 36" EAST, A DISTANCE OF 61.23 FEET (L1); THENCE NORTH 71° 54' 01" EAST, A DISTANCE OF 171.31 FEET (L2); THENCE SOUTH 88° 49' 58" EAST, A DISTANCE OF 58.74 FEET (L3) FROM WHICH A FOUND BUREAU OF LAND MANAGEMENT (BLM) 3 1/4" BRASS CAP FOR THE NORTHEAST CORNER (NE) OF SECTION SIX (6) BEARS NORTH 43° 07' 38" EAST, A DISTANCE OF 3596.25 FEET; THENCE SOUTH 57° 13' 23" WEST, A DISTANCE OF 214.54 FEET (L4); THENCE SOUTH 61° 41' 04" WEST, A DISTANCE OF 58.91 FEET (L5) TO THE POINT OF BEGINNING;

TRACT 2 BEGINNING AT THE EAST CORNER OF HEREIN DESCRIBED TRACT FROM WHICH A FOUND BUREAU OF LAND MANAGEMENT (BLM) 3 1/4" BRASS CAP FOR THE NORTH QUARTER CORNER (N 1/4) OF SECTION SIX (6) BEARS NORTH 00° 56' 57" WEST, A DISTANCE 2793.29 FEET; THENCE NORTH 57° 13' 23" EAST, A DISTANCE OF 258.89 FEET (L6); THENCE SOUTH 88° 49' 58" EAST, A DISTANCE OF 178.17 FEET (L7); FROM WHICH A FOUND BUREAU OF LAND MANAGEMENT (BLM) 3 1/4" BRASS CAP FOR THE NORTHEAST CORNER (NE) OF SECTION SIX (6) BEARS NORTH 40° 01' 36" EAST, A DISTANCE OF 3434.25 FEET; THENCE SOUTH 55° 44' 50" WEST, A DISTANCE OF 340.81 FEET (L8); THENCE NORTH 64° 08' 45" WEST, A DISTANCE OF 126.80 FEET (L9) TO THE POINT OF BEGINNING;

CONTAINING 39,116 SQ. FT. OR 0.90 ACRES, MORE OR LESS.



TEMPORARY CONSTRUCTION EASEMENT DETAIL

Basis of Bearings:

All distances are grid distances measured in U.S. Survey Feet, and all bearings are U.S. State Plane NAD 1983 New Mexico Central Zone grid bearings.

N.T.S.

Station	Owner	Feet	Miles	Acres	Rods
---	NAVAJO TRIBAL TRUST	---	---	0.90	---
TEMPORARY CONSTRUCTION EASEMENT					
LYBROOK MDWCA IMPROVEMENTS PROJECT					
SECTION 6					
T-23-N, R-7-W, N.M.P.M.,			RIO ARriba COUNTY, NEW MEXICO		
Rev.	Date	Description	By	Chkd	Client: The Navajo Nation
					Town: Lybrook, New Mexico
			SOUDER, MILLER & ASSOCIATES		
			Engineering • Environmental • Geomatics		
			Serving the Southwest & Rocky Mountains		
			5454 Venice Avenue NE, Suite D		
			Albuquerque, NM 87113		
			Phone (505) 299-0942 Fax (505) 293-3430		
			www.soudermiller.com		
			© Copyright 2022 Souder, Miller & Associates - All Rights Reserved		
			Date: May. 3, 2022		
			Scale: N.T.S.		
			Project No: 6928709		
			Figure 2D		

Lybrook MDWCA Water System Improvements
Right of Way and Temporary Construction Easement Summary - Tribal Trust Lands

Description	County	Township	Range	Section	Quarter Section	Length (ft)	Right-of-Way		Temp Const. Easment		Total ROW+TCE Acreage
							Width (ft)	Acreage	Width (ft)	Acreage	
Waterline	Rio Arriba	23N	7W	6	All	1,818.66	40	1.67	NA	0.90	2.57
TOTALS:						1,818.66	40	1.67	NA	0.90	2.57

THE NAVAJO NATION



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.

Project Applicant:

Navajo Nation

Project Name/Type:

Lybrook West Waterline Loop

Waterline project

Project Description:

Install approximately 4,500 feet of waterline to loop two dead-end lines for the Lybrook Water System. Approximately 1,975 feet of the waterline is on Tribal Trust Land

Location: S6 T23N R7W; Beginning of Line: 36.2565 N, 107.6191 W, End of Line: 36.2628 N, 107.6114 W

Amount of land affected: Less than 3.3 acres are located on Tribal Trust Land.

Land Status: Trust ☒ Fee ☐ Other ☐

List only valid Grazing Permittees (tally counts) whose grazing rights will be affected by project:

	Names	Permit Number	Type of Land Use Right
1	NONE		
2			
3			
4			
5			

PART OF Lybrook Grazing Community. NO BSA or
 BUT Grazing Permit in immediate area and no tallies
ACKNOWLEDGEMENT
 I acknowledge that due notice was given to the affected community of the proposed project and according to my records to the best of my knowledge, the list of individuals includes all land users who have land use rights in the affected lands.

03/26/21

Date

Grazing Official or Land Board Member

Carlos Ariso

District 19

District No.

Nageezi Chupar.

NAVAJO NATION GENERAL LAND DEVELOPMENT DEPARTMENT

POST OFFICE BOX 69 • ST. MICHAELS, AZ 86511 • PHONE: (928) 871-6490 • FAX: (928) 871-7039



**NAGEEZI CHAPTER
EASTERN NAVAJO AGENCY
DISTRICT 19**



Jonathan Nez, Navajo Nation President

Myron Lizer, Navajo Nation Vice-President

**RESOLUTION OF NAGEEZI CHAPTER
EASTERN AGENCY, DISTRICT 19**

RESOLUTION # NC 22-061

**SUPPORTING AND RECOMMENDING FOR APPROVAL THE NAVAJO
NATION DEPARTMENT OF WATER RESOURCES APPLICATION FOR
TEMPORARY CONSTRUCTION EASEMENTS (TCE) FOR CONSTRUCTION
AND RIGHT-OF-WAY (ROW) FOR CONSTRUCTION, OPERATION AND
MAINTENANCE OF THE LYBROOK MDWCA WATER SYSTEM
IMPROVEMENTS PROJECTS, WITHIN THE CHAPTER, RIO ARRIBA
COUNTY, NEW MEXICO.**

WHEREAS:

1. Pursuant to 26 N.N.C., Section 3 (A) the Nageezi Chapter is a duly recognized certified Chapter of the Navajo Nation Government, as listed at 11 N.N.C., part 1, section 10, and
2. Pursuant to 26 N.N.C., Section 1 (B) Nageezi Chapter is vested with the authority to review all matters affecting the community and to make appropriate correction when necessary and make recommendation to the Navajo Nation and other local agencies for appropriate actions, and
3. The Nageezi Chapter is responsible for the safety, health, and welfare of the chapter members; and
4. The Nageezi Chapter membership is desirous of enhancing the living standards and providing healthy environment for residents living in the community of Nageezi Chapter, Navajo Nation, San Juan County, New Mexico; and
5. Temporary Construction Easements and Right-of-Way are needed for the Lybrook MDWCA Water System Improvements Project; and
6. The Nageezi Chapter is a certified chapter of the Navajo Nation and is further recognized as a local tribal government entity to make appropriate recommendations to the Navajo Nation and Tribal Agencies concerning matters that are in the best interest of the community; and
7. Navajo Nation Department of Water Resources has already or will complete all the necessary consents required, environmental and cultural resources inventories and obtain clearances for the proposed undertaking; and
8. The Nageezi Chapter requests that the Navajo Nation grant a waiver of consideration because this proposed undertaking will improve water system

operations by connecting two waterlines to promote water movement and flexibility during repairs and maintenance.

9. It is in the best interest of the Nageezi Chapter to support the Navajo Nation Department of Water Resources in obtaining a TCE to construct and a ROW to construct, operate and maintain the Lybrook MDWCA Water System Improvements Project within the community.

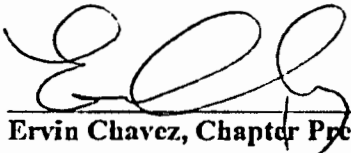
THEREFORE BE IT RESOLVED THAT:

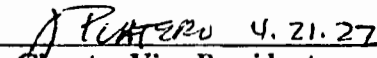
1. The Nageezi Chapter recognizes that Department of Water Resources may seek Temporary Construction Easements for construction and a Right-of-Way to be transferred to Lybrook Mutual Domestic Water Consumers Association after project construction; and
2. The Nageezi Chapter membership hereby supports the Navajo Nation Department of Water Resources's application for Temporary Construction Easements for Construction and Right-of-Way for Construction, Operation, and Maintenance of the Lybrook MDWCA Water System Improvements Project; and supports that the Navajo Nation waive consideration because this proposed undertaking will improve water system operations in the project area; and
3. Nageezi Chapter Administration and Officials are hereby authorized to execute any and all actions to carry out the purpose and intent of this foregoing resolution; and

CERTIFICATION

WE HEREBY CERTIFY THAT THE FOREGOING RESOLUTION NO. NC-22-061 was duly presented and discussed at a duly called meeting of Nageezi Chapter, Navajo Nation (New Mexico), at which a quorum was present, motioned by Andy Charley, seconded by Jessie Valdez, was voted on with 06 in favor, 00 opposed, and 04 abstained, this 19th day of April 2022.

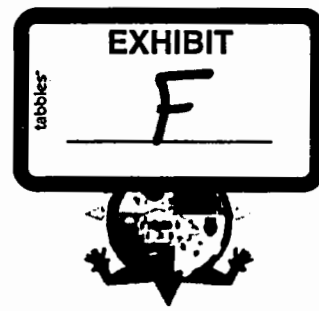
Attest:


Ervin Chavez, Chapter President

 4. 21. 27
Rory Jaques, Chapter Vice-President
or
Jessica Platero, Secretary/Treasurer



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-21-1511

CONSULTANT REPORT NO.: SRI 21-40

PROJECT TITLE A Class III Inventory for the Lybrook West Waterline Loop in Nageezi Chapter, Rio Arriba County, New Mexico.

LEAD AGENCY: BIA/NRO

SPONSOR: Colin Daly, Souder, Miller & Associates, 5454 Venice Ave NE, Albuquerque, NM, 87113

PROJECT DESCRIPTION: New Mexico Capital Outlay is funding a project for Souder, Miller & Associates (SMA) to create a short water line. The water line will loop two dead-end lines to improve water quality. The standard right-of-way (RQW) width is 20-ft on either side of the water line (40-ft), with a section of 50 feet on either side (100-ft total) and a section of 100-ft on either side (200-ft total). The total length of the loop connecting the two lines is 4,490-ft, and the width is 140 feet except in one section that widens to 200-ft and another section that widens to 300-ft. The area of potential effect is 6.12-acres (3.45-acres on Private land; 2.67-acres on Navajo Nation Tribal Trust Land).

PROJECT ARCHAEOLOGIST: David Unruh

NAVAJO ANTIQUITIES PERMIT NO.: B21252

DATE INSPECTED: 5/13/2021

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

LAND STATUS: NN Tribal Trust Land & Private

NUMBER OF ELIGIBLE PROPERTIES: 0

NUMBER OF UNEVALUATED PROPERTIES: 1

NUMBER OF TCPS: 0

NUMBER OF IN-USE SITES: 0

PROCEED RECOMMENDED: Yes

TOTAL ACREAGE INSPECTED: 16.87

DATE OF REPORT: 6/17/2021

CHAPTER: Nageezi

NUMBER OF NON-ELIGIBLE PROPERTIES: 1

NUMBER OF BURIALS: 0

NUMBER OF ISOLATED OCCURRENCES: 0

EFFECT/CONDITIONS OF COMPLIANCE: No Historic Properties Affected

CONDITIONS: No

Site NM-G-45-9: The pipeline construction has significantly impacted the site with mechanical leveling of the area and has mostly destroyed the site.

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

FORM PREPARED BY: Olsen John

FINALIZED: 10/13/2021

NAVAJO NATION HERITAGE AND HISTORIC PRESERVATION DEPARTMENT


Richard M. Begay, Department Manager/THPO


Date

NAVAJO REGION APPROVAL:


Acting Navajo Regional Director
BIA - Navajo Regional Office


Date

~ DOCUMENT IS VOID IF ALTERED ~

SPONSORS

Colin Daly, Souder, Miller & Associates

LOCATION INFORMATION**LAND STATUS:** NN Tribal Trust Land & Private**STATE:** NM**DATUM:** NAD83**ZONE:** 12**COUNTY(IES)**

Rio Arriba

QUADRANGLE(S)

Crow Mesa East, NM

CHAPTER(S)

Nageezi

Township

23N

Range

7W

Sections

6

UTM N**UTM E**

4018431

804442

4018039

804336

4017972

804306

4017944

804301

4017759

804266

4017758

804278

4017706

804251

4017642

804132

4017583

804103

4017544

804037

4017576

803908

4017707

803768

**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.: Lybrook West Waterline Project

DESCRIPTION: New Mexico Capital Outlay funded project to loop two dead end lines to improve water quality in the area. Approximately 2,091 feet (0.40 miles) of the one mile waterline project is located on Navajo Nation Trust Land with the remaining on private land.

LOCATION: SW and NE quarters of Section 6, T23N, R7W, Rio Aribba County, NM

REPRESENTATIVE: David McIntyre, McIntyre Environmental LLC

ACTION AGENCY: Lybrook Mutual Domestic Water Consumers Association and Navajo Nation Water Resources Department

B.R. REPORT TITLE / DATE / PREPARER: Biological compliance review/20 May 2021/David McIntyre

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: (1) Aquila chrysaetos (Golden Eagle), G3, MBTA;

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA


AVOIDANCE / MITIGATION MEASURES: NA

CONDITIONS OF COMPLIANCE*: Raptor surveys are required if construction occurs between March 1-July 15, of any year. If construction occurs outside that time period no raptor surveys are needed.

FORM PREPARED BY / DATE: Leanna Begay/6 Aug 2021

COPIES TO: (add categories as necessary)

☐ _____ ☐ _____

2 NTC § 164 Recommendation:		Signature	Date
<input checked="" type="checkbox"/> Approval			8/6/21
<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.**



General Land Development Department
PO Box 69 | St. Michaels, AZ 86511
928-871-6447 | gldd.org
Environmental Compliance Determination



Project Information

Title: Lybrook Mutual Domestic Water Consumers Association (MDWCA) ROW & TCE

Size: +/- 1818.66 feet and/or +/- 2.57 acres

Legal Description: Sec 6, T23N, R7W, N.M.P.M, Rio Arriba County, Nageezi Chapter, New Mexico

Environmental Compliance Determination

The proposed Right of Way (ROW) will be lawfully granted by the Navajo Nation through the authority of 25 C.F.R. §169.4(b)(3)(iii) and the General Leasing Regulations of 2013

The General Land Development Department's environmental compliance determination (ECD) confirms the above mentioned Right-of-Way (ROW) application meets the environmental clearance criteria of the Navajo Nation General Leasing Regulations (16 N.N.C. § 2301 et. Seq.). The proposed ROW poses no significant impact(s) to the cultural, biological and the natural environments of the Navajo Nation.

Environmental Clearance Reviews

Furthermore, the aforementioned ROW applicant will also consult with the Navajo Nation EPA to ensure compliance with all Navajo Nation Environmental laws and permits (4 N.N.C. § 901 et. Seq.) that will be enforced after said ROW is consented to by the Navajo Nation.

If at any time over the duration of the ROW an environmental taking or violation occurs, the grantee may be subject to disciplinary actions and possible cancellation of the authorization. This pertains to all Navajo Nation and Federal environmental laws, regulations and policies applicable to the proposed undertaking.

In addition, the ECD is valid so long as the "Effect/Conditions of Compliance" out-lined on "Cultural Resources Compliance Form (HPD-21-1511)" and the "Biological Resource Compliance Form (NNDFW Review No. 21mcen101)" are implemented.

Approved by


Steven Chischilly Jr, Environmental Specialist GLDD

1/18/2023
Date



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Navajo Regional Office

P.O. Box 1060

Gallup, New Mexico 87305

April 6, 2022

David L. McIntyre
Principal
McIntyre Environmental LLC
1900 West Desert Highlands Drive
Oro Valley, Arizona 85737

Dear Mr. McIntyre:

The Environmental Assessment (EA), EA-21-090821-1, for the Navajo Nation Water Resources Department Waterline Lybrook Loop Connection Project Right-of-Way (ROW) was reviewed by the Branch of Environmental Quality Act Compliance and Review, Navajo Regional Office.

The Navajo Nation, Water Resources Department is requesting a ROW for a proposed project to construct, operate, and maintain a 2-inch diameter, 1.00± mile long waterline, of which 0.4 miles will be constructed on Navajo Nation Tribal Trust Land. This project will loop two dead-ends lines to improve water quality. The proposed ROW will consist of approximately 2,112.00± feet with a 30-foot corridor width for a total of 0.4± miles across Navajo Tribal Trust Land 2.67± acres. The waterline will be constructed on Tribal Trust Land and Private land in the Nageezi Chapter in Rio Arriba County, New Mexico.

In accordance with Section 102 (2)(c) of the National Environmental Policy Act (NEPA) of 1969, as amended, and the Council of Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR § 1500.1508), the Bureau of Indian Affairs, Navajo Regional Office, finds that the Proposed Action is not a major federal action that will significantly impact the quality of the human environment. Therefore, an Environmental Impact Statement is not required for implementing the Proposed Action. This Finding of No Significant Impact (FONSI) is supported by the Environmental Assessment (EA) and the supporting appendices and documents.

If you have questions, you may contact Mr. Leonard Notah, Supervisory Environmental Protection Specialist at (505) 863-8287.

Sincerely,

ANGELA
ARVISO

Digitally signed by
ANGELA ARVISO
Date: 2022.04.06
15:14:39 -06'00'

Angela M. Arviso
Acting Regional Director

Enclosure

**FINDING OF NO SIGNIFICANT IMPACT
ENVIRONMENTAL ASSESSMENT EA-21-081621-1
NAVAJO NATION WATER RESOURCES DEPARTMENT WATERLINE LYBROOK
LOOP CONNECTION PROJECT RIGHT-OF-WAY (ROW)**

NAVAJO NATION WATER RESOURCES DEPARTMENT

Location: Crow Mesa East, NM (1985) 7.5 Minute USGS Quadrangle

Location: Crow Mesa West, NM (1985) 7.5 Minute USGS Quadrangle

Location: Lybrook, NM (1969) 7.5 Minute USGS Quadrangle

Location: Lybrook NW, NM (1969) 7.5 Minute USGS Quadrangle

**NAL Sections 6, Township 23 North, Range 7 West, Rio Arriba County, NM Rio Arriba
County, New Mexico**

The Navajo Nation Water Resources Department is requesting a right-of-way for a proposed project to construct, operate, and maintain a 2-inch diameter, 1.00± mile long waterline, of which 0.4 miles will be constructed on Navajo Nation Tribal Trust Land. This project will loop two dead-ends lines to improve water quality. The proposed ROW will consist of approximately 2,112.00± feet with a 30-foot corridor width for a total of 0.4± miles across Navajo Tribal Trust Land 2.67± acres. The waterline will be constructed on Tribal Trust Land and Private land in the Nageezi Chapter in Rio Arriba County, New Mexico.

In accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended, an Environmental Impact Statement will not be required.

This determination is supported by the following findings:

1. **Beneficial and adverse environmental impacts:** The EA demonstrates that there will be no significant adverse or beneficial impacts on the quality of the human environment, including land resources, water resources, air resources, biotic resources, cultural resources, socioeconomic conditions, resource/land use patterns and other values. Excavation of the land to emplace waterline will have minimal clearing of vegetative land cover during the construction period. The construction will be temporary and will have no lasting effect on residents. Construction will be during daylight hours and will have a minimum increase of noise from construction activities. Existing public roads will be used for access during construction period. Fugitive dust generated by vehicular and equipment traffic, wind erosion associated with construction activities, is expected to impact air quality on a minor, short-term basis. There is no major drainage within the project area (EA Section 4.1 Land Resources Impacts and Mitigation; EA Section 4.2 Water Resources Impacts and Mitigation).
2. **Public health and safety:** Potential safety hazards to the public include accidents associated with vehicle traffic. Occupational Safety and Health Administration laws regulate worker safety and would be followed to prevent work site accidents. The proposed Action would affect any public services or otherwise have any impact to public safety. There will be no effect to public health and safety because of the proposed action or no-action alternative (EA Section 4.11 Other Values). Overall, the effects on public health and safety of the

community will improve with the installation of water line loop and will improve water quality for the local community.

3. **Clean Water Act (CWA) Compliance:** When a project spans, crosses or results in work in a river bed, stream bed or wetland, permits from the U.S. Army Corps of Engineers (ACOE) and/or the Navajo Nation Environmental Protection Agency, Water Quality Program may be required, including: Section 401, Water Quality Certification; Section 402(p), Storm Water Pollution Prevention Plan, if the project activity will disturb surfaces of ½ acre or more; and Section 404, Permit for Discharge of Dredge or Fill Material into Waters of the US. The applicant shall submit and obtain approval for all required applications prior to construction. The applicant shall adhere to all mitigation measures and strategies developed with the U.S. Army Corps of Engineers and the Navajo Nation Environmental Protection Agency: Based on the EA, this project has no major drainage within the project area, Blanco Wash is an ephemeral wash that is crossed by the proposed action; however, impacts would be avoided by using directional drilling to go underneath the wash. There will be short-term, moderate, adverse impacts to Blanco Wash from vehicular traffic, grading, soil removal for installation of the waterline. In disturbed areas, storm water run-off from a non-stabilized construction site can pick up trash, debris, sediments, loose soils, and pollutants such as oil, grease, and other toxins, from the construction site and deposit them into nearby washes. With this mitigation measure, the impact to water resources will be negligible to minor, and short-term. Navajo Nation Water Resources Department will identify best management practices to prevent construction site surface runoff from depositing into washes, with the development of a Stormwater Pollution Prevention Plan (SWPPP). Prior to construction the Navajo Nation Water Resources Department shall consult with Navajo Nation Environmental Protection Agency (NNEPA) and the Army Corps of Engineers (ACOE) to ensure that this project does not need CWA permits.
4. **Unique characteristics of the geographic area:** The project area is not unique within its geographical setting and is like other areas in the region. There are no prime farmlands, wild and scenic rivers, wilderness areas, refuges, park lands, unique ecological areas, or other unique or rare characteristics of the land that will be significantly affected.
5. **Degree to which the effects on the quality of the human environment are likely to be highly controversial:** The project activities will be limited to the inner boundaries of the ROW and there are no public health and safety facilities or wilderness areas adjacent to the project site. Therefore, there will be no effect on these resources.
6. **Degree to which the effects are highly uncertain or involve unique or unknown risks:** There are no known effects on the human environment that are highly uncertain or involve unique or unknown risks.
7. **Degree to which this action will establish a precedent for future actions with significant effects:** This project will not set a precedent for similar projects that may be implemented by the BIA or other agencies.
8. **Relationship to other actions with cumulatively significant impacts:** There are no known incremental effects of the action that become significant when added to other past, present, or reasonably foreseeable future actions that have affected, or will affect, the project area.

9. **Degree to which the action may affect districts, sites, objects, or structures listed on, or eligible for, the National Register of Historic Places, or may cause loss of significant cultural resources:** The cultural resources compliance documentation pursuant to Programmatic Agreement for "Cultural Resource Inventory for the Proposed Carson East Waterline Extension Project in San Juan County, New Mexico (IHS Project No. NA-18-U47/XS1)", CASA 18-52, 45.28 acres on December 4, 2018.

In accordance with the Programmatic Agreement between NAIHS, NNHPO, and the advisory Council on Historic Preservation (ACHP) dated 1/31/2000, NAIHS will assume NNHPO's concurrence to the determinations of register eligibility and recommendations in the report, including the recommended determination of "no historic properties affected". That concurrence signifies project compliance with Section 106 of NHPA and the Navajo Nation Cultural Resources Protection Act (CMY-19-88, now codified as 19NNC, Section 102). Contingent upon approval of the right-of-way documents, this also connotes that construction on the subject project can proceed immediately.

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 NNHPD must be notified at (928)871-7198.

10. **Degree to which the action may affect threatened, endangered, or sensitive species or their habitat:** A Biological Resources Compliance Form (BRCF) with Navajo Nation Department of Fish and Wildlife (NNDFW) Review No. 21mcen101 was issued by the NNDFW on August 6, 2021, approving the proposed action with the following conditions of compliance:

Raptor Surveys are required if construction occurs between March 1-July 15, of any year. If construction occurs outside that time, no raptor surveys are needed.

11. **Whether the action violates Federal or local laws or requirements imposed for the protection of the environment:** The proposed project will not violate any Federal or Tribal environmental laws or requirements.

12. **Indian Trust Assets:** The approval of the requested use area would have no effect on the resource use patterns in the project area.

If juniper, or pinyon pine, or any other forest product is identified within the right-of-way of the proposed waterline project area will be inventoried and appraised in accordance with the Navajo Nation Forest and Woodland Regulations (RCMA-48-01), Part 53 Indian Affairs Manual Chapter 3 - Harvest of Forest Products, and 25 Code of Federal Regulation Part 163. It is anticipated the stumpage (appraised fair market value minus the cost to harvest/transport/implement mitigation requirements) to be less than \$25,000.00 due to the small size of the proposed project area.

A forest harvesting permit and/or contract will be issued on Tribal Trust Land and Indian Allotments. Forest products will be harvested in accordance with all applicable Tribal and

Federal laws and regulations regarding forest product harvesting (e.g., RCMA-48-01, 25 CFR Part 163).

Although Juniper, Cottonwood and Pinyon pine were documented in the vicinity of the project area their occurrences were infrequent and they would not be affected by the proposed action. Monitoring would be conducted to ensure no trees would be affected. Therefore, there would be no impacts (EA Section 4.8. Indian Trust Resources Impacts and Mitigation).

13. **Climate Change, its effects on the proposed action and its environmental impacts:** The incremental contribution to global GHGs from the proposed action cannot be translated into effects on climate change globally or locally. It is currently not feasible to predict with certainty the net impacts from the proposed action on global or regional climate.

CONCLUSION

The proposed action is the Preferred Alternative. It does not constitute a major federal action, which normally requires preparation of an environmental impact statement (EIS).

Based on the foregoing, it has been determined that an EIS is not required for this project and thus will not be prepared.

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Angela M. Arviso
Acting Regional Director

April 6, 2022

Date



Lybrook Loop

ENVIRONMENTAL ASSESSMENT

Report submitted to:

Bureau of Indian Affairs-Navajo Region
Branch of Environmental Quality Act Compliance and Review
P.O. Box 1060
Gallup, NM 87305

Prepared by McIntyre Environmental LLC

1900 West Desert Highlands Dr.

Oro Valley AZ 85737

Lybrook Loop Waterline Environmental Assessment

Report submitted to:

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ACRONYMS

AMSL	Above Mean Sea Level
AQB	Air Quality Bureau
AQCR	Air Quality Control Region
BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
BMP	Best Management Practice
CCD	Census County Division
CDP	Census Designated Place
CEQ	Council on Environmental Quality
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulations
CH ₄	Methane
CO	Carbon Monoxide
CO ₂	Carbon Dioxide
CRCF	Cultural Resources Compliance Form
DOT	Division of Transportation
EA	Environmental Assessment
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
EO	Executive Order
FBI	Federal Bureau of Investigation
FEMA	Federal Emergency Management Agency
FHWA	Federal Highway Administration
FIRM	Flood Insurance Rate Map
FLPMA	Federal Land Policy Management Act
FONSI	Finding of No Significant Impact
GHG	Greenhouse Gas
HAPs	Hazardous Air Pollutants
HUD	Housing and Urban Development
IAM	Indian Affairs Manual
IO	Isolated Occurrences
IPaC	Information for Planning and Consultation
ISDA	Indian Self Determination Act
IUS	In-Use Sites
LA	Laboratory of Anthropology
LRTP	Long Range Transportation Plan
MDWCA	Mutual Domestic Water Consumers Association
MBTA	Migratory Bird Treaty Act

$\mu\text{g}/\text{m}^3$	micrograms per cubic meter of air
NAAQS	National Ambient Air Quality Standards
NATA	National Air Toxics Assessment
NDFW	Navajo Nation Department of Fish and Wildlife
Navajo DOT	Navajo Nation Division of Transportation
NEPA	National Environmental Policy Action
NESL	Navajo Endangered Species List
NESHAP	National Emission Standards for Hazardous Air Pollutants
NMCRIS	New Mexico Cultural Resources Information System
NMED	New Mexico Environmental Department
NNH&HPD	Navajo Nation Heritage and Historic Preservation Department
NNHP	Navajo Natural Heritage Program
NRHP	National Register of Historic Places
N ₂ O	Nitrous Oxide
NO ₂	Nitrogen Dioxide
NOA	Notice of Availability
NOX	Oxides of Nitrogen
NPDES	National Pollutant Discharge Elimination System
NRCS	Natural Resources Conservation Service
NTEP	Navajo Tribal Extension Program
O ₃	Ozone
Pb	lead
PM	particulate matter
PM _{2.5}	particulate matter less than 2.5 microns in size
PM ₁₀	particulate matter less than 10 microns in size
ppb	parts per billion
ppm	parts per million
RCP	biological resources land use clearances and policies
RCRA	Resource Conservation and Recovery Act
ROW	Right of Way
SRI	Statistical Research, Inc.
SIP	State Implementation Plan
SO ₂	Sulfur Dioxide
SWPPP	Storm Water Pollution Prevention Plan
TCP	Traditional Cultural Property
T&E	Threatened and Endangered Species
TSCA	Toxic Substance Control Act
USC	United States Code
USACE	United States Army Corps of Engineers
USGS	United States Geological Survey
USFWS	United States Fish and Wildlife Service

1 INTRODUCTION

The Lybrook Mutual Domestic Water Consumers Association (MDWCA), working with New Mexico Capital Outlay funds administered by Navajo Nation Water Resources Department is proposing development of a 2-inch diameter, 1-mile long waterline in the Nageezi Chapter of Rio Arriba County, New Mexico (Figure 1.1).

This federal action requires the preparation of an EA in accordance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) Regulations for Implementing NEPA (40 Code of Federal Regulations [CFR] 1500–1508), and the Bureau of Indian Affairs (BIA) NEPA Guidebook (59 Indian Affairs Manual [IAM] 3-H; BIA 2012). NEPA requires that environmental consequences associated with the Proposed Action and the Alternatives to the Proposed Action be evaluated in this document.

McIntyre Environmental, LLC (McIntyre), under the direction of the Bureau of Indian Affairs (BIA), has been contracted to prepare this Environmental Assessment (EA). Environmental analysis of the resources potentially susceptible to cumulative impacts from construction, operation, and maintenance of the Proposed Action found one previously active golden eagle nest approximately 0.75 miles from the northern terminus of the Project Area. No other special status species or their habitat were found within the Project Area. A cultural resource survey conducted by Statistical Research Inc. (SRI) resulted in the investigation of one archaeological site (NM-Q-45-9/LA 182871) that had been initially identified during the Class I records review, the identification of two in-use sites, and the documentation of two isolated occurrences. SRI was unable to relocate one site (LA 20124), presumably because of site-plotting errors, based on a more-recent previous investigation that relocated the site in a location outside the current survey area. The relocated previously recorded site (NM-Q-45-9/LA 182871) lacks integrity and information potential and is recommended not eligible for listing in the National Register of Historic Places (NRHP). An NRHP-eligibility recommendation of “undetermined” is provided for the site that was not relocated (SRI 2021).

This EA describes the Proposed Action and No-Action alternatives, the affected environment, environmental consequences, and mitigation measures. The key areas analyzed in the EA include land resources, water resources, air resources, biological resources (including special status species, wildlife, and vegetation), cultural resources, socioeconomic and environmental justice conditions, resource use patterns (land use plans), and other values (wilderness, sound and noise, visual, solid and hazardous waste treatment, and public health and safety).

1.1 Project Location

The Project Area is located just north of Highway 550 approximately 7 miles east of the community of Nageezi in Rio Arriba County, New Mexico. The portion of the Project Area south of Blanco Wash is located on Navajo Tribal Trust lands. The remainder is located on private land (Figure 1.1).

1.2 Purpose and Need for the Proposed Action

The Lybrook MDWCA (Applicant) has entered into an agreement with the Navajo Nation (Tribe) to lease land, anticipated to be up to 20 years, within the Nageezi Chapter on the Navajo Nation for the purposes of constructing, operating, and maintaining a 2-inch diameter, 1-mile long waterline (the Proposed Action). The water line will loop two dead-end lines to improve water quality. Approximately 0.4 miles of the waterline would be constructed on Navajo Nation Tribal Trust lands with the remainder being constructed on private land.

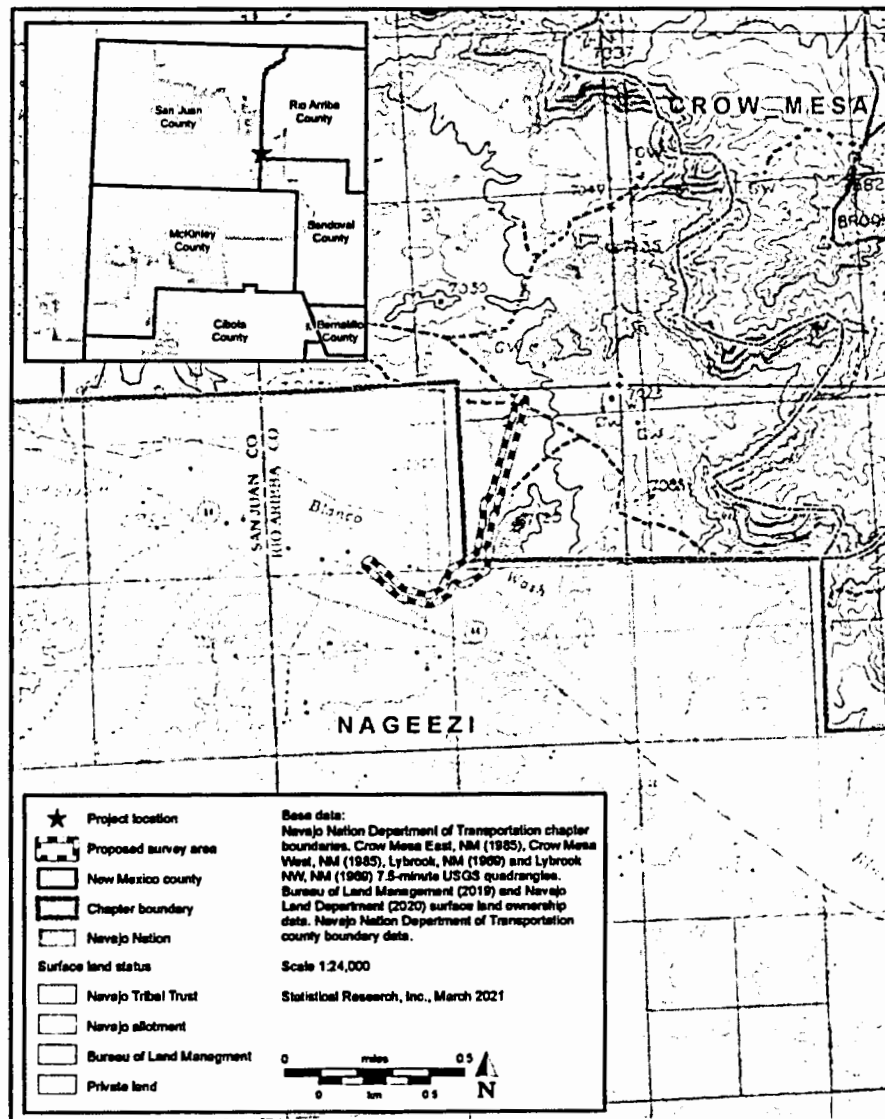


Figure 1.1 Location and Project Area Map

The Proposed Action would impact resources on up to 2.67 acres of land within Tribal Trust lands of the Navajo Nation and up to 3.45 acres of privately owned land. The Project Area is located just north of Highway 550 approximately 7 miles east of the community of the unincorporated community of Nageezi in Rio Arriba County, New Mexico. The Proposed Action would require approval by the BIA. Pursuant to 25 United States Code (USC) §415, the BIA must approve the Right-of-Way (ROW) lease agreement between the Tribe and Applicant for the waterline. This ROW would be in compliance with the Federal Land Policy Management Act (FLPMA), BIA ROW regulations, and other applicable Federal laws. The BIA would decide whether to deny the proposed ROW, grant the ROW, or grant the ROW with modifications. Modifications may include modifying the proposed use or changing the route or location of the proposed ROW (43 CFR 2805.10(a)(1)).

1.3 Overview of the Environmental Review Process

EAs are prepared by federal agencies to aid in determining if a proposed action has the potential to significantly affect the quality of the human environment. According to Section 1508.0(a) of the CEQ Guidelines, an EA serves to:

1. Briefly provide sufficient evidence and analysis for determining whether to prepare a Finding of No Significant Impact (FONSI) or an environmental impact statement (EIS);
2. Aid an agency's compliance with NEPA when an EIS is not necessary; and
3. Facilitate preparation of an EIS when one is necessary.

After considering this EA, the BIA will determine whether to issue a FONSI or to require an EIS. If a FONSI is prepared, the BIA will issue a public Notice of Availability (NOA) of the FONSI for at least 30 days prior to any decision. If the BIA determines that an EIS is required, it will follow the more involved notices and comment procedures of NEPA applicable to the EIS process.

1.4 Regulatory Context

1.4.1 Indian Trust Assets

Indian Trust Assets are legal interests in assets held in trust by the United States for Native American tribes or individual Native Americans. Assets are anything owned that have monetary value. The asset need not be owned outright but could be some other type of property interest, such as a lease or right of use. Assets can be real property, physical assets, or intangible property rights such as intellectual property. The United States has an Indian Trust responsibility to protect and maintain rights reserved by or granted to Native American tribes or individuals by treaties, statutes, and executive orders (EOs), which are sometimes further interpreted through court decisions and regulations.

Accordingly, the BIA is mandated by federal law to manage Indian lands held in trust for the benefit of the Indian owners. The BIA is committed to the policy of sustained-yield management and to providing management plans based on guidelines set forth in 25 CFR 163 and the Indian Forest Management Handbook. The BIA is also committed to a policy of Indian self-determination as required under law and has a duty to consult and coordinate land and resource activities on tribal and allotted lands with the Tribes. The BIA is responsible for trust lands, however, the purpose of the Indian Self Determination Act (ISDA) is "to end Federal Government domination of Indian programs and services whereby Indian tribes may assume control over federal programs and services by contract." Additionally, per the ISDA, "The essence of the self-determination policy is that Indian actions and Indian decisions shall determine the Indian future." Finally, "It is the policy of the Bureau of Indian Affairs to provide for maximum delegation of authority to the service delivery level while insuring full compliance with all applicable laws, regulations, and policies to ensure sound management control and business decisions" (BIA 2006).

1.4.2 Compliance with Applicable Laws, Executive Orders, Regulations, Policies, and Community Ordinances

The following is a summary of selected statutes, regulations, and Executive Orders (EOs) applicable to this Project.

National Environmental Policy Act of 1969, Public Law 91-190, 42 United States Code (USC) 4321-4370(e), as amended. NEPA requires federal agencies to take into consideration the environmental consequences of proposed actions as well as input from state and local governments, Indian tribes, the public, and other federal agencies during their decision-making process. The CEQ was established under NEPA to ensure that all environmental, economic, and technical considerations are given appropriate consideration in this process. This EA complies with NEPA statutes and regulations and the BIA NEPA Guidebook (BIA 2012).

Clean Water Act of 1977, as amended. Section 404 of the Clean Water Act identifies conditions under which a permit is required for construction projects that result in the discharge of dredged or fill material into waters of the U.S. There are no jurisdictional waters of the U.S. within the Project Area.

Executive Order 11988, Floodplain Management, May 24, 1977. EO 11988 requires avoiding or minimizing harm associated with the occupancy or modification of a floodplain. The Project Area is not located within any designated floodplain; therefore, no modification would take place.

Endangered Species Act of 1973, as amended. Section 7 of the Act requires federal agencies to consult with the United States Fish and Wildlife Service (USFWS) to ensure that undertaking, funding, permitting, or authorizing an action is not likely to jeopardize the continued existence of listed species, or destroy or adversely modify designated critical habitat. Critical habitat, as defined under the Act, exists only after it is officially designated by the USFWS. Critical habitat is 1) areas within the geographic area, including features essential to the conservation of the species and that may require special management consideration or protection; and 2) those specific areas outside the geographic area, occupied by a species at the time it is listed, essential to the conservation of the species.

Migratory Bird Treaty Act. The Migratory Bird Treaty Act (MBTA), codified at 16 USC §§ 703-712 (although §709 is omitted), is a United States federal law, first enacted in 1916 in order to implement the convention for the protection of migratory birds between the United States and Great Britain (acting on behalf of Canada). The statute makes it unlawful without a waiver to pursue, hunt, take, capture, kill, or sell birds listed therein ("migratory birds"). The statute does not discriminate between live or dead birds and also grants full protection to any bird parts including feathers, eggs, and nests. Over 800 species are currently on the list. Some exceptions to the act, known as the eagle feather law, are enacted in federal regulations (50 CFR 22), which regulates the taking, possession, and transportation of bald eagles, golden eagles, and their "parts, nests, and eggs" for "scientific, educational, and depredation control purposes; for the religious purposes of American Indian tribes; and to protect other interests in a particular locality." Enrolled members of federally recognized tribes may apply for an eagle permit for use in "bona fide tribal religious ceremonies."

The Bald and Golden Eagle Protection Act of 1940, as amended. This Act prohibits anyone, without a permit issued by the Secretary of the Interior, from "taking" bald eagles, including their parts, nests, or eggs. The Act provides criminal penalties for persons who "take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle ...[or any golden eagle], alive or dead, or any part, nest, or egg thereof." The Act defines "take" as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb."

1.4.3 Public Input, Agency Scoping, and Tribal Consultation

Public and agency input are an essential component of the NEPA process and were obtained for the Project through stakeholder outreach, scoping, and tribal consultation. The purpose of scoping was to determine the issues related to the Proposed development and to identify the significant issues to be addressed in this EA.

1.4.3.1 Agency Scoping

As part of Agency Scoping, letters were prepared and submitted to a variety of agencies on behalf of the BIA asking for input on the Proposed Action (Appendix A). Letters were sent in March 2021 to:

- Navajo Natural Heritage Program (NNHP), part of the Navajo Nation Department of Fish and Wildlife (NDFW), asking for information on Threatened and Endangered (T&E) Species in the Project Area;
- Navajo Environmental Protection Agency (EPA);
 - Administration Department
 - Air and Toxics Department
 - Enforcement Department
 - Surface and Groundwater Detection Department
 - Waste Regulatory and Compliance Department
- Floodplain Section of the Water Management Branch of the Water Resources Department.
- Navajo Division of Forestry

A records search with the Navajo Nation Heritage and Historic Preservation Department (NNH&HPD) in Window Rock was conducted on April 14, 2021

The NNHP replied to the request for information on T&E Species at the end of March 2021 with a list of T&E Species known to be in the Project Area or that have the potential to be in the Project Area (Appendix B). The Navajo Division of Forestry was contacted via phone call, and they asked for a Google Earth file of the Project Area be provided.

1.4.3.2 NEPA Scoping

Interviews were conducted with family members and families living within sight of the Project Area. This outreach is discussed in more detail in Section 3.5 Cultural Resources. Prior to the interviews, Mr. Samuel Sage (Chapter Services Coordinator) was consulted on the nature of the proposed undertaking and where the project was located.

1.5 Environmental Issues Addressed

In accordance with NEPA, based on internal scoping, public scoping, and consultation with the local, state, and federal agencies summarized above, Chapter 4 of this EA evaluates the environmental consequences of the Proposed Action on the following resources:

- Land Resources
- Water Resources
- Living Resources
- Cultural Resources
- Socioeconomic Conditions
- Resource Use Patterns
- Other Values

A more detailed list of resources and their subcategories is presented in Chapter 3. Several resources or resource subcategories were eliminated from analysis due to negligible impact in and around the Project

Area (i.e., Wilderness Areas, Lumber, Hunting/Fishing, and Recreation) or a low probability of occurrence (Mineral Extraction).

2 ALTERNATIVES INCLUDING THE PROPOSED ACTION

This federal action requires the preparation of an EA in accordance with NEPA and the CEQ Regulations for Implementing NEPA (40 CFR 1500–1508) and the BIA NEPA Guidebook 59 IAM 3-H (BIA 2012).

The following chapter describes the two alternatives evaluated in this document: The Proposed Action Alternative and the No-Action Alternative. Included in the Proposed Action Alternative is a description of how the Proposed Project would be constructed.

2.1 Proposed Action

The proposed waterline would loop two dead end lines to improve water quality in the larger area. The standard ROW width would be 20 feet on either side of the water line (40 feet total), with one segment being 50 feet on either side (100 feet total) on private land. Once the water line gets to Blanco Wash and enters Tribal Trust land it would go from a ROW width of 40 feet total to a ROW width of 100 feet total over a distance of 259 feet and out to 200 feet total width across the wash for a distance of 335 feet. It would narrow back to 40 feet width after crossing the Wash, to a and a section of 100 feet on either side (200 feet total). The total length of the loop connecting the two lines is 4,490 feet with 1,894 feet being on Tribal Trust land (Figure 2.1). Directional drilling would be used to route the waterline under Blanco Wash. The line would be drilled 12 feet below the wash bottom.

2.2 No Action

Under the No-Action Alternative, the Proposed Action would not be developed. The two existing dead end lines would not be connected.

2.3 Environmental Protection Measures

2.3.1 Land and Water Resources

HYDRO-1: Prepare SWPPP and Implement BMPs Prior to Construction and Site Restoration.

Prior to construction a Storm Water Pollution Prevention Plan (SWPPP) would be prepared. The SWPPP would identify specific actions and BMPs relating to the prevention of storm-water pollution from project-related construction sources by identifying a practical sequence for site restoration, Best Management Practices (BMP) implementation, contingency measures, responsible parties, and agency contacts.

- Temporary and post-construction on-site and off-site runoff controls.
- Special considerations and BMPs for water crossings, wetlands, and drainages.
- Monitoring protocols for discharge(s) and receiving waters, with emphasis placed on the following water quality objectives: dissolved oxygen, floating material, oil and grease, pH, and turbidity.
- Waste management, handling, and disposal control practices.
- Corrective action and spill contingency measures.
- Agency and responsible party contact information.
- Training procedures that shall be used to ensure that workers are aware of permit requirements and proper installation methods for BMPs specified in the SWPPP.

The SWPPP would be prepared by a qualified SWPPP practitioner with BMPs selected to achieve maximum pollutant removal and that represent the best available technology that is economically

achievable. Emphasis for BMPs shall be placed on controlling discharges of oxygen-depleting substances, floating material, oil and grease, acidic or caustic substances or compounds, and turbidity. BMPs for soil stabilization and erosion control practices and sediment control practices would also be required. Performance and effectiveness of these BMPs would be determined either by visual means where applicable (i.e., observation of above-normal sediment release), or by actual water sampling in cases



where verification of contaminant reduction or elimination, (inadvertent petroleum release) is required to determine adequacy of the measure.

2.3.3 Air Quality

AQ-1a: Prior to commencing construction, the Applicant would prepare a Dust Control Plan identifying all sources of particulate matter 10 microns or less in diameter (PM10) emissions and associated mitigation measures during the construction and operational phases of the project. The Dust Control Plan would meet all applicable requirements for control of fugitive dust emissions, including the following measures designed to achieve the no greater than 20-percent opacity performance standard for dust control:

- All disturbed areas, including bulk material storage that is not being actively used, would be effectively stabilized; and visible emissions would be limited to no greater than 20-percent opacity for dust emissions by using water, chemical stabilizers, dust suppressants, tarps or other suitable material, such as vegetative groundcover. Bulk material is defined as earth, rock, silt, sediment, and other organic and/or inorganic material consisting of or containing PM with 5 percent or greater silt content.
- All on-site and off-site unpaved roads segments with 50 or more average vehicle trips per day would be effectively stabilized; and visible emissions would be limited to no greater than 20-percent opacity for dust emissions using restricting vehicle access, paving, chemical stabilizers, dust suppressants, and/or watering.
- All unpaved traffic areas 1.0 acre or more in size with 75 or more average vehicle trips per day would be effectively stabilized; and visible emissions would be limited to no greater than 20-percent opacity for dust emissions by paving, chemical stabilizers, dust suppressants, and/or watering.
- The transport of bulk materials on public roads would be completely covered, unless 6 inches of freeboard space from the top of the container is maintained with no spillage and loss of bulk material. In addition, the cargo compartment of all haul trucks would be cleaned and/or washed at the delivery site after removal of bulk material, prior to using the trucks to haul material on public roadways.
- All track-out or carry-out on paved public roads, which includes bulk materials that adhere to the exterior surfaces of motor vehicles and/or equipment (including tires) that may then fall onto the pavement, shall be cleaned at the end of each workday or immediately when mud or dirt extends a cumulative distance of 50 linear feet or more onto a paved road within an urban area.
- Movement of bulk material handling or transfer would be stabilized prior to handling or at points of transfer with application of sufficient water, chemical stabilizers, or by sheltering or enclosing the operation and transfer line.
- The construction of new unpaved roads is prohibited within any area with a population of 500 or more. Any temporary unpaved road shall be effectively stabilized, and visible emissions shall be limited to no greater than 20 percent opacity for dust emission by paving, chemical stabilizers, dust suppressants and/or watering.

AQ-1b: The Applicant would implement all applicable standard mitigation measures for construction combustion equipment for the reduction of excess oxides of Nitrogen (NOX) emissions. These measures include:

- Use alternative-fueled or catalyst-equipped diesel construction equipment, including all off-road and portable diesel-powered equipment.
- Minimize idling time, either by shutting equipment off when not in use or reducing the time of idling to five minutes at a maximum.
- Limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use.

- Replace fossil-fueled equipment with electrically driven equivalents (assuming they are powered by a portable generator set and are available, cost effective, and capable of performing the task in an effective, timely manner).
- Curtail construction during periods of high ambient pollutant concentrations; this may include ceasing construction activity during the peak hour of vehicular traffic on adjacent roadways.
- Implement activity management (e.g., rescheduling activities to avoid overlap of construction phases, which would reduce short-term impacts).

AQ-1c: Each project proponent shall use all available United States Environmental Protection Agency (EPA) Tier 3 or better construction equipment.

2.3.4 Biotic Resources

Bio -1 Conduct pre-construction surveys for ground nesting birds, if nesting birds are found on the ground, or in shrubs or trees that must be removed for construction, avoiding removal of these until the young have fledged would be preferred. Nesting by some species could occur as early as February and continue throughout the summer months. Most nesting should occur between May and June.

Bio – 2: It is recommended that this potential nest be observed in 2022 to determine if it is active. If any eagles are observed, construction activities should take place outside of their breeding activity period.

Bio -3: It is recommended that if project activities occur outside of the breeding period for the species listed in Table 3.4-3, no impacts to these species are anticipated. If activities are scheduled to occur during the breeding periods listed in Table 6-1, the NNDFW could require formal species surveys during appropriate survey periods. Based on the results of these surveys, NNDFW could develop appropriate mitigation (following the general protocol below) to ensure that there will be no impacts to these species as a result of the Proposed Action.

2.4 Summary of Impacts

A summary of the impacts for the Proposed Action and the No Action Alternatives is presented in Table 2.4-1.

Table 2.4-1 Summary of Impacts

Resource/Resource Use	Proposed Action	No Action
Land Resources	Moderate, short-term, adverse impacts to soils from loss and disturbance.	None.
Water Resources	Moderate, short-term adverse impacts from sedimentation and erosion into Blanco Wash. Implementation of Environmental Protection Measures Hydro -1 would minimize the impacts to surface waters.	None.
Air Resources	Moderate adverse short-term impacts to air quality. However, implementation of Environmental Protection Measures AQ-1a, b, and c would minimize these impacts	No impacts.
Biological Resources	<p>Thirty species of birds were directly observed in the trees and shrubs in the open sagebrush area. There were no nests observed in any of the trees adjacent to the Project Area. Implementation of Environmental Protection Measure Bio-1 would ensure there would be no adverse effects to these species.</p> <p>It is unlikely that the construction and installation of the waterline would adversely affect Species of Concern such as the Golden eagle since ongoing disturbance is comparable or greater than the construction disturbance that would occur from implementation of the Proposed Action. Implementation of Environmental Protection Measure Bio-2 would ensure there would be no adverse effects to Golden eagles.</p> <p>Burrowing owls and mountain plover were identified by the NNHP as potentially occurring within the area. No nests or burros for these species were observed and the available habitat is not preferred by these species. Implementation of Environmental Protection Measure Bio-3 would ensure there would be no adverse effects to these species.</p>	No impacts.
Cultural Resources	There are no impacts to NRHP-eligible sites.	No impacts.
Socioeconomic Resources	<p>Short-term, beneficial impacts to the local economy from construction.</p> <p>There would be long-term beneficial impacts to community infrastructure and to local residents after construction is complete.</p>	There would be no positive impacts to the local economy from employment of local residents or purchase of local goods and services. The two waterlines would remain unconnected. It would have long-term, minor, adverse impacts to community services.
Environmental Justice	There would be short-term, minor and adverse impacts to minority and impoverished populations during construction since the Project Area is almost entirely a minority population, and a significant portion of the population is below the poverty level. However, once the project is completed there would be	No Impact.
Indian Trust Resources	No impact.	No impact.
Environmental Module	No impact.	No impact.
Other Values	Any light, noise, or visual impacts would be short-term, adverse, and minor.	No impact.

3 Description of the Affected Environment

This Chapter describes the existing conditions in and around the Project Area and establishes the baseline data upon which the impacts have been evaluated in Chapter 4.

3.1 Land Resources

This section discusses topography, soils, geology, and mineral resources found in the Project Area.

3.1.1 Topography

Terrain within the Project Area is gently sloping and flat. The Project Area has been developed for residential and agricultural (predominantly grazing) uses. The average elevation is 6,960 feet above sea level. There is an arroyo drainage (Blanco Wash) that routes episodic rainfall through the area. This arroyo does not have any perennial flows and does not provide any habitat features to area wildlife. There are two ponding areas adjacent to the residential access roads that retain rainfall for brief periods. One was dry at the time of the biological evaluation, the second had water from a recent rainfall.

3.1.2 Geology

The project corridor is situated within the San Juan Basin of northwestern New Mexico, near the edge of the Colorado Plateau physiographic province (Figure 3.1). The Lybrook West Waterline Loop project area is intersected by Blanco Wash, with Sinsathyl Mesa to the southeast and Wide Belt Mesa to the north. The project area passes through mostly level topography, although it skirts the western edge of a locally prominent rock outcrop. Elevations within the project area average around 7,000 feet above mean sea level (AMSL) (SRI 2021).

3.1.3 Soils

Based on a review of the Natural Resources Conservation Service (NRCS) Web Soil Survey, soils in the Project Area are Pinavetes – Florita complex (0-10% slopes) and Sparank – San Mateo silt loams, saline, soldic (0-3% slopes) (query run May 2021). It is the policy of the NRCS to “maintain and keep current an inventory of the prime farmland and unique farmland of the Nation...the objective of the inventory is to identify the extent and location of important rural lands needed to produce food, feed, fiber, forage, and oilseed crops” (7 CFR 657.2). NRCS identifies categories of farmlands of national and statewide importance in the region, based on soil types and irrigation status. According to U.S. Department of Agriculture, Prime Farmland has the best combination of physical and chemical characteristics for producing food, feed, forage fiber and oilseed crops. Farmland of Statewide Importance are lands that nearly meet the requirements for Prime Farmland and have been identified by state agencies. Farmland of Unique Importance has a special combination of soil quality, location, growing season, and moisture supply required to produce high quality crops when properly managed. No portion of the Project Area is classified as Prime Farmland according to the NRCS Web Soil Survey.

3.2 Water Resources

This section discusses the surface water, ground water, and floodplains found in and around the Project Area.

3.2.1 Surface Water

Under the Clean Water Act, the US Army Corps of Engineers (USACE) has jurisdiction over “waters of the U.S.” These jurisdictional waters include those that have a “significant nexus” to traditional navigable waters. The USACE Durango Regulatory Division have determined that jurisdictional waters may include U.S Geological Survey (USGS) watercourses (i.e., “blue line” on USGS 1:24,000 topographic maps).

There is one USGS watercourse, Blanco Wash, in the Proposed Action area which is ephemeral (Figure 3.1). The Proposed Action Area lies in the San Juan River basin. The San Juan River originates on in southwestern Colorado. It flows from the San Juan Mountains north of Pagosa Springs, Colorado and enters northwestern New Mexico through the Navajo Reservoir in Rio Arriba County. The course of the San Juan River turns westward for approximately 140 miles through New Mexico before returning to Colorado in the Four Corners area. The San Juan River basin encompasses lands in four New Mexico counties: all of San Juan County, most of the northern half of McKinley and the western half of Rio Arriba Counties, and a small portion of Sandoval County. The headwaters of a number of perennial tributaries to the San Juan River in New Mexico rise in southern Colorado; major perennial tributaries are the Animas and the La Plata Rivers. Other major tributaries that rise in the southern portion of the San Juan Basin are Canyon Largo, Gallegos Canyon, and the Chaco River, which are all ephemeral streams (BLM 2015).

Major perennial water sources in the San Juan Basin consist of the San Juan, Animas, and La Plata Rivers, which coalesce near Farmington. The east-west-trending San Juan River crosses the San Juan Basin along a wide valley flat bordered by Quaternary gravel terraces, rock scarps, and badland areas. The Chaco River and Cañon Largo serve as major tributaries to the San Juan River, which is located in the southern drainage basin. During adequate rainfall, Cañon Largo flows northward into the San Juan River (SRI 2021).

3.2.2 Ground Water

The Project area is in the San Juan Structural Basin, an approximately 21,600-square-mile area, about 140 miles wide and 200 miles long. The basin contains sedimentary rocks that range from Cambrian to Tertiary age. Fourteen thousand feet is the maximum thickness of the sedimentary sequence near the center of the basin. The rocks dip downward toward the center of the basin, with steeper dips at the margins. Thus, the oldest sedimentary rocks are exposed at the margins of the basin, however, in some places these are overlain by Tertiary and Quaternary volcanic rocks. The rocks that are Tertiary to Triassic age form a sequence of sandstone aquifers separated by shale aquitards (BLM 2015).

Groundwater is available nearly everywhere in the broader area. Although many aquifers are known to yield water to wells somewhere in the basin, most yields are (less than 20 gallons per minute (BLM 2015).

Groundwater is discharged mainly to streams and springs and by transpiration from vegetation growing along stream valleys. In the San Juan Basin, water recharges the Unita-Animas aquifer in the higher-altitude areas, which nearly encircle the basin. Groundwater generally flows toward the San Juan River and its tributaries, where it is discharged to streamflow, to the alluvium in the valleys, or to evapotranspiration. Evaporation rates are high ranging from over 60 inches per year in the Chaco River valley and west of Farmington to less than 30 inches in the higher elevations in the Upper San Juan watershed (BLM 2015).

3.2.3 Floodplains

The portion of the Project Area that crosses Blanco Wash is shown on the Federal Flood Insurance Rate Map (FIRM) as being Zone A (Figure 3.2). Zone A is the flood insurance rate zone that corresponds to the 1-percent annual chance floodplains that are determined in the Flood Insurance Study by approximate methods of analysis. Because detailed hydraulic analyses are not performed for such areas, no Base Flood Elevations or depths are shown within this zone. Mandatory flood insurance purchase requirements apply (FEMA 2021). The remainder of the Project Area is Zone X. Zones B, C, and X are the flood insurance rate zones that correspond to areas outside the 1-percent annual chance floodplain, areas of 1-percent annual chance sheet flow flooding where average depths are less than 1 foot, areas of 1-percent annual chance stream flooding where the contributing drainage area is less than 1 square mile, or areas protected

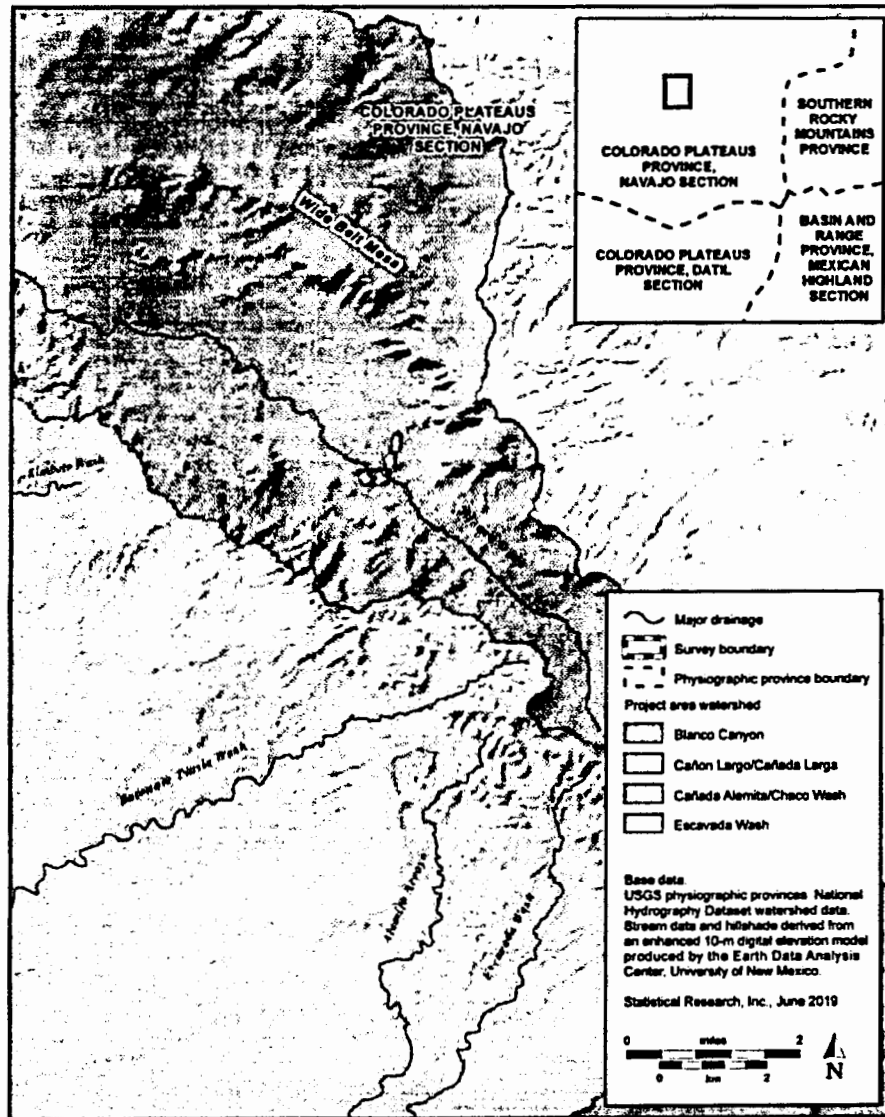


Figure 2.1. Map showing the physiographic provinces in proximity to the Lybrook West Waterline Loop project area.

2.2

Figure 3.1 Physiographic Provinces

National Flood Hazard Layer FIRMette



Legend

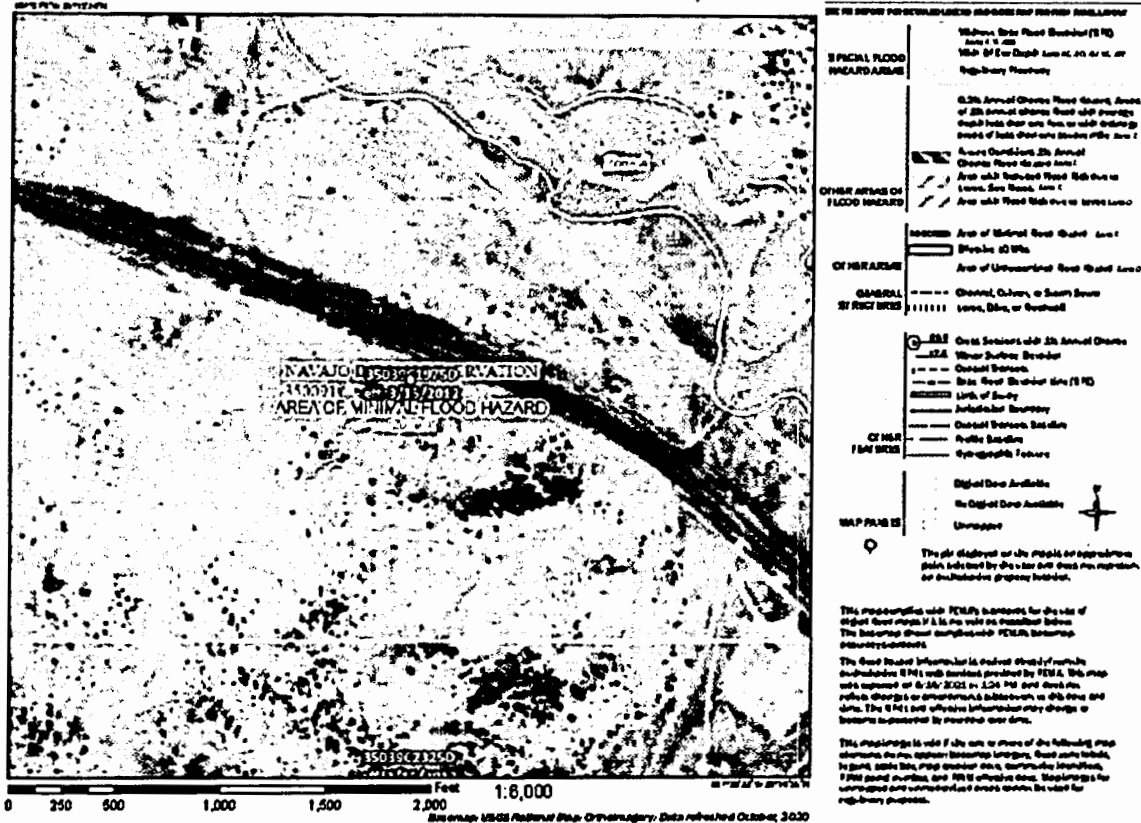


Figure 3. 2 FEMA Map

from the 1-percent annual chance flood by levees. No Base Flood Elevations or depths are shown within this zone. Insurance purchase is not required in these zones (FEMA 2021).

3.2.4 Water Rights

Although most of the potable water supply in the Project Area comes from surface water, groundwater is the only source of water in most of the San Juan structural basin. The quantity of good quality groundwater is limited and is not necessarily adequate to supply all of the demands for water in the larger region. The New Mexico State Engineer has defined groundwater basins and adjudicated, or is in the process of adjudicating, the claims to the groundwater in those basins (BLM 2015). Water rights in the Project Area are predominantly for domestic uses and food production, along with some mining and some oil and gas (Kelley et al. 2014).

3.3 Air Resources

This section discusses air quality visibility, climate, and meteorological conditions in and around the Project Area.

3.3.1 Quality / Visibility

The Project Area is located in Rio Arriba County, New Mexico. Much of the information referenced in this section is incorporated from the *Mancos-Gallup Resource Management Plan Amendment and Environmental Impact Statement Assessment of the Management Situation* (BLM 2015) and the *Air*

Resources Technical Report for BLM Oil and Gas Development in New Mexico, Kansas, Oklahoma, and Texas (BLM 2017) and updated with more recent information from the U.S. EPA and other resources.

Applicable Regulations

The National Ambient Air Quality Standards (NAAQS), established by the U.S. EPA under the Clean Air Act (1990), specify limits for pollutants considered harmful to public health and the environment. These six principal pollutants, called “criteria” air pollutants include carbon monoxide (CO), particulate matter (PM10 and PM2.5), ozone (O3), sulfur dioxide (SO2), lead (pb), and nitrogen. If the levels of a criteria pollutant in an area are higher than the NAAQS, the airshed is designated as a nonattainment area. Areas that meet the NAAQS for criteria pollutants are designated as attainment areas. The Clean Air Act identifies a two-tiered standard. Standards may be primary or secondary. Primary standards set limits to protect public health, including the health of sensitive populations, such as asthmatics, children, and the elderly. Secondary standards set limits to protect public welfare, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings (EPA 2019a). Averaging periods vary by pollutant, based on potential health and welfare effects of each pollutant. States may set their own ambient air quality standards, but they must be at least as stringent as the national standards (EPA 2019a) (Table 3.3-1).

The mission of the New Mexico Environment Department’s Air Quality Bureau (aqb) is to protect the inhabitants and natural beauty of New Mexico by preventing the deterioration of air quality. This includes strategic planning to ensure that all air quality standards are met and maintained; issuing air quality Construction and Operating Permits; and enforcing air quality regulations and permit conditions. The Air Quality Bureau has authority over air quality in all New Mexico counties except Bernalillo County and facilities on Tribal Lands (NMED n.d.).

Table 3.3-1 National and New Mexico Ambient Air Quality Standards

Pollutant	Primary / Secondary	Averaging Time	Level	Form	New Mexico Standard
Carbon Monoxide (CO)	Primary	8 hours	9 ppm	Not to be exceeded more than once per year	8.7 ppm
		1 hour	35 ppm		13.1 ppm
Lead (pb)	Primary and Secondary	Rolling 3-month average	0.15 ug/m ³ (1)	Not to be exceeded	
Nitrogen Dioxide (NO ₂)	Primary	1 hour	100 ppb	98th percentile of 1-hour daily maximum concentrations, averaged over 3 years	
	Primary and Secondary	1 year	53 ppb (2)	Annual Mean	0.10 ppm
				24 hour average	0.10 ppm
				Annual arithmetic mean	0.05 ppm
Ozone (O ₃)	Primary and Secondary	8 hours	0.070 ppm (3)	Annual fourth-highest daily maximum 8-hour concentration, averaged over 3 years	
Particle Pollution (PM _{2.5})	Primary	1 year	12.0 ug/m ³	annual mean, averaged over 3 years	
	Secondary	1 year	15.0 ug/m ³	annual mean, averaged over 3 years	
	Primary and Secondary	24 hours	35 ug/m ³	98th percentile, averaged over 3 years	
PM ₁₀	Primary and Secondary	24 hours	150 ug/m ³	Not to be exceeded more than once per year on average over 3 years	
Sulfur Dioxide (SO ₂)	Primary	1 hour	75 ppb (4)	99th percentile of 1-hour daily maximum concentrations, averaged over 3 years	24-hour average (0.1ppm) Annual arithmetic Mean (0.02 ppm)
	Secondary	3 hours	0.5 ppm	Not to be exceeded more than once per year	
Hydrogen sulfide (H ₂ S)				One hour average	0.010 ppm
Total Reduced Sulfur				Half hour average	0.010 ppm

Sources: EPA 2019a; New Mexico Commission of Public Records 2019.

1. In areas designated nonattainment for the Pb standards prior to the promulgation of the current (2008) standards, and for which implementation plans to attain or maintain the current (2008) standards have not been submitted and approved, the previous standards (1.5 ug/m³ as a calendar quarter average) also remain in effect.
2. The level of the annual Nitrogen Dioxide (NO₂) standard is 0.053 parts per million (ppm). It is shown here in terms of parts per billion (ppb) for the purposes of clearer comparison to the 1-hour standard level.
3. Final rule signed October 1, 2015, and effective December 28, 2015. The previous (2008) O₃ standards additionally remain in effect in some areas. Revocation of the previous (2008) O₃ standards and transitioning to the current (2015) standards will be addressed in the implementation rule for the current standards.

4. The previous SO₂ standards (0.14 ppm 24-hour and 0.03 ppm annual) will additionally remain in effect in certain areas: (1) any area for which it is not yet 1 year since the effective date of designation under the current (2010) standards, and (2) any area for which an implementation plan providing for attainment of the current (2010) standard has not been submitted and approved and which is designated nonattainment under the previous SO₂ standards or is not meeting the requirements of a State Implementation Plan (SIP) call under the previous SO₂ standards (40 CFR 50.4(3)). A SIP call is an EPA action requiring a state to resubmit all or part of its State Implementation Plan to demonstrate attainment of the required NAAQS.

Current Air Quality

The EPA has subdivided New Mexico into eight air quality control regions (AQCR), several of which include counties in other states. The Proposed Action area is located in AQCR 014. AQCR 014 includes portions of Arizona, Colorado, and Utah as well as part of New Mexico (NMED 2019a). The New Mexico Environmental Department (NMED) is responsible for operating the network of air monitoring stations in most of New Mexico. Table 3.3-2 shows data for Rio Arriba County. As shown, ambient air concentrations of regulated pollutants are in attainment for the NAAQS and New Mexico standards.

The EPA prepares a national emissions inventory tri-annually to provide a comprehensive and detailed estimate of emissions from all air emission sources in the country. Emissions in the inventory are presented by county. The inventories are based on emission estimates and model inputs provided by state, local, and tribal air agencies for sources in their jurisdictions, supplemented by data developed by the EPA.

Table 3.3-2 Air Quality Monitoring Values Rio Arriba County

Pollutant	Averaging Time	2007	2008	2009	3-year average	NAAQS/ NM Standard	Percent of NAAQs
Lead	Rolling 3 month	0.059 ug/m ³	0.0694 ug/m ³	0.0158 ug/m ³	0.048 ug/m ³	0.15 ug/m ³	32
CO	8 hour ¹	0.3 ppm	0.38 ppm	0.3 ppm	0.326 ppm	9/8.7 ug/m ³	4/4
SO ₂	3 hours ²	0.002 ppm	0.0012 ppm	0.0013 ppm	0.0015 ppm	0.5/0.02 ppm	1/22
NO ₂	98 th percent of one hour ³	0.0034 ppm	0.0033 ppm	0.0055 ppm	0.004 ppm	100 ppb/0.1 ppm	X/4
O ₃	8 hour	0.0449 ppm	0.0478 ppm	0.049 ppm	0.047 ppm	0.070 ppm	67
PM ₁₀	24 hours	22.6 ug/m ³	23.6 ug/m ³	24.9 ug/m ³	23.7 ug/m ³	150 ug/m ³	16
PM 2.5	1 year	7.1 ug/m ³	4.5 ug/m ³	4.4 ug/m ³	5.3 ug/m ³	12 ug/m ³	44

Source: USA.Com 2019a.

^{1, 2, 3} Data on which average used not specifically provided.

Table 3.3-3 summarizes the mobile and stationary source emissions for all industries that occurred in Rio Arriba County from 2016 to 2018. This baseline emissions summary is a conservative overestimate of emissions in the Proposed Action Area. This is because it includes emissions from all of Rio Arriba County and not just the portions of the county where the Proposed Action Area is located.

Table 3.3-3 2016-2018 Annual Emissions for Rio Arriba County (Tons)

Source Category County	Volatile Organic Compounds	Carbon Monoxide	Nitrogen Oxides	Sulfur Dioxide	PM ₁₀	PM _{2.5}
2016						
Rio Arriba		1481.4	1127	9.8		
2017						
Rio Arriba		1526.7	1203.5	9.3		
2018						
Rio Arriba		1523.3	1201.2	9.2		

Source: NMED 2019c, i. g.

Hazardous Air Pollutants

Congress amended the Clean Air Act in 1990 to address a large number of air pollutants that are known to cause or may reasonably be anticipated to cause adverse effects to human health or adverse environmental effects. Congress initially identified 188 specific pollutants and chemical groups as hazardous air pollutants (HAPs) and has modified the list over time. The CAA requires control measures for hazardous air pollutants. National emissions standards for hazardous air pollutants (NESHAPs) are issued by EPA to limit the release of specified HAPs from specific industrial sectors. These standards are technology based, meaning that they represent the maximum achievable control technology that is economically feasible for an industrial sector (BLM 2017).

Most air toxics originate from human-made sources, including mobile sources (e.g., cars, trucks, buses) and stationary sources (e.g., factories, refineries, power plants), as well as indoor sources (e.g., some building materials and cleaning solvents). Some air toxics are also released from natural sources such as volcanic eruptions and forest fires (EPA 2019b).

The Clean Air Act defines a major source for HAPs to be one emitting 10 tons per year of any single HAP or 25 tons per year of any combination of HAPs. Under state regulations, a construction or operating permit may be required for any major source though some exceptions apply. In New Mexico, these regulations are 20.2.70 and 20.2.73 NMAC (BLM 2017).

On August 22, 2018, EPA released the most recent update to the National Air Toxics Assessment (NATA). NATA uses emissions data from 2014 to estimate health risks from toxic air pollutants. The 2014 NATA assessment includes emissions, ambient concentrations, and exposure estimates for about 180 of the 187 Clean Air Act air toxics plus diesel particulate matter (diesel PM). For about 140 of these air toxics (those with health data based on long-term exposure), the assessment estimates cancer risks, from the potential for noncancer health effects, or both. This includes noncancer health effects for diesel PM. The EPA did not include eight air toxics in this NATA assessment because either no emissions data were reported for them in 2014 or reliable emissions or health-related estimates (radionuclides, for example) could not be made.

NATA includes four steps:

1. Compile a national inventory of air toxics emissions from outdoor sources from emissions year 2014.
2. Estimate ambient concentrations of air toxics across the United States.
3. Estimate population exposures.
4. Characterize potential public health risks due to breathing air toxics (including both cancer and noncancer effects) (EPA 2019c).

The 2014 NATA analysis estimated tract level total cancer risk for the analysis area in Rio Arriba County (Tract 350399410002) as 15 per one million. The respiratory hazard index was 0.18 (EPA 2019d). The total cancer risk for the analysis area in Sandoval County (Tract 50439409001) as 15 per one million. The respiratory hazard index was 0.18 (EPA 2019e). The EPA estimates the average national cancer risk for 2014 was 30 per one million, meaning one person out of every 33,333 had an increased likelihood of contracting cancer from breathing air toxics from outdoor sources if exposed to 2014 emission levels over their lifetime (EPA 2019f). A respiratory hazard index below one indicates that exposures in the area do not exceed reference levels that would have adverse effects for human health.

Climate and Greenhouse Gases

The climate of the project area is classified as arid continental and is characterized by cool dry winters and warm dry summers. The area is rarely influenced by oceanic moisture due to its distance from the

Pacific Ocean; this results in a climate that is abundant in sunshine, with large variations between daytime and nighttime temperatures. Peak precipitation occurs in late summer and early fall, when moisture from the Gulf of Mexico moves into the region. Prevailing wind direction is generally from the southwest and west, though local wind conditions can vary substantially due to topographic channeling and mountain-valley circulations (BLM 2015). Table 3.3-4 shows average monthly temperature, relative to the normal average, for 2018 for the Farmington, New Mexico, area.

Table 3.3-4 Monthly Temperatures for the Farmington Area 2018.

Month	Average Temperature (°F)	Average Maximum Temperature (°F)	Average Minimum Temperature (°F)	Total Precipitation (inches)
January	35.1°F (normal: 31°F)	47.4°F (normal: 41°F)	22.8°F (normal: 20°F)	0.25 inch (normal: 0.51 inch)
February	37.7°F (normal: 36°F)	50.5°F (normal: 47°F)	24.9°F (normal: 25°F)	0.09 inch (normal: 0.59 inch)
March	43.8°F (normal: 43°F)	58.2°F (normal: 56°F)	29.4°F (normal: 30°F)	0.09 inch (normal: 0.79 inch)
April	0.2 inch (normal: 0.67 inch)	70.2°F (normal: 65°F)	39.7°F (normal: 36°F)	54.95°F (normal: 50°F)
May	61.75°F (normal: 60°F)	77.7°F (normal: 75°F)	45.8°F (normal: 46°F)	0.32 inch (normal: 0.55 inch)
June	73.15°F (normal: 70°F)	89.7°F (normal: 85°F)	56.6°F (normal: 55°F)	0.8 inch (normal: 0.2 inch)
July	79.65°F (normal: 75°F)	93.5°F (normal: 90°F)	65.8°F (normal: 61°F)	0.58 inch (normal: 0.91 inch)
August	76.05°F (normal: 73°F)	90.2°F (normal: 87°F)	61.9°F (normal: 60°F)	0.21 inch (normal: 1.26 inch)
September	69.3°F (normal: 65°F)	84.3°F (normal: 79°F)	54.3°F (normal: 52°F)	0.14 inch (normal: 1.02 inch)
October	53.15°F (normal: 53°F)	65.0°F (normal: 66°F)	41.3°F (normal: 40°F)	0.81 inch (normal: 0.91 inch)
November	36.1°F (normal: 40°F)	49.1°F (normal: 52°F)	23.1°F (normal: 29°F)	0.06 inch (normal: 0.67 inch)
December	30.6°F (normal: 31°F)	39.8°F (normal: 41°F)	21.4°F (normal: 21°F)	1.09 inch (normal: 0.51 inch)

Source: US Climate Data 2019.

Climate change is a statistically-significant and long-term change in climate patterns. The terms climate change and “global warming” are often used interchangeably, although they are not the same thing. Climate change is any deviation from the average climate, whether warming or cooling, and can result from both natural and human (anthropogenic) sources. Natural contributors to climate change include fluctuations in solar radiation, volcanic eruptions, and plate tectonics. Global warming refers to the apparent warming of climate observed since the early-twentieth century and is primarily attributed to human activities such as fossil fuel combustion, industrial processes, and land use changes (BLM 2017).

The natural greenhouse effect is critical to the discussion of climate change. The greenhouse effect refers to the process by which greenhouse gases (GHGs) in the atmosphere absorb heat energy radiated by earth’s surface. Water vapor is the most abundant GHG, followed by carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and several trace gases. These GHGs trap heat that would otherwise be radiated into space, causing earth’s atmosphere to warm and making temperatures suitable for life on earth. Without the natural greenhouse effect, the average surface temperature of the earth would be about zero degrees Fahrenheit. Water vapor is often excluded from the discussion of GHGs and climate change since its atmospheric concentration is largely dependent upon temperature rather than being emitted by specific sources (BLM 2017).

Atmospheric concentrations of naturally-emitted GHGs have varied for millennia and earth's climate fluctuated accordingly. However, since the beginning of the industrial revolution around 1750, human activities have significantly increased GHG concentrations and introduced man-made compounds that act as GHGs in the atmosphere. The atmospheric concentrations of CO₂, CH₄, and N₂O have increased to levels unprecedented in at least the last 800,000 years. From pre-industrial times until today, the global average concentrations of CO₂, CH₄, and N₂O in the July 2015 atmosphere have increased by around 40%, 150%, and 20%, respectively (BLM 2017). In Rio Arriba County the total release of GHG (metric tons) in 2016 and 2017 was 40,965.88 and 2054.26 (NMED 2019e and f).

3.4 Biotic Resources

This section discusses the biotic community, wildlife, vegetation, threatened, endangered, and sensitive species, and agriculture found in the Project Area. The information is based on a field survey conducted May 15, 2021, by Karmen King, Project Biologist and a literature search related to species, and agriculture found in the area. A biological evaluation was prepared as a separate report.

3.4.1 Description of Biotic Community

Vegetation Communities

The Project Area is mapped as Great Basin grassland (Brown, 1994). However, the vegetation assemblage is largely controlled by ongoing livestock grazing. The land is gently sloped and sparsely vegetated. There are no special designated areas (i.e., threatened and endangered species critical habitats) within or adjacent to the Project Area (USFWS, 2021).

Noxious Weeds

Specific plants have been designated as noxious weeds by New Mexico State law due to their potential to harm the state economy. Development of weed management programs is required by EO 11312 Invasive Species 1999, the Federal Noxious Weed Act of 1974, the New Mexico Noxious Weed Management Act of 1978, and the Federal Plant Protection Act of 2000. Russian thistle (aka tumbleweed: *Salsola kali*) was observed throughout the Project Area. There were other possible noxious weeds in the Project Area, however continuous trampling and physical disturbance eliminated the possibility of species identification.

Wetlands and Riparian Areas

There are no natural aquatic or wetland features within or adjacent to the Project Area.

3.4.2 Special Status Species

Information on species and habitats of concern was requested of the NNHP NNDFW and provided in March 2021. In addition to this information, the USFWS Information for Planning and Consultation (iPAC) website was consulted to obtain information on potentially occurring federally listed threatened and endangered species.

The preliminary characterization efforts reviewed the following resources.

1. The Navajo Nation

- a. Navajo Natural Heritage Program (NNHP), 2021. Subject: "Lybrook West Waterline Project". In a technical memorandum provided to McIntyre Environmental, LLC. Summarizing the NNHP analysis of the Project Area in comparison to known biological resources of the Navajo Nation.
- b. Division of Natural Resources – Department of Fish and Wildlife, Navajo Nation Endangered Species List [NN DNR, 2020] NN DNR (Navajo Nation Division of Natural

Resources), 2020. Navajo Nation Division of Natural Resources, Department of Fish and Wildlife,

- i. "Navajo Endangered Species List". Resources Committee Resolution No. RDCJA-01-20. (https://www.nndfw.org/nnhp/nnhp_nesl.pdf)
- ii. "Navajo Nation Sensitive Species List" (<https://www.nndfw.org/nnhp/tracking.pdf>)
- iii. The Navajo Nation RCP mapping tool : (<https://www.nndfw.org/clup.htm>)
Biological Resource Land Use Clearance Policies and Procedures (RCP)

2. The US Fish and Wildlife Service

- a. US Fish and Wildlife Service, IPaC Information for Planning and Consultation (<https://ecos.fws.gov/ipac/>); query for the Lybrook area.

3. State of New Mexico

- a. NM Dept. Game and Fish: Threatened and Endangered Species of New Mexico – Biennial Reviews (NM G&F, 2016 and NM G&F, 2018).
- b. NM Dept. Game and Fish: Environmental Review Tool for: Audubon Important Bird Areas, NM Important Plant Areas, USFWS Critical Habitat and USFWS refuges [NM G&F, 2020].
- c. Natural Heritage NM, NM Conservation and Information Research Center, NM Crucial Habitat Assessment Tool. [NH NM, 2020].

Table 3.4-1 presents the biological resources identified by the NNHP of being of special status or particular importance to the Project Area on the basis of having been identified or habitat identified within one to three miles. These are listed as endangered species, whose survival or recruitment within the Navajo Nation is in jeopardy or is likely to be in jeopardy within the foreseeable future (NNHP 2008), further categorized as:

- G2—A species or subspecies whose prospects of survival or recruitment are in jeopardy
G3—A species or subspecies whose prospects of survival or recruitment are likely to be in jeopardy in the foreseeable future

In addition, another category is considered, G4, which is any species or subspecies for which the NDFW does not currently have sufficient information to support their being listed in G2 or G3 but has reason to consider them. According to the NNHP, they have no legal protection at this time.

Special Status Species and their potential to occur within the Project Area are listed below in Table 3.4-1 and Table 3.4-2.

Table 3.4-1 NNHP Potential Species of Concern

Species	Status	Habitat	Potential to occur within the Project Area.
Golden Eagle (<i>Aquila chrysaetos canadensis</i>)	NESL G-3. BGEPA	Nest on steep cliffs, typically >30 meters (m) (98 ft) high, although shorter cliffs (>10 m [33 ft]) infrequently used. Nesting cliffs are normally directly adjacent to foraging habitat of desert grasslands or desert scrub, with only sparse shrubs if present, that provides primary prey of	Moderate. No golden eagles were observed during the course of surveys; however, a nest was observed approximately 0.7 miles from the project. It is

		cottontail and jackrabbits. Nests usually placed in middle to upper parts of cliffs in sheltered ledges, potholes, or small caves which provide protection from the elements.	unknown if this nest is active.
Burrowing owl (<i>Athene cunicularia</i>)	NESL G-3	Nests in ground burrow (often deserted prairie-dog burrow) typically in dry, open grasslands or desert scrub, but grasslands with sparse junipers may also be used on the Navajo Nation; presence of suitable nest burrow is critical requisite.	Low, there were no potential burrow areas of value to this species and the area is heavily disturbed from grazing and other activities.
Ferruginous Hawk (<i>Buteo regalis</i>)	NESL G-3	Their breeding habitat includes features such as cliffs, outcrops, and tree groves for nesting.	Low, there was no direct observation of the species, and these species require large areas to fulfill their life history requirements. Their area requirements are much larger than the pipeline footprint area.
Mountain plover (<i>Charadrius montanus</i>)	NESL G-4, MBTA	Typically nests in flat ($\leq 2^\circ$ slope) to slightly rolling expanses of grassland, semi-desert, or badland, in an area with short, sparse vegetation, large bare areas (often $>1/3$ of total area), and that is typically disturbed (e.g., grazed); may also nest in plowed or fallow cultivation fields. Nest is a scrape in dirt often next to a grass clump or old cow manure pile. Migration habitat is similar to breeding habitat.	Low, there was no potential habitat found throughout the PPA.
Peregrine Falcon (<i>Falco peregrinus</i>)	NESL G-4	Typically, Peregrine Falcons nest on cliffs from about 25–1,300 feet high (and higher, including on the rim of the Grand Canyon). On these cliffs they choose a ledge that is typically around a third of the way down the cliff face.	Low, the falcon was not directly observed during the HIE fields effort and the amount of falcon habitat affected by the PPA is low.

BGEPA – Bald and Golden Eagle Protection Act

MBTA – Migratory Bird Treaty Act

NESL – Navajo Endangered Species List

G2—A species or subspecies whose prospects of survival or recruitment are in jeopardy

G3—A species or subspecies whose prospects of survival or recruitment are likely to be in jeopardy in the foreseeable future

G4—In addition, another category is considered, G4, which is any species or subspecies for which the NDFW does not currently have sufficient information to support their being listed in G2 or G3 but has reason to consider them.

Table 3.4-2 USFWS Potential Species of Concern

Species	ESA Status	Habitat	Potential to occur within the Project Area.
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Canada Lynx (<i>Lynx canadensis</i>)	Threatened	The distribution of lynx in North America is closely associated with the distribution of North American boreal forest.	Low. Boreal forests not present in or near the Project Area
New Mexico Meadow Jumping Mouse (<i>Zapus hudsonius luteus</i>)	Endangered	Nests in dry soils, but uses moist, streamside, dense riparian/wetland vegetation up to an elevation of about 8,000 feet. The jumping mouse appears to only utilize two riparian community types: 1) persistent emergent herbaceous wetlands (i.e., beaked sedge and reed canary grass alliances); and 2) scrub-shrub wetlands (i.e., riparian areas along perennial streams that are composed of willows and alders). It especially uses microhabitats of patches or stringers of tall dense sedges on moist soil along the edge of permanent water.	Low. This type of habitat is not present in the Project Area.
Mexican Spotted Owl (<i>Strix occidentalis lucida</i>)	Threatened	Mexican spotted owls nest, roost, forage, and disperse in a diverse array of biotic communities. Mixed-conifer and pine-oak forests are commonly used throughout most of the range; however, they can be found in pinyon-juniper and ponderosa pine. Nesting habitat is typically in areas with complex forest structure or rock canyons and contains mature or old growth stands that are uneven-aged, multi-storied, and have high canopy closure.	Low. This type of habitat is not present in the Project Area.
Southwestern Willow Flycatcher (<i>Empidonax traillii eximius</i>)	Endangered	The southwestern willow flycatcher breeds in relatively dense riparian tree and shrub communities associated with rivers, swamps, and other wetlands including lakes and reservoirs. In most instances, the dense vegetation occurs within the first 10 to 13 feet above ground. Habitat patches must be at least 0.25 ac in size and at least 30 feet wide. Historically the southwestern willow flycatcher nested in native vegetation including willows, seep willow, boxelder, buttonbush, and cottonwood.	Low. This type of habitat is not present in the Project Area.
Yellow-billed Cuckoo (<i>Coccyzus americanus</i>)	Threatened	The western yellow-billed cuckoo breeds in low- to moderate-elevation native forests lining the rivers and streams of the western	Low. This type of habitat is not present in the Project Area.

		<p>United States. Cottonwood-willow forests (<i>Populus spp.</i> - <i>Salix spp.</i>) are most often used, although other riparian tree species can be important components of breeding habitat as well.</p> <p>Western yellow-billed cuckoos require relatively large (>20 hectares), contiguous patches of multilayered riparian habitat for nesting. The multilayered canopy provides shade and traps moisture to create the relatively cooler and more humid streamside conditions which are believed to be important for nesting success. They are also known to nest in early to mid-successional native riparian habitat.</p>	
Jemez Mountain Salamander (<i>Plethodon neomexicanus</i>)	Endangered	The Jemez Mountains Salamander has been found in various localities in the Jemez Mountains in Sandoval, Los Alamos, and Rio Arriba counties. This salamander typically lives on shady, wooded sites at elevations of 7,500 to 9,500 feet.	Low. Elevation is too low, and this type of habitat is not present in the Project Area.
Rio Grande Cutthroat Trout (<i>Oncorhynchus clarkii virginalis</i>)	Candidate	Rio Grande cutthroat trout live in clean, cold mountain streams and rivers with a moderate gradient. They require low summer water temperatures and clean gravel for spawning beds.	None. Habitat not present in the Project Area.

An initial review of aerial photography did not yield any results of potential interest. There were no wetlands or distinctive habitats identified from the photographs. The results of the preliminary queries did not identify any critical or unique habitats. A cumulative, possible list of occurring species of interest was generated from the resources as described above. The purpose of the habitat evaluation was to focus on those species (and their habitats) listed within this attachment.

Table 3.4-3 summarizes all of the directly observed species as well as species identified by their sign.

Results of the site observations identified that the entire area is physically disturbed as a result of ongoing llama, cattle and horse grazing. Active livestock trails cross the entire Project Area. The Project Area is open with numerous access roads that are frequently used as noted by the road compaction and the dominance of invasive plant species (Russian thistle aka tumbleweed: *Salsola kali*).

The Project Area occurs within two types of settings; physically disturbed settings occupied by existing roads where the pipeline is to be placed in the road prism itself (typically within the road shoulder, and open sagebrush grazing area with some physical disturbance due to historic roads or utility lines.

The majority of the Project Area footprint occurs within physically disturbed settings where the pipeline is to be placed within the road prism itself. There are three types of physically disturbed settings that are traversed by the Project Area; roadway/pre-disturbed: linear length of 2,112 ft, road shoulder/semi-

disturbed: linear length of 986 ft, and arroyo crossing/semi-disturbed: linear length of 114 ft (total of ~ 3,212 feet; or ~71% of the total pipeline footprint). There are no habitat features of value to wildlife in this area. This area is continually trampled by active grazing and vehicle disturbance. The only vegetation that is present includes invasive species.

The remaining area is characterized as 'open sagebrush grazing area' and is characterized by open ground (~65%) with some trees (~1%), shrubs (30%), and grasses (~3-4%). The pipeline footprint would cross approximately 1,288 feet of this type of area (or ~29% of the total pipeline footprint). The most dominant plants are Big sagebrush (*Artemisia tridentata*) and Rubber rabbitbrush (*Chrysothamnus nauseosus*). There are occasional clusters of noxious weeds and grasses (Blue grama: *Bouteloua gracilis* and Galleta: *Hilaria jamesii*) with infrequent occurrence of trees including Juniper (*Juniperus osteosperma*), Cottonwood (*Populus fremontii*) and Pinyon pine (*Pinus edulis*). The habitat would be defined as 'desert and basin with intermixed Juniper and Scrub'. The average elevation 6,960 feet above sea level.

A variety of wildlife species were directly observed (Table 3.4-3). The focus of wildlife species activity was associated with the few trees that occur adjacent to the project footprint. Sign of grazing animals and a few kangaroo rat burrows (old and abandoned, no active burrows noted) were observed.

There were potential habitat features noted during the survey. Open cavities eroded on adjacent exposed soil outcrops were reviewed for potential wildlife occupancy. No sign of cavity use was noted. In addition, two ponded areas were reviewed for potential habitat. Water occurred in only one of the ponds and was rapidly diminishing. A recent rainfall (~24 hours previous) had fed the pond. There were no tracks or sign of wildlife species use of this pond. The water was very turbid and likely of little use.

The bird species that are present within the entire area are primarily drawn to the few trees that occur adjacent to the proposed Project Area. During the field visit, a significant diversity of birds was noted to occur in the Juniper and Pinyon pine trees. A total of 30 different bird species were observed, all of which were in the sage and trees. Very little wildlife activity was noted with the exception of grazing llamas and horses. There were no nests or remnant signs of nests in any of the few trees, shrubs, or clumps of grasses in the project footprint or in the immediately adjacent areas.

A potential Golden eagle nest site was observed using a spotting scope from the northern terminus of the Project Action. An unoccupied nest was spotted just below the top of an adjacent plateau area located behind a large ranch/residence. The nest was measured at a distance of ~0.7 miles from the northern terminus of the project. There were no direct observations of any eagles in the area. The nest showed signs of abandonment therefore it is unknown if this feature was recently occupied.

The natural setting within and immediately adjacent to the Project Action have limited natural resources for terrestrial wildlife. The area is predominantly comprised of open bare ground with few plant species providing cover, food, or other resources. Physically disturbed ground comprised of ~ 71% of the total area, while open sage ground comprised ~ 29% and shrubs/trees making up for the remaining balance of the area.

Table 3.4- 3 Observed Plant and Animal Species.

Plants		Animals	
Common Name	Scientific	Common Name	Scientific
Desert saltgrass	<i>Distichlis spicata</i>	Mourning Dove	<i>Zenaidura macroura</i>
Galleta	<i>Hilaria jamesii</i>	Broad-tailed Hummingbird	<i>Selasphorus platycercus</i>
Grass sp.	?	Turkey Vulture	<i>Cathartes aura</i>
Wall barley	<i>Hordeum murinum</i>	American Kestrel	<i>Falco sparverius</i>
Cheatgrass	<i>Bromus tectorum</i>	Say's Phoebe	<i>Sayornis saya</i>
Redstem filaree	<i>Erodium cicutarium</i>	Ash-throated Flycatcher	<i>Myiarchus cinerascens</i>

Thicksepal cryptantha	<i>Cryptantha crassisejala</i>	Cassin's Kingbird	<i>Tyrannus vociferans</i>
Stinking milkvetch	<i>Astragalus praelongus</i>	Warbling Vireo	<i>Vireo gilvus</i>
Evening primrose sp.	<i>Onagraceae</i>	Pinyon Jay	<i>Gymnorhinus cyanocephalus</i>
Ragweed	<i>Ambrosia artemisiifolia</i>	Woodhouse's Scrub-Jay	<i>Aphelocoma woodhouseii</i>
Rubber rabbitbrush	<i>Chrysothamnus nauseosus</i>	Common Raven	<i>Corvus corax</i>
Broom snakeweed	<i>Xanthocephalum sarothrae</i>	Juniper Titmouse	<i>Baeolophus ridgwayi</i>
Big sagebrush	<i>Artemisia tridentata</i>	Horned Lark	<i>Eremophila alpestris</i>
Plains prickly pear	<i>Opuntia polyacantha</i>	Violet-green Swallow	<i>Tachycineta thalassina</i>
Kingcup cactus	<i>Echinocereus triglochidiatus</i>	Cliff Swallow	<i>Petrochelidon pyrrhonota</i>
Utah Juniper	<i>Juniperus osteosperma</i>	Bushtit	<i>Psaltiriparus minimus</i>
Pinyon Pine	<i>Pinus edulis</i>	Blue-gray Gnatcatcher	<i>Polioptila caerulea</i>
Fremont Cottonwood	<i>Populus fremontii</i>	Rock Wren	<i>Salpinctes obsoletus</i>
Russian Thistle	<i>Salsola kali</i>	Northern Mockingbird	<i>Mimus polyglottos</i>
		Mountain Bluebird	<i>Sialia currucoides</i>
		House Finch	<i>Haemorhous mexicanus</i>
		Pine Siskin	<i>Spinus pinus</i>
		Chipping Sparrow	<i>Spizella passerina</i>
		Black-throated Sparrow	<i>Amphispiza bilineata</i>
		Lark Sparrow	<i>Chondestes grammacus</i>
		White-crowned Sparrow	<i>Zonotrichia leucophrys</i>
		Vesper Sparrow	<i>Pooecetes gramineus</i>
		Green-tailed Towhee	<i>Pipilo chlorurus</i>
		Brown-headed Cowbird	<i>Molothrus ater</i>
		Yellow-rumped Warbler	<i>Setophaga coronata</i>
		Llama	<i>Lama glama</i>
		Horse	<i>Equus caballus</i>

3.5 Cultural Resources

SRI conducted a records search with the (NNH&HPD) in Window Rock on April 14, 2021, and also conducted research via the New Mexico Cultural Resources Information System (NMCRIS) at the Laboratory of Anthropology (LA) in April 2021. SRI conducted the archaeological fieldwork on May 13, 2021. The ethnographic fieldwork was conducted in May 2021.

3.5.1 Archaeological Resources

The cultural resource survey resulted in the investigation of one archaeological site (NM-Q-45-9/LA 182871) that had been initially identified during the Class I records review, the identification of two in-use sites (IUSs), and the documentation of two isolated occurrences (IOs). SRI was unable to relocate one site (LA 20124), presumably because of site-plotting errors, based on a more-recent previous investigation that relocated the site outside the current survey area. The relocated previously recorded site (NM-Q-45-9/LA 182871) lacks integrity and information potential and is recommended not eligible for

listing in the NRHP. An NRHP-eligibility recommendation of “undetermined” is provided for the site that was not relocated.

3.5.2 Traditional Cultural Properties (TCP), Historic, and Religious Properties

Interviews were conducted with family members and families living within sight of the Project Area. The interviewees were asked open-ended questions relating to any traditional cultural properties (TCPs) and possible unmarked graves that might be located along the proposed waterline. None of the interviewees identified any TCPs or possible unmarked graves that might be impacted.

3.6 Socioeconomic Conditions

This section addresses socioeconomic conditions within the study area, including population and demographics, employment and income, economic development and revenue of the tribe, lifestyle and cultural values, and community infrastructure, along with a discussion of environmental justice as it relates to the Proposed Action.

The study area for socioeconomic conditions and environmental justice would include the entire Navajo Reservation and some parts of surrounding Rio Arriba County, which includes private land and the Navajo Reservation, for the purposes of comparison and analysis. The Project Area is located partially within the Navajo Reservation and on private land.

3.6.1 Employment and Income

The Navajo Reservation encompasses portions of northern New Mexico and Arizona and southern Utah. Approximately 40% of the Project Area is on Tribal Trust land within the Navajo Reservation. The primary industry categories on the Navajo Reservation are related to educational services, health care, and social assistance, at 39.5 percent. Other industry at or around 10 percent include retail trade (9.0%); arts, entertainment, recreation, accommodation, and food services (10.9%); construction (9.4%); and public administration (9.0%) (Census Bureau 2019a).

The West Rio Arriba Census County Division (CCD) is a city, town, place equivalent, or township located in the western portion of Rio Arriba County, New Mexico. The Project Area is located within this CCD. The primary industry categories within the West Rio Arriba CCD are related to agriculture, forestry, fishing and hunting, and mining (47%) and educational services, and health care and social assistance (40.2%) (Census Bureau 2019b).

The Nageezi CCD is a Census Designated Place (CDP) located just to the west of the Project Area in San Juan County, New Mexico. It is the largest population center in the vicinity of the Project Area. The primary industry categories within the Nageezi are related to finance and insurance, and real estate and rental and leasing (29%); educational services, and health care and social assistance (25.8%); transportation and warehousing, and utilities (19.4%); and manufacturing (9.4%) (Census Bureau 2019d).

Household incomes in 2019 on the Navajo Reservation were relatively low, with 23 percent of the households reporting annual incomes less than \$10,000, compared with 44.6 percent for the Nageezi CDP and 28.4 percent for the Rio Arriba CCD. The median household income for the Navajo Reservation was reported at \$28,052, well above the \$11,750 for the Nageezi CDP and slightly above the median household income of \$27,992 reported for the Rio Arriba CCD. Almost 39 percent of families on the Navajo Reservation reported incomes below the federal poverty level; while 54.3 percent of the Nageezi CDP and 41 percent of families within the Rio Arriba CCD reported incomes below the federal poverty level (U.S. Census Bureau 2019a, b and d).

3.6.2 Demographics and Trends

As with other communities in north-central Arizona, populations on the Navajo Reservation are relatively small. The population of the Navajo Reservation was 172,813 in 2019. The population of the Nageezi CDP was 189 and the West Rio Arriba CCD was 1,350. In 2019, the median age on the Navajo Reservation was 32.5 years, 36.6 years on the Nageezi CDP and 57.8 years in the West Rio Arriba CCD (U.S. Census Bureau 2019a, c, and e).

3.6.3 Community Infrastructure

Infrastructure systems that serve the Project Area include the following:

- **Roads and Accessibility.** The major transportation route in the vicinity of the Project Area is US Highway 550 which is located at the southern end of the Project Area and runs east to west. US Highway 550 is a major highway linking the tri-cities area with the interstate system and with major urban centers. Most of the road network in the Proposed Action Area consists of unpaved roads providing access to resources on federal lands, predominantly oil and gas facilities (BLM 2015).
- **Power and Water.** The Jemez Mountain Electrical Cooperative supplies electricity to residents in the Project Area. The Lybrook MDWCA provides water.
- **Solid Waste.** Solid waste services are provided by the North Central Solid Waste Authority.

3.7 Environmental Justice

Presidential EO 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 CFR 7629 [1994]), instructs federal agencies to incorporate environmental justice as part of their mission. As such, federal agencies are directed to identify and address as appropriate disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority and low-income populations.

In 2019, the Navajo Nation had a population of 172,813 within the reservation, of whom 166,464 (96%) were Navajo or other Native American, 2,866 were white, 754 were Asian or Pacific Islanders, 359 were African American, and the remainder identifying some other group or more than one ancestry (U.S. Census Bureau 2019a).

3.8 Indian Trust Resources

No Indian Trust Resources are known within the Project Area.

3.9 Environmental Module

Based on a search of the U.S. EPA NEPA Assist tool there are no Resource Conservation and Recovery Act (RCRA) Subtitle C, D, or I sites within 6 miles of the Project Area. There are no Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known also as "Superfund" sites within 6 miles of the Project Area. Nor are there any Toxic Substance Control Act (TSCA) sites within 6 miles of the Project Area.

3.10 Resources / Land Use Patterns

The following land uses, or practices occur in this region: transportation use network, land use plans, and agriculture.

3.10.1 Transportation Use Network

The Project Area is just north of Highway 550 approximately 7 miles east of the community of Nageezi in Rio Arriba County, New Mexico. Highway 550 is a paved two lane road between Bernalillo, New Mexico and Montrose, Colorado. There are a variety of dirt roads in and around the Project Area.

3.10.2 Land Use Plans

The 2009 Navajo Nation Long Range Transportation Plan (LRTP) (Navajo DOT 2009) is a 20-year comprehensive plan developed and updated by the Navajo Division of Transportation (DOT) in a five-year cycle. The study area includes the boundary limits of the Navajo Reservation and tribal ranch areas as situated within the States of Arizona, New Mexico, and Utah (Navajo DOT 2009).

3.10.3 Agriculture

The majority of Navajo Reservation land is used for grazing. The reservation's high desert characteristics, scarcity of water, dry climate, and currently inaccessible natural resources become inhibitive development factors. Of the Navajo Nation's total 17 million acres, approximately 10 million acres are open grazing lands. Between 3 and 4 million acres are designated forest lands (Defiance Plateaus and Chuska Mountain) and wild lands. Only small areas are used for dry farming, and irrigation projects (Navajo Indian Irrigation Project in the Shiprock Agency). Some lands are leased for oil and gas development, and coal mining in the Black Mesa area and in the eastern part of the reservation. Very small areas are non-agricultural such as community, business, and residential uses (Navajo DOT 2009).

The current grazing regulation system, developed in 1944, divided the Navajo Nation into 19 Range Management Districts. Regulations governing grazing use are contained in the Navajo Grazing Regulations (CFR 25, Part 167). The purpose of these regulations is to preserve land and water resources on the Navajo Nation and rebuild deteriorating resources (W.H. Pacific 2008).

These regulations also have the following objectives:

- Adjust the number of livestock to the carrying capacity of the range to preserve the health and sustainability of livestock on the Navajo Nation;
- secure increasing responsibility and participation of the Navajo people, including tribal participation in all basic policy decisions, in the sound management of grazing lands;
- improve livestock through proper breeding practices and the maintenance of a sound culling policy; and
- establish range units to promote conservation, manage development, and guide effective use of range resources.

The entire Project Area is physically disturbed as a result of ongoing llama, cattle and horse grazing. Active livestock trails cross the entire Project Area. It is not within an existing grazing lease with the New Mexico State Land Office, however, it is part of the Lybrook grazing community.

3.11 Other Values

This section discusses the wilderness areas, sound and noise, public health and safety, and visual setting existing within the Project Area.

3.11.1 Noise and Light

The Noise Control Act of 1972 gives the USEPA the authority to establish noise regulations to control major sources of noise, including transportation vehicles and construction equipment. The most widely accepted land use related noise standards are those of the U.S. Department of Transportation's Federal Highway Administration (FHWA) and the U.S. Department of Housing and Urban Development (HUD). The most significant existing ambient noise sources are vehicles along State Highway 550 as well the numerous dirt roads in the areas. Sensitive noise receptors are considered to be residences, hospitals, libraries, recreation areas, churches, and other similar uses. There are a handful of private residences near the Project Area.

Light pollution, obtrusive or unwanted nighttime lighting, is a side effect of human-occupied areas. It is a negative externality for activities involved with astronomical observation and wilderness areas. The Project Area is rural and contains little to no light sources in the vicinity. There are no observatories or designated wilderness areas near the Project Area.

3.11.2 Public Health and Safety

The Rio Arriba County Sheriff's Department provides law enforcement services in their respective counties. On tribal lands, Tribal Police Departments, tribal officials, and the BIA or the Federal Bureau of Investigation (FBI), provide law enforcement for sovereign Native American nations. The Navajo Nation Division of Public Services is responsible for all emergency services including law enforcement within the exterior boundaries of the Navajo Nation (Navajo Nation 2019a).

EMS/Fire

Rio Arriba County Fire & Emergency Services provides 24/7 emergency services response from 18 Fire Districts to approximately 40,246 people covering 5,856 square miles. This portion of Rio Arriba County is not within a designated fire district.

The Navajo Nation Department of Fire & Rescue Services is charged with preventing and suppressing fires, performing technical rescues, and mitigating the effects of hazardous material incidents. Other duties include emergency medical pre-hospital care delivery (i.e., Emergency Medical Services at the First Responder and Emergency Medical Technician levels) and the response to Weapons of Mass Destruction. Services are provided from the following stations. Other communities not listed are either protected by a community fire department or the BIA (Navajo Nation 2019b).

3.11.3 Visual Setting

Landscapes and their scenic quality vary according to the diversity of landforms, vegetation, and cultural or human-made features present. In general, landscapes with greater diversity of features are considered to be of higher scenic quality. The project area passes through mostly level topography, although it skirts the western edge of a locally prominent rock outcrop. Elevations within the project area average around 2,134 m (7,000 feet) AMSL (SRI 2021). Surrounding views are wide and few obstructions or large natural features are present in adjacent areas.

4 ENVIRONMENTAL CONSEQUENCES OF THE PROPOSED ACTION

This chapter describes the changes or impacts to the human and natural environment that can be expected from implementing the Proposed Action or the No-Action Alternative. As discussed in Chapter 2, the Proposed Action includes conceptual plan elements, but the exact footprint of each element, timing or types of construction, etc., are unknown. As a result, the following impact analysis is programmatic in nature. Potential impacts are described in terms of type, context, duration, and intensity. Definitions are defined as follows.

- **Type**—Describes the classification of the impact as either beneficial or adverse:
 - *Beneficial*: A positive change in the condition or appearance of the resource or a change that moves the resource toward a desired condition.
 - *Adverse*: A change that moves the resource away from a desired condition or detracts from its appearance or condition.
- **Context**—Describes the area or location in which the impact would occur. Are the effects site specific, local, regional, or even broader?
- **Duration**—Describes the length of time an effect would occur, either short-term or long-term:
 - *Short-term*: Impacts generally last only during construction, and the resources resume their pre-construction conditions following construction.
 - *Long-term*: Impacts last beyond the construction period, and the resources may not recover to their pre-construction conditions for a longer period of time following construction.
- **Intensity**—Describes the degree, level, or strength of an impact. For this analysis, intensity has been categorized into negligible, minor, moderate, and major.

Impacts are considered minor if project-related impacts would occur, but resources would retain existing character and overall baseline conditions. Impacts are considered moderate if project-related impacts would occur, and resources would partially retain existing character. Some baseline conditions would remain unchanged. Finally, project-related impacts would occur that would create a high degree of change within the existing resource character and overall condition of resources.

4.1 Land Resources Impacts and Mitigation

4.1.1 Proposed Action

Implementation of the Proposed Action would not affect topography or geology in the Project Area. There would be short-term, moderate, adverse impacts to soils within the area of disturbance related to construction activities. These impacts would include soil disturbance and some soil loss from vehicular traffic, grading, soil removal for installation of the waterline. These impacts would only last for the duration of the project. After the Proposed Action is completed, the pipeline would be covered, and the topsoil restored and reseeded.

4.1.2 No Action

Under the No Action Alternative, the waterline would not be installed. There would be no impacts to topography, geology or soils.

4.2 Water Resources Impacts and Mitigation

4.2.1 Proposed Action

Surface Water

Implementation of the Proposed Action would not have impacts on surface waters in the Project Area. Blanco Wash is an ephemeral wash that is crossed by the Proposed Action; however, impacts would be avoided by using directional drilling to go underneath the wash. Indian Health Service Design Criteria requires a minimum of 6 feet cover under washes and NMED Construction Programs Bureau requires a minimum of 3 feet cover under washes. The proposed waterline will be installed by directional drilling with at least 10 feet of cover. The installation will occur upstream of a culvert. Because the channel does not show significant signs of erosion on the upstream side of the culverts, they should act as a grade control that will reduce the likelihood of scouring exposing the buried waterline. There would be short-term, moderate, adverse impacts to Blanco Wash from vehicular traffic, grading, soil removal for installation of the waterline. These impacts would only last for the duration of the Proposed Action. However, implementation of **Environmental Protection Measures Hydro-1** would minimize the impacts to surface waters.

Groundwater

There are no wells in the vicinity of the Project Area. Although the Proposed Action would result in water use as part of the construction of the Proposed Action, water use would be short-term, only for the duration of the Proposed Action. The amount of water currently stored within the aquifer would not be adversely affected by the use of water for the Proposed Action.

Floodplains

The portion of the Project Area that crosses Blanco Wash is shown on the FIRM as being Zone A which corresponds to the 1-percent annual chance floodplains that are determined in the Flood Insurance Study by approximate methods of analysis. However, no construction would occur within this floodplain as the waterline would be installed through the use of directional drilling underneath Blanco Wash. The Proposed Action would not result in structures being placed in floodplains or altering floodplains. There would be no impacts to floodplains.

Water Rights

The Proposed Action would have no effect on Indian water rights or water rights claims.

4.2.2 No Action

Under the No Action Alternative, the waterline would not be installed. There would be no impacts to groundwater, floodplains, or water rights since the Project would not be constructed.

4.3 Air Resources Impacts and Mitigation

4.3.1 Proposed Action

Impacts to air quality and greenhouse gases would result from implementation of the Proposed Action due primarily to construction-generated emissions and construction-related traffic. Construction-related activities are temporary, short-term sources of air emissions that include fugitive dust from grading activities, construction equipment exhaust, construction-related trips by workers, delivery trucks, and material-hauling trucks, and construction-related power consumption. Construction would generally consist of site preparation, grading, pipeline installation, and reclamation. These activities would result in moderate, adverse short-term impacts to air quality. However, implementation of **Environmental Protection Measures AQ-1a, b, and c** would minimize these impacts.

4.3.2 No Action

Under the No Action the waterline would not be installed. There would be no impacts to air quality or greenhouse gases.

4.4 Biological Resources Impacts and Mitigation

4.4.1 Proposed Action

As discussed in Section 3.4.2, information on species and habitats of concern was requested of the NNHP NNDFW and provided in March 2021. In addition to this information, the USFWS iPAC website was consulted to obtain information on potentially occurring federally listed threatened and endangered species. The species identified and their potential to occur are found in Tables 3.4-1 and 3.4-2 and are discussed in more detail below.

Results of the preliminary site characterization queries did not identify any unique sensitive species features (i.e., wetlands or critical habitats) within the Project Area. Similarly, results of the field survey did not yield any direct observations of species of interest within or adjacent to the Project Area. Indirect site characteristics (tracks, burrows, and scat) did not yield any sensitive species indications. The Project Area did not present any unique and valuable resources for species of interest.

The entire Project Area 'blends' with the surrounding setting and does not provide a 'unique and desirable' ecosystem setting that would be a drawing feature for species activity. It was noted that a large diversity of bird species does migrate through this area and rely on the few trees that are present. Thirty species of birds were directly observed in the trees and shrubs in the open sagebrush area. There were no nests observed in any of the trees adjacent to the Project Area. Implementation of **Environmental Protection Measure Bio-1** would ensure there would be no adverse effects to these species.

Mammals

No mammal Species of Concern were identified by the NNHP as known or potentially occurring within the Project Area. Domestic and wild animal grazing activity (i.e., llama, cattle and horses) was noted by direct observation and the abundance of tracks and scat. Sign of old/abandoned kangaroo rat burrows were observed. During construction, maintenance, and final abandonment activities associated with the proposed project, it is possible that wildlife could be temporarily deterred from using the Project Area. However, because the Project Area is located within and adjacent to an active residential area with ongoing human activity (including visual and audial disturbances), it is unlikely that these impacts will be substantial.

Plants

Plant species within and adjacent to the project area are indicators of over grazing and physical disturbance. The abundance of Russian thistle cropped grasses and indicator species such as noxious weeds all signify the impacts of grazing which largely control the occurring vegetation assemblage. It is unlikely that any sensitive plant species could compete in this setting (NTEP, 2018). No plant Species of Concern habitat were identified by the NNHP as known or potentially occurring within the Project Area. Therefore, no plant Species of Concern will be impacted by the Proposed Action.

Raptors

Golden eagles were identified as potentially occurring within the Project Area, and a potential nest was located. This nest occurs ~0.7 miles from the northern terminus of the Project Area. Since it is within 1 mile of the project "decision makers need to ensure that they are not in violation of the Golden and Bald Eagle Nest Protection Regulations" found at https://www.nndw.org/nnhp/docs_reps.htm.

Observations of the nest during the survey indicated that it may be abandoned. The potential golden eagle nest occurs behind an active ranch/residence that likely produces noise disturbance to the nest area. It is

unlikely that the construction and installation of the waterline would adversely affect Species of Concern such as the Golden eagle since ongoing disturbance is comparable or greater than the construction disturbance that would occur from implementation of the Proposed Action. Implementation of **Environmental Protection Measure Bio-2** would ensure there would be no adverse effects to Golden eagles.

There were no other raptor species observed or identified as Species of Concern. Therefore, no raptor Species of Concern will be impacted by the Proposed Action.

Other Migratory Birds

The few trees within the open sage ground are resources to resident and migratory species. A diversity and abundance of bird species were noted in the trees (and some of the shrubs). The trees all occur outside of the area of direct effect for the Project Area.

Burrowing owls and mountain plover were identified by the NNHP as potentially occurring within the area. No nests or burrows for these species were observed and the available habitat is not preferred by these species. Implementation of **Environmental Protection Measure Bio-3** would ensure there would be no adverse effects to these species.

Upon review of the biological survey report prepared in support of this project, the NDFW granted a Biological Resources Compliance Form in June 2021 (Appendix C).

4.4.2 No Action

Under the No Action alternative, the proposed waterline would not be installed, and no biological resources would be affected.

4.5 Cultural Resources Impacts and Mitigation

4.5.1 Proposed Action

As discussed in Section 3.5.1, one archaeological site within the Project Area was documented; the previously recorded location of an additional site (LA 20124) was revisited, but the site could not be relocated. The documented site (NM-Q-45-9/LA 182871) does not exhibit the information potential or integrity necessary to qualify for NRIIP listing and is recommended not eligible for listing in the NRHP.

NM-Q-45-9/LA 182871

NM-Q-45-9/LA 182871 is a small site consisting of a scatter of flaked stone artifacts along the southeast facing slopes of a heavily disturbed hill. The site represents a temporally nondiagnostic lithic procurement locale. The current investigation did not observe any features at the site. A small, undisturbed portion of the site matches the previous description of cultural materials provided by LPAC in 2015. For this reason, no new analyses of the artifact assemblage were conducted. However, most of the site has been destroyed by the construction of the WPX Chaco Trunk 4, Extension 4 Pipeline and associated mechanical leveling of the area to the west of the pipeline. A small remaining portion of the site occupies steep slopes with extremely shallow sediments that offer no potential for buried deposits. Because no features were observed, there is no potential for buried material remains associated with the site, and the site's surface artifact assemblage has been documented previously, the site does not possess potential for additional information relevant to land use, settlement patterns, or subsistence strategies. Therefore, site NM-Q-45-9/LA 182871 is recommended as not eligible for listing in the NRIIP. The portion of NM-Q-45-9/LA 182871 that lies within the area of impacts has already been destroyed by previous construction activity, and no further treatment for this site is recommended.

LA 20124

The 1979 site boundary for LA 20124 that is plotted within the current Project Area in the NMCRIS records was revisited during the current survey, but the site was not relocated. LPAC revisited the site in 2015, relocating the site approximately 150 m (492 feet) to the west of the 1979 boundary. That location to the west of the current Project Area corridor better fits the environmental description provided during the original recording, and the site appears to have been misplotted. No further treatment for this site boundary was recommended.

A Cultural Resources Compliance Form (CRCF) was obtained from Navajo NNH&HPD on XXX (Appendix D).

4.5.2 No Action

Under the No Action Alternative, the proposed waterline would not be constructed. Therefore, there would be no impact to cultural resources.

4.6 Socioeconomic Conditions Impacts and Mitigation

4.6.1 Proposed Action

Implementation of the Proposed Action would result in the installation of an approximately 1-mile long water pipeline. There would be short-term, beneficial impacts to the local economy from the generation of jobs and the purchase of local goods and services. The Proposed Action would require approximately 5 to 10 local workers during the construction phase. Implementation of the Proposed Action would improve water services in the area. Improving water services on the Navajo Nation would result in long-term beneficial impacts to community infrastructure and local residents and help to improve their quality of life.

4.6.2 No Action

Under the No Action Alternative, the proposed waterline would not be installed. There would be no positive impacts to the local economy from employment of local residents or purchase of local goods and services. The two waterlines would remain unconnected. It would have long-term, minor, adverse impacts to community services.

4.7 Environmental Justice Impacts and Mitigation

4.7.1 Proposed Action

The Navajo Nation has a population that is 96 percent Navajo or other Native American. Additionally, 38 percent of families and 42 percent of individuals on the Navajo Nation are living below the federal poverty level. Any adverse impacts would be short-term and minor; however, they would affect a population that is almost entirely minority and has more than one third of its residents living below the federal poverty level. However, once the Proposed Action is complete there would be long-term beneficial impacts to community infrastructure and to local residents.

4.7.2 No Action

Under the No Action Alternative any adverse impacts would be long-term and minor, however, they would affect a population that is almost entirely minority and has more than one third of its residents living below the federal poverty level.

4.8 Indian Trust Resources Impacts and Mitigation

4.8.1 Proposed Action

There are no known Indian Trust Resources within the Proposed Action area, therefore, there would be no impacts.

4.8.2 No Action

There are no known Indian Trust Resources within the Proposed Action area, therefore, there would be no impacts.

4.9 Environmental Module Impacts and Mitigation

4.9.1 Proposed Action

There are no RCRA Subtitle C, D, or I sites, CERCLA sites, or TSCA sites within 6 miles of the Project Area. Therefore, there would be no impacts.

4.9.2 No Action

There are no RCRA Subtitle C, D, or I sites, CERCLA sites, or TSCA sites within 6 miles of the Project Area. Therefore, there would be no impacts.

4.10 Other Values Impacts and Mitigation

4.10.1 Proposed Action

Implementation of the Proposed Action would result in installation of an approximately 1-mile long water pipeline. This would result in long-term, beneficial impacts to the Navajo Nation. The Proposed Action would not have any impact on agriculture or grazing.

4.10.2 No Action

Under the No Action Alternative, the proposed water pipeline would not be installed. There would be no improvement to community services in the area. The No Action would not have any impact on agriculture or grazing.

4.11 Other Values

4.11.1 Proposed Action

Under implementation of the Proposed Action, activities such as vegetation clearing, grading, and excavation, and the use of heavy equipment would be visible and audible. Construction of these components would affect visual resources by introducing visual clutter and contrast, including, but not limited to equipment storage, signage, exposed soils, and fugitive dust. However, due to the remote nature of the Proposed Action area, there would be no sensitive viewer groups present. Therefore, there would be no impacts to sensitive viewers. All construction would take place during the normal workday and work week, no nights or weekends. Any light, noise, or visual impacts would be short-term, adverse, and minor. During construction, the use of heavy equipment and creating open trenches for water utility line installations would occur. Potential safety hazards to the general public include accidents associated with vehicle traffic. Occupational Safety and Health Administration laws regulate worker safety and would be followed to prevent work site accidents. The Proposed Action would not affect any public services or otherwise have any impact to public safety.

4.11.2 No Action Alternative

Under the No Action Alternative, the proposed water pipeline would not be installed. There would be no construction equipment on the site, therefore, there would be no impact to the noise and light environment. There would be no impact to visual resources or impact to public health and safety.

5. LIST OF AGENCIES AND ORGANIZATIONS CONSULTED

As discussed in the agency scoping summary in Chapter 1, local chapters and Tribal agencies were contacted during Project development. The contacted parties are listed below.

Local Chapters

- Nageezi Chapter

Navajo Agencies

- Navajo Natural Heritage Program (NNHP), part of the Navajo Nation Department of Fish and Wildlife (NDFW)
- Navajo Environmental Protection Agency (EPA);
 - Administration Department
 - Air and Toxics Department
 - Enforcement Department
 - Surface and Groundwater Detection Department
 - Waste Regulatory and Compliance Department
- Floodplain Section of the Water Management Branch of the Water Resources Department.
- Navajo Division of Forestry

6 LIST OF PREPARERS

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7 LIST OF REFERENCES

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APPENDICES

APPENDIX A
AGENCY SCOPING LETTERS



March 31, 2021

Waste Regulatory and Compliance Department Director
Navajo Environmental Protection Agency
P. O. Box 339
Window Rock, AZ 85616

To Whom It May Concern:

New Mexico Capital Outlay is funding a project to create a short waterline. The project area is located in Section 6 of Township 23N Range 7W. It is just north of Highway 550 approximately 7 miles east of Nageezi in Rio Arriba County, New Mexico (see Attachment I). The portion of the project south of the wash is located on tribal lands. The remainder is located on private land.

The waterline will loop two dead end lines to improve water quality in the area. The standard Right of Way (ROW) width will be 20 feet on either side of the waterline 40 feet total with a section of 50 feet on either side (100 feet total) and 100 feet on either side (200 feet total).

McIntyre Environmental LLC has been contracted to address the biological/environmental resources potentially affected by this project. Attachment I shows the exact location of these activities. A biological and cultural resources evaluation are being prepared. If your department has any concerns regarding the proposed waterline pipeline and potential impacts to biological, cultural or environmental resources, would you please notify us? Thank you for your assistance and cooperation in this matter.

Table 1. Project Summary

Project Description	Lybrook West Project
Length of Project	1 miles (less than 0.5 miles on Navajo Trust Land)
Chapter	Nageezi
County	Rio ArribaCounty
State	New Mexico

Sincerely,
David L McIntyre

Principal, McIntyre Environmental LLC
david@mcintyre-environmental.com
520 775 1490

Attachment I: Map of Project Area



April 26, 2021

Navajo Nation Department of Forestry

To Whom It May Concern:

New Mexico Capital Outlay is funding a project to create a short waterline. The project area is located in Section 6 of Township 23N Range 7W. It is just north of Highway 550 approximately 7 miles east of Nagezzi in Rio Arriba County, New Mexico (see Attachment I). The portion of the project south of the wash is located on tribal lands. The remainder is located on private land.

The waterline will loop two dead end lines to improve water quality in the area. The standard Right of Way (ROW) width will be 20 feet on either side of the waterline 40 feet total with a section of 50 feet on either side (100 feet total) and 100 feet on either side (200 feet total).

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david@mcintyre-environmental.com
520 775 1490

Attachment I: Map of Project Area



March 31, 2021

Administration Department
Navajo Environmental Protection Agency
P. O. Box 339
Window Rock, AZ 85616

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The waterline will loop two dead end lines to improve water quality in the area. The standard Right of Way (ROW) width will be 20 feet on either side of the waterline 40 feet total with a section of 50 feet on either side (100 feet total) and 100 feet on either side (200 feet total).

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Sincerely,
David L. McIntyre

Principal, McIntyre Environmental LLC
david@mcintyre-environmental.com
520 775 1490

Attachment I: Map of Project Area



March 31, 2021

Air and Toxic Department
Navajo Environmental Protection Agency
P. O. Box 339
Window Rock, AZ 85616

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The waterline will loop two dead end lines to improve water quality in the area. The standard Right of Way (ROW) width will be 20 feet on either side of the waterline 40 feet total with a section of 50 feet on either side (100 feet total) and 100 feet on either side (200 feet total).

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State	New Mexico

Sincerely,
David L McIntyre

Principal, McIntyre Environmental LLC
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520 775 1490

Attachment I: Map of Project Area



March 31, 2021

Enforcement Department
Navajo Environmental Protection Agency
P. O. Box 339
Window Rock, AZ 85616

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David L McIntyre

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david@mcintyre-environmental.com
520 775 1490

Attachment I: Map of Project Area



March 31, 2021

Surface and Groundwater Protection Department
Navajo Environmental Protection Agency
P. O. Box 339
Window Rock, AZ 85616

To Whom It May Concern:

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David L McIntyre

Principal, McIntyre Environmental LLC
david@mcintyre-environmental.com
520 775 1490

Attachment I: Map of Project Area



March 31, 2021

Floodplain Section
Water Management Branch\Water Resources Department
Division Of Natural Resources
P. O. Box 9000
Window Rock, AZ 86515

To Whom It May Concern:

New Mexico Capital Outlay is funding a project to create a short waterline. The project area is located in Section 6 of Township 23N Range 7W. It is just north of Highway 550 approximately 7 miles east of Nageezi in Rio Arriba County, New Mexico (see Attachment 1). The portion of the project south of the wash is located on tribal lands. The remainder is located on private land.

The waterline will loop two dead end lines to improve water quality in the area. The standard Right of Way (ROW) width will be 20 feet on either side of the waterline 40 feet total with a section of 50 feet on either side (100 feet total) and 100 feet on either side (200 feet total).

McIntyre Environmental LLC has been contracted to address the biological/environmental resources potentially affected by this project. Attachment 1 shows the exact location of these activities. A biological and cultural resources evaluation are being prepared. If your department has any concerns regarding the proposed waterline pipeline and potential impacts to biological, cultural or environmental resources, would you please notify us? Thank you for your assistance and cooperation in this matter.

Table 1. Project Summary

Project Description	Lybrook West Project
Length of Project	1 miles (less than 0.5 miles on Navajo Trust Land)
Chapter	Nageezi
County	Rio ArribaCounty
State	New Mexico

Sincerely,
David L. McIntyre

Principal, McIntyre Environmental LLC
david@mcintyre-environmental.com
520 775 1490

Attachment 1: Map of Project Area

APPENDIX B
AGENCY SCOPING LETTER REPLIES



NNHP

Navajo Natural Heritage Program

PO BOX 1480
Window Rock, AZ 86515

P 928.871.6472
F 928.871.7603

www.nndfw.org

21mcen101

31-March-2021

David McIntyre
McIntyre Environmental, LLC
1900 West Desert Highlands Drive
Oro Valley, AZ 85737
david@mcintyre-environmental.com

SUBJECT: Lybrook West Waterline Project

David McIntyre,

NNHP has performed an analysis of your project in comparison to known biological resources of the Navajo Nation and has included the findings in this letter. The letter is composed of seven parts. The sections as they appear in the letter are:

1. **Known Species** – a list of all species within relative proximity to the project
2. **Potential Species** – a list of potential species based on project proximity to respective suitable habitat
3. **Quadrangles** – an exhaustive list of quads containing the project
4. **Project Summary** – a categorized list of biological resources within relative proximity to the project grouped by individual project site(s) or quads
5. **Conditional Criteria Notes** – additional details concerning various species, habitat, etc.
6. **Personnel Contacts** – a list of employee contacts
7. **Resources** – identifies sources for further information

Known Species lists "species of concern" known to occur within proximity to the project area. Planning for avoidance of these species is expected. If no species are displayed then based upon the records of the Navajo Nation Department of Fish and Wildlife (NNDFW) there are no "species of concern" within proximity to the project. Refer to the Navajo Endangered Species List (NESL) Species Accounts for recommended avoidance measures, biology, and distribution of NESL species on the Navajo Nation (https://www.nndfw.org/nnhp/sp_account.htm).

Potential Species lists species that are potentially within proximity to the project area and need to be evaluated for presence/absence. If no species are found within the Known or Potential Species lists, the project is not expected to affect any federally listed species, nor significantly impact any tribally listed species or other species of concern. Potential for species has been determined primarily on habitat characteristics and species range information. A thorough habitat analysis, and if necessary, species specific surveys, are required to determine the potential for each species.

Species of concern include protected, candidate, and other rare or otherwise sensitive species, including certain native species and species of economic or cultural significance. For legally protected species, the following tribal and federal statuses are indicated: NESL, federal Endangered Species Act (ESA), Migratory

Bird Treaty Act (MBTA), and Eagle Protection Act (EPA). No legal protection is afforded species with only ESA candidate, NESL group 4 status, and species listed on the Sensitive Species List. Please be aware of these species during surveys and inform the NNDFW of observations. Reported observations of these species and documenting them in project planning and management is important for conservation and may contribute to ensuring they will not be up listed in the future.

In any and all correspondence with NNDFW or NNHP concerning this project please cite the Data Request Code associated with this document. It can be found in this report on the top right corner of the every page. Additionally please cite this code in any biological evaluation documents returned to our office.

1. Known Species *(NESL=Navajo Endangered Species List, FE=Federally Endangered, FT=Federally Threatened, FC=Federal Candidate)*

Species

AQCH = Aquila chrysaetos / Golden Eagle NESL G3

2. Potential Species

Species

AQCH = Aquila chrysaetos / Golden Eagle NESL G3

ATCU = Athene cunicularia / Burrowing Owl NESL G4

BURE = Buteo regalis / Ferruginous Hawk NESL G3

CHMO = Charadrius montanus / Mountain Plover NESL G4

FAPE = Falco peregrinus / Peregrine Falcon NESL G4

3. Quadrangles (7.5 Minute)

Quadrangles

Crow Mesa East (36107-C5) / NM

4. Project Summary *(EO1 Mile/EO 3 Miles=elements occurring within 1 & 3 miles., MSO=mexican spotted owl PACs, POTS=potential species, RCP=Biological Areas)*

SITE	EO1MI	EO3MI	QUAD	MSO	POTS	RCP
50 NNHPD Survey Buffer	AQCH	AQCH	Crow Mesa East (36107-C5) / NM	None	AQCH, ATCU, BURE, CHMO, FAPE	Area 3
SMA Arch Survey Boundary	AQCH	AQCH	Crow Mesa East (36107-C5) / NM	None	AQCH, ATCU, BURE, CHMO, FAPE	Area 3
Water Line	AQCH	AQCH	Crow Mesa East (36107-C5) / NM	None	AQCH, ATCU, BURE, CHMO, FAPE	Area 3

5. Conditional Criteria Notes *(Recent revisions made please read thoroughly. For certain species, and/or circumstances, please read and comply)*

A. Biological Resource Land Use Clearance Policies and Procedures (RCP) - The purpose of the RCP is to assist the Navajo Nation government and chapters ensure compliance with federal and Navajo laws which protect, wildlife resources, including plants, and their habitat resulting in an expedited land use clearance process. After years of research and study, the NNDFW has identified and mapped wildlife habitat and sensitive areas that cover the entire Navajo Nation.

The following is a brief summary of six (6) wildlife areas:

1. **Highly Sensitive Area** – recommended no development with few exceptions.
2. **Moderately Sensitive Area** – moderate restrictions on development to avoid sensitive species/habitats.
3. **Less Sensitive Area** – fewest restrictions on development.
4. **Community Development Area** – areas in and around towns with few or no restrictions on development.
5. **Biological Preserve** – no development unless compatible with the purpose of this area.
6. **Recreation Area** – no development unless compatible with the purpose of this area.

None - outside the boundaries of the Navajo Nation

This is not intended to be a full description of the RCP please refer to the our website for additional information at <https://www.nndfw.org/clup.htm>.

B. Raptors – If raptors are known to occur within 1 mile of project location: Contact the NNHP zoologist at 871-7070 regarding your evaluation of potential impacts and mitigation.

Golden and Bald Eagles - If Golden or Bald Eagle are known to occur within 1 mile of the project, decision makers need to ensure that they are not in violation of the *Golden and Bald Eagle Nest Protection Regulations* found at https://www.nndfw.org/nnhp/docs_reps/gben.pdf.

Ferruginous Hawks – Refer to Navajo Nation Department of Fish and Wildlife's *Ferruginous Hawk Management Guidelines for Nest Protection* (https://www.nndfw.org/nnhp/docs_reps.htm) for relevant information on avoiding impacts to Ferruginous Hawks within 1 mile of project location.

Mexican Spotted Owl - Please refer to the *Navajo Nation Mexican Spotted Owl Management Plan* (https://www.nndfw.org/nnhp/docs_reps.htm) for relevant information on proper project planning near/within spotted owl protected activity centers and habitat.

C. Surveys – Biological surveys need to be conducted during the appropriate season to ensure they are complete and accurate please refer to NN Species Accounts https://www.nndfw.org/nnhp/sp_account.htm. Surveyors on the Navajo Nation must be permitted by the Director, NNDFW. Contact Jeff Cole at (928) 871-6450 for permitting procedures. Questions pertaining to surveys should be directed to the NNDFW the NNHP Zoologist for animals, and the NNHP Botanist for plants. Questions regarding biological evaluation should be directed to Jeff Cole at 871-6450.

D. Oil/Gas Lease Sales – Any settling or evaporation pits that could hold contaminants should be lined and covered. Covering pits, with a net or other material, will deter waterfowl and other migratory bird use. Lining pits will protect ground water quality.

E. Power line Projects – These projects need to ensure that they do not violate the regulations set forth in the *Navajo Nation Raptor Electrocution Prevention Regulations* found at https://www.nndfw.org/nnhp/docs_reps/repr.pdf.

F. Guy Wires – Does the project design include guy wires for structural support? If so, and if bird species may occur in relatively high concentrations in the project area, then guy wires should be equipped with highly visual markers to reduce the potential mortality due to bird-guy wire collisions. Examples of visual markers include aviation balls and bird flight diverters. Birds can be expected to occur in relatively high concentrations along migration routes (e.g., rivers, ridges or other distinctive linear topographic features) or where important habitat for breeding, feeding, roosting, etc. occurs. The U.S. Fish and Wildlife Service recommends marking guy wires with at least one marker per 100 meters of wire.

G. San Juan River – On 21 March 1994 (Federal Register, Vol. 59, No. 54), the U.S. Fish and Wildlife Service designated portions of the San Juan River (SJR) as critical habitat for *Ptychocheilus lucius* (Colorado pikeminnow) and *Xyrauchen texanus* (Razorback sucker). Colorado pikeminnow critical habitat includes the SJR and its 100-year floodplain from the State Route 371 Bridge in T29N, R13W, sec. 17 (New Mexico Meridian) to Neskahai Canyon in the San Juan arm of Lake Powell in T41S, R11E, sec. 26 (Salt Lake Meridian) up to the full pool elevation. Razorback sucker critical habitat includes the SJR and its 100-year floodplain from the Hogback Diversion in T29N, R16W, sec. 9 (New Mexico Meridian) to the full pool elevation at the mouth of Neskahai Canyon on the San Juan arm of Lake Powell in T41S, R11E, sec. 26 (Salt Lake Meridian). All actions carried out, funded or authorized by a federal agency which may alter the constituent elements of critical habitat must undergo section 7 consultation under the Endangered Species Act of 1973, as amended. Constituent elements are those physical and biological attributes essential to a species conservation and include, but are not limited to, water, physical habitat, and biological environment as required for each particular life stage of a species.

H. Little Colorado River - On 21 March 1994 (Federal Register, Vol. 59, No. 54) the U.S. Fish and Wildlife Service designated Critical Habitat along portions of the Colorado and Little Colorado Rivers (LCR) for *Gila cypha* (humpback chub). Within or adjacent to the Navajo Nation this critical habitat includes the LCR and its 100-year floodplain from river mile 8 in T32N R6E, sec. 12 (Salt and Gila River Meridian) to its confluence with the Colorado River in T32N R5E sec. 1 (S&GRM) and the Colorado River and 100-year floodplain from Nautuloid Canyon (River Mile 34) T36N R5E sec. 35 (S&GRM) to its confluence with the LCR. All actions carried out, funded or authorized by a federal agency which may alter the constituent elements of Critical Habitat must undergo section 7 consultation under the Endangered Species Act of 1973, as amended. Constituent elements are those physical and biological attributes essential to a species conservation and include, but are not limited to, water, physical habitat, and biological environment as required for each particular life stage of a species.

I. Wetlands – In Arizona and New Mexico, potential impacts to wetlands should also be evaluated. The U.S. Fish & Wildlife Service's National Wetlands Inventory (NWI) maps should be examined to determine whether areas classified as wetlands are located close enough to the project site(s) to be impacted. In cases where the maps are inconclusive (e.g., due to their small scale), field surveys must be completed. For field surveys, wetlands identification and delineation methodology contained in the "Corps of Engineers Wetlands Delineation Manual" (Technical Report Y-87-1) should be used. When wetlands are present, potential impacts must be addressed in an environmental assessment and the Army Corps of Engineers, Phoenix office, must be contacted. NWI maps are available for examination at the Navajo Natural Heritage Program (NNHP) office, or may be purchased through the U.S. Geological Survey (order forms are available through the NNHP). The NNHP has complete coverage of the Navajo Nation, excluding Utah, at 1:100,000 scale; and coverage at 1:24,000 scale in the southwestern portion of the Navajo Nation. In Utah, the U.S. Fish & Wildlife Service's National Wetlands Inventory maps are not yet available for the Utah portion of the Navajo Nation, therefore, field surveys should be completed to determine whether wetlands are located close enough to the project site(s) to be impacted. For field surveys, wetlands identification and delineation methodology contained in the "Corps of Engineers Wetlands Delineation Manual" (Technical Report Y-87-1) should be used. When wetlands are present, potential impacts must be addressed in an environmental assessment and the Army Corps of Engineers, Phoenix office, must be contacted. For more information contact the Navajo Environmental Protection

Agency's Water Quality Program.

J. Life Length of Data Request – The information in this report was identified by the NNHP and NNDFW's biologists and computerized database, and is based on data available at the time of this response. If project planning takes more than two (02) years from the date of this response, verification of the information provided herein is necessary. It should not be regarded as the final statement on the occurrence of any species, nor should it substitute for on-site surveys. Also, because the NNDFW information is continually updated, any given information response is only wholly appropriate for its respective request.

K. Ground Water Pumping - Projects involving the ground water pumping for mining operations, agricultural projects or commercial wells (including municipal wells) will have to provide an analysis on the effects to surface water and address potential impacts on all aquatic and/or wetlands species listed below. NESL Species potentially impacted by ground water pumping: *Carex specuicola* (Navajo Sedge), *Cirsium rydbergii* (Rydberg's Thistle), *Primula specuicola* (Cave Primrose), *Platanthera zothecina* (Alcove Bog Orchid), *Puccinellia parishii* (Parish Alkali Grass), *Zigadenus vaginatus* (Alcove Death Camas), *Perityle specuicola* (Alcove Rock Daisy), *Symphyotrichum welshii* (Welsh's American-aster), *Coccyzus americanus* (Yellow-billed Cuckoo), *Empidonax traillii extimus* (Southwestern Willow Flycatcher), *Rana pipiens* (Northern Leopard Frog), *Gila cypha* (Humpback Chub), *Gila robusta* (Roundtail Chub), *Ptychocheilus lucius* (Colorado Pikeminnow), *Xyrauchen texanus* (Razorback Sucker), *Cinclus mexicanus* (American Dipper), *Speyeria nokomis* (Western Seep Fritillary), *Aechmophorus clarkia* (Clark's Grebe), *Ceryle alcyon* (Belted Kingfisher), *Dendroica petechia* (Yellow Warbler), *Porzana carolina* (Sora), *Catostomus discobolus* (Bluehead Sucker), *Cottus bairdi* (Mottled Sculpin), *Oxyloma kanabense* (Kanab Ambersnail)

6. Personnel Contacts

Wildlife Manager

Leanna Begay
928.871.6450
lbegay@nndfw.org

Zoologist

Brent Powers
928.871.7070
bpowers@nndfw.org

Botanist

Nora Talkington
ntalkington@nndfw.org

Biological Reviewer (Interim)

Taylor Greene
928.871.6450
tgreene@nndfw.org

GIS Supervisor

Dexter D Prall
928.645.2898
prall@nndfw.org

7. Resources

Navajo Endangered Species List:

<https://www.nndfw.org/nnhp/endangered.htm>

Species Accounts:

https://www.nndfw.org/nnhp/sp_account.htm

Biological Investigation Permit Application

https://www.nndfw.org/nnhp/study_permit.htm

Navajo Nation Sensitive Species List

<https://www.nndfw.org/nnhp/trackinglist.htm>

Various Species Management and/or Document and Reports

https://www.nndfw.org/nnhp/docs_reps.htm

Consultant List

https://www.nndfw.org/bi_consult_list_2014.pdf

Dexter D Prall, GIS Supervisor - Natural Heritage Program
Navajo Nation Department of Fish and Wildlife



NNHP

Navajo Natural Heritage Program

PO Box 1480
Window Rock, AZ
86515

P 928.871.6472
F 928.871.7603

<http://nnhp.nndfw.org>

Invoice for 21mcen101

3/31/2021

Please make payable to NAVAJO NATION

Project Measurements

Total Number of Quads:	1
Number of Additional Quads:	0
Cost (\$75 plus \$5 each additional Quad):	\$75.00

(Please cut along the dashed line and return with payment)

Navajo Natural Heritage Program
PO Box 1480
Window Rock, AZ 86515

3/31/2021

PLEASE PAY THIS AMOUNT

Payment for Data Response 21mcen101

\$75.00

Please make payable to NAVAJO NATION

Or, if you would like to pay with a credit card, fill out and
return the Credit Card Authorization Form with the invoice stub.



APPENDIX C
BIOLOGICAL CLEARANCE REVIEW FORM

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT

MYRON LISTER | VICE PRESIDENT



Department of Fish and Wildlife Credit Card Authorization Form

Sign and complete this form to authorize the Navajo Nation Department of Fish and Wildlife to make a one-time charge to your credit card listed below.

By signing this form, you give us permission to charge your account for the amount indicated on or after the indicated date. This is permission for a single transaction only, and does not provide authorization for any additional, unrelated debits or credits to your account.

Please complete the information below:

I _____ authorize the Department of Fish and Wildlife to charge my credit
(Full Name)
card account indicated below for \$75.00 on or after 3/31/2021. This payment is for
(Amount) (Date)

Data Request Report - 21mcen101

(Description of Good/Services)

Billing Address _____

Phone _____

City, State, Zip _____

Email _____

Account Type Visa Mastercard AMEX

Cardholder Name _____

Card # _____

Expiration Date _____ CVV2 _____

Signature _____ Date _____

I authorize the above named business to charge the credit card indicated in this authorization form according to the terms outlined above. This payment authorization is for the goods/services described above, for the amount indicated above only, and is valid for one time use only. I certify that I am an authorized user of this credit card and that I will not dispute the payment with my credit card company; so long as the transaction corresponds to the terms indicated on this form.

Department of Fish and Wildlife - P.O. Box 1480 - Window Rock, AZ 86515 - (928) 871 6450 - Fax (928) 871 7069

**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.: Lybrook West Waterline Project

DESCRIPTION: New Mexico Capital Outlay funded project to loop two dead end lines to improve water quality in the area. Approximately 2,091 feet (0.40 miles) of the one mile waterline project is located on Navajo Nation Trust Land with the remaining on private land.

LOCATION: SW and NE quarters of Section 6, T23N, R7W, Rio Aribba County, NM

REPRESENTATIVE: David McIntyre, McIntyre Environmental LLC

ACTION AGENCY: Lybrook Mutual Domestic Water Consumers Association and Navajo Nation Water Resources Department

B.R. REPORT TITLE / DATE / PREPARER: Biological compliance review/20 May 2021/David McIntyre

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: (1) Aquila chrysaetos (Golden Eagle), G3, MBTA;

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: NA

CONDITIONS OF COMPLIANCE*: Raptor surveys are required if construction occurs between March 1-July 15, of any year. If construction occurs outside that time period no raptor surveys are needed.

FORM PREPARED BY / DATE: Leanna Begay/6 Aug 2021

COPIES TO: (add categories as necessary)

☐

☐

2 NTC § 164 Recommendation:

Signature

Date

☒ Approval

☐ Conditional Approval (with memo)

☐ Disapproval (with memo)

☐ Categorical Exclusion (with request letter)

☐ None (with memo)


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

8/6/21

***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.**

APPENDIX D
CULTURAL RESOURCES 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-21-1511

CONSULTANT REPORT NO.: SRI 21-40

PROJECT TITLE A Class III Inventory for the Lybrook West Waterline Loop in Nageezi Chapter, Rio Arriba County, New Mexico.

LEAD AGENCY: BIA/NRO

SPONSOR: Colin Daly, Souder, Miller & Associates, 5454 Venice Ave NE, Albuquerque, NM, 87113

PROJECT DESCRIPTION: New Mexico Capital Outlay is funding a project for Souder, Miller & Associates (SMA) to create a short water line. The water line will loop two dead-end lines to improve water quality. The standard right-of-way (RQW) width is 20-ft on either side of the water line (40-ft), with a section of 50 feet on either side (100-ft total) and a section of 100-ft on either side (200-ft total). The total length of the loop connecting the two lines is 4,490-ft, and the width is 140 feet except in one section that widens to 200-ft and another section that widens to 300-ft. The area of potential effect is 6.12-acres (3.45-acres on Private land; 2.67-acres on Navajo Nation Tribal Trust Land).

PROJECT ARCHAEOLOGIST: David Unruh

NAVAJO ANTIQUITIES PERMIT NO.: B21252

TOTAL ACREAGE INSPECTED: 16.87

DATE INSPECTED: 5/13/2021

DATE OF REPORT: 6/17/2021

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

LAND STATUS: NN Tribal Trust Land & Private

CHAPTER: Nageezi

NUMBER OF ELIGIBLE PROPERTIES: 0

NUMBER OF NON-ELIGIBLE PROPERTIES: 1

NUMBER OF UNEVALUATED PROPERTIES: 1

NUMBER OF BURIALS: 0

NUMBER OF TCPS: 0

NUMBER OF ISOLATED OCCURRENCES: 0

NUMBER OF IN-USE SITES: 0

EFFECT/CONDITIONS OF COMPLIANCE: No Historic Properties Affected

PROCEED RECOMMENDED: Yes

CONDITIONS: No

Site NM-G-45-9: The pipeline construction has significantly impacted the site with mechanical leveling of the area and has mostly destroyed the site

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

FORM PREPARED BY: Olsen John

FINALIZED: 10/13/2021

NAVAJO NATION HERITAGE AND HISTORIC PRESERVATION DEPARTMENT


Richard M. Begay, Department Manager/THPO


Date

NAVAJO REGION APPROVAL:


Acting Navajo Regional Director
BIA-Navajo Regional Office


Date

~ DOCUMENT IS VOID IF ALTERED ~

SPONSORS

Colin Daly, Souder, Miller & Associates

LOCATION INFORMATION**LAND STATUS:** NN Tribal Trust Land & Private**STATE:** NM**DATUM:** NAD83**ZONE:** 12**COUNTY(IES)**

Rio Arriba

QUADRANGLE(S)

Crow Mesa East, NM

CHAPTER(S)

Nageezi

Township

23N

Range

7W

Sections

6

UTM N**UTM E**

4018431

804442

4018039

804336

4017972

804306

4017944

804301

4017759

804266

4017758

804278

4017706

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804132

4017583

804103

4017544

804037

4017576

803908

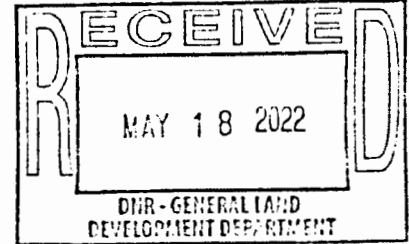
4017707

803768

LYBROOK MDWCA

May 3, 2022

Steven T. Chischilly Jr.
General Land Development Department
Navajo Nation Division of Natural Resources
Via Email and Fed Ex



RE: Application for consent to ROW and TCE across Navajo Tribal Trust (TNT) lands for the Lybrook Mutual Domestic Water Consumers Association (MDWCA), Project 6421307

Dear Mr. Chischilly,

The Lybrook Mutual Domestic Water Consumers Association (MDWCA) hereby submits the enclosed application for Tribal consent to Rights-of-Way (ROW) and Temporary Construction Easement (TCE) for Tribal Trust lands for the Lybrook MDWCA Water System Improvements.

Enclosed with this letter are the following:

1. Check # 064207 in the amount of \$500.00 as payment for filing fee.
2. Summary table of NAVAJO TRIBAL TRUST lands.
3. Project area land status map.
4. Cultural Resources Concurrence Letters, signed by Navajo Historic Preservation Dept. (2 letters)
5. Biological Resources Compliance Form (BRCF) from Navajo Fish and Wildlife Dept.
6. Supporting resolutions from concerned chapter
7. Environmental Assessment.
8. Easement plat maps for Tribal Trust lands, both ROW and TCE (electronic and signed paper copies)
9. Field Clearance Checklist
10. Finding of No Significant Impact from Bureau of Indian Affairs

Should you have any questions or require any further information, please do not hesitate to contact our authorized agent, Colin Daly with Souder, Miller & Associates at 734-347-9866. We appreciate your prompt attention in processing this application. Thanks very much for your assistance.

Sincerely,



Odie Chapman
President
Lybrook MDWCA

CC: Jason John, Navajo Nation Water Management Branch
Daniel Tso, Navajo Nation Council
Andrew Robertson, Souder, Miller & Associates
Colin Daly, Souder, Miller & Associates

P. O Box 1468
Aztec, NM 87410
United States

PHONE (505) 860-1890
EMAIL lybrookwaterusers@gmail.com

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS**

RIGHT-OF-WAY APPLICATION

Request for the BIA to grant a right-of-way under the terms and provisions of the Act of February 5, 1948 (25 U.S.C. 323-328) and Departmental Regulations at 25 CFR 169.

Parcel(s) Affected by Right-of-Way:

Landowner Name(s): Navajo Nation Tribal Trust

Allotment Number(s): _____

Legal Description: A tract of land, for the purposes of a water line, located in Section 6, T23N, R7W in Rio Arriba County, New Mexico.
and being a portion of the Navajo Tribal Trust, lying either 20 feet on each side of the centerline described in the attached plat.

Applicant Information

Applicant: Lybrook Mutual Domestic Water Consumers Association (MDWCA)

Contact information: Odie Chapman, President, Lybrook MDWCA, (505) 860-1890, lybrookwaterusers@gmail.com

Right-of-Way Information

General location of the right-of-way: Just north of Highway 550 approximately 7 miles east of the community of Nageezi in
Rio Arriba County, New Mexico.

Duration/term (years): 25 years

Purposes: Construction, operation, and maintenance of the Lybrook MDWCA Water System Improvements Project, which will loop two dead-end
lines to improve water quality in the area.

Length (in feet): 1818.66 Width (in feet): 40 Depth (in feet): 4 - 12 Size (area): 1.67 acres

Owner of permanent improvements in right-of-way: Lybrook MDWCA

Party responsible for constructing, operating, maintaining, and managing permanent
improvements in right-of-way: Lybrook MDWCA

APPLICANT EXPRESSLY AGREES TO review and abide by all conditions stated in the right-of-way grant and comply with all provisions of 25 CFR 169.

APPLICANT SIGNATURE: 

DATE: 14 Feb 2023

ATTEST: _____

See the back of this form for:

- Required supporting documents that must be submitted with this application; and
- A list of conditions that will be among those in the right-of-way grant.

PLEASE SUBMIT THIS FORM & REQUIRED SUPPORTING DOCUMENTS TO THE LOCAL
BIA AGENCY OFFICE.

PAPER WORK REDUCTION ACT STATEMENT

This information is being collected to provide Bureau of Indian Affairs (BIA) with information necessary to issue a grant of a right-of-way across Indian land. Response is required to obtain benefits under 25 CFR 169. A Federal Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Public reporting for this form is estimated to average 1 hour per response, including the time for reviewing instructions, gathering and maintaining data, completing the form. Direct comment regarding the burden estimate or any other aspect of this form to: Information Collection Clearance Officer, Office of Regulatory Affairs & Collaborative Action – Indian Affairs, 1849 C Street, N.W., MS-3071-MIB, Washington, D.C. 20240.

REQUIRED SUPPORTING DOCUMENTS:

- (1) An accurate legal description of the right-of-way, its boundaries, and parcels associated with the right-of-way;
- (2) A map of definite location of the right-of-way and existing facilities adjacent to the proposed project, signed by a professional surveyor or engineer (this requirement does not apply to easements covering the entire tract of land);
- (3) A bond meeting the requirements of 25 CFR § 169.103;
- (4) Record of consent for the right-of-way meeting the requirements of 25 CFR § 169.105 for tribal land, and 25 CFR § 169.106 for individually owned Indian land;
- (5) If applicable, a valuation meeting the requirements of 25 CFR § 169.110;
- (6) If the applicant is a corporation, limited liability company, partnership, joint venture, or other legal entity, except a tribal entity, information such as organizational documents, certificates, filing records, and resolutions, that demonstrates that: (i) The representative has authority to execute the application; (ii) The right-of-way will be enforceable against the applicant; and (iii) The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located;
- (7) Environmental and archeological reports, surveys, and site assessments, as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements.

LIST OF CONDITIONS THAT WILL BE AMONG THOSE IN THE RIGHT-OF-WAY GRANT

- (1) The grantee has no right to any of the products or resources of the land, including but not limited to, timber, forage, mineral, and animal resources, unless otherwise provided for in the grant;
- (2) BIA may treat any provision of a grant that violates Federal law as a violation of the grant; and
- (3) The grantee must:
 - (i) Construct and maintain the right-of-way in a professional manner consistent with industry standards;
 - (ii) Pay promptly all damages and compensation, in addition to the deposit made pursuant to § 169.103, determined by the BIA to be due the landowners and authorized users and occupants of land as a result of the granting, construction, and maintenance of the right-of-way;
 - (iii) Restore the land as nearly as may be possible to its original condition, upon the completion of construction, to the extent compatible with the purpose for which the right-of-way was granted, unless otherwise negotiated by the parties;
 - (iv) Clear and keep clear the land within the right-of-way, to the extent compatible with the purpose of the right-of-way, and dispose of all vegetative and other material cut, uprooted, or otherwise accumulated during the construction and maintenance of the project;
 - (v) Comply with all applicable laws and obtain all required permits;
 - (vi) Not commit waste (i.e., any damage to the property that lessens its value);
 - (vii) Repair and maintain improvements consistent with the right-of-way agreement;
 - (viii) Build and maintain necessary and suitable crossings for all roads and trails that intersect the improvements constructed, maintained, or operated under the right-of-way;
 - (ix) Restore land to its original condition, as much as reasonably possible, upon revocation or termination of the right-of-way, unless otherwise negotiated by the parties;
 - (x) At all times keep the BIA informed of the grantee's address;
 - (xi) Refrain from interfering with the landowner's use of the land, provided that the landowner's use of the land is not inconsistent with the right-of-way; and
 - (xii) Comply with due diligence requirements under § 169.104.
- (4) Unless the grantee would be prohibited by law from doing so, the grantee must also:
 - (i) Hold the United States and the Indian landowners harmless from any loss, liability, or damages resulting from the applicant's use or occupation of the premises; and
 - (ii) Indemnify the United States and the Indian landowners against all liabilities or costs relating to the use, handling, treatment, removal, storage, transportation, or disposal of hazardous materials, or release or discharge of any hazardous material from the premises that occurs during the term of the agreement, regardless of fault, with the exception that the applicant is not required to indemnify the Indian landowners for liability or cost arising from the Indian landowners' negligence or willful misconduct.

Document No. 020131Date Issued: 02/13**EXECUTIVE OFFICIAL REVIEW**Title of Document: Lybrook (MDWCA) ROW and TCE Water SystemContact Name: ANDERSON ABASTA, ETTIEProgram/Division: DIVISION OF NATURAL RESOURCESEmail: eaabasta@navajo-nsn.govPhone Number: 928-871-6447☐ **Business Site Lease**

Sufficient Insufficient

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

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

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

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

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

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

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

☐ **Lease Purchase Agreements**

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

☐ **Grant Applications**

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

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

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

☐ **Relinquishment of Navajo Membership**

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

☐ Land Withdrawal or Relinquishment for Commercial Purposes

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

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

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

☐ Rights of Way

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

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

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

☐ Assignment of Mineral Lease

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






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

1. NLD	_____	Date: <u>07/27/23</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. F&W	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. HPD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5. NNEPA	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
6. DNR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
7. DOJ (ic)	<u>12/31/23</u>	Date: <u>3/3/23</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. OPVP	<u>12/31/23</u>	Date: <u>29 Aug 2023</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

☐ OTHER:

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

Tier 1 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Eugenia Quintana EPA (NLTDS and GLDD)	Environmental Department Manager	Navajo Nation EPA	Approved	no comments	No Reply	21-Feb-2023	
Glenna Lee EPA (NLTDS and GLDD)	Environmental Department Manager	Navajo Nation EPA	Approved	no comments	No Reply	21-Feb-2023	
Frederick Sherman EPA (NLTDS and GLDD)	Senior Environmental Specialist	Navajo Nation EPA	Approved	no comments	No Reply	15-Feb-2023	
Norvina Charleston n (NLTDS and GLDD)	Environmental Specialist	Navajo Nation EPA	Approved	no comments	No Reply	15-Feb-2023	
Jason John (NLTDS and GLDD)	Department Manager III	Department of Water Resources	Approved	no comments	No Reply	13-Feb-2023	
Najamh Tariq (NLTDS and GLDD)	Branch Director (Reviewer)	Department of Water Resources	Approved	no comments	No Reply	13-Feb-2023	

David Mikesic (NLTDS and GLDD)	Navajo Nation Zoologist (Approver)	Navajo Nation Fish and Wildlife	Approved	1 Project Sponsor received Approval on BRCF dated Aug 6, 2021; project is in Area 3 but Sponsor much conduct Raptor Surveys if construction occurs between March 1 and July 14 of any year.	1 No Reply	13-Feb-2023
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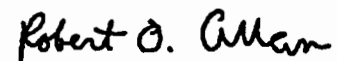


Gloria Tom F&W (NLTDS and GLDD)	Department Manager III	Navajo Nation Fish and Wildlife	Approved	no comments	No Reply	13-Feb-2023
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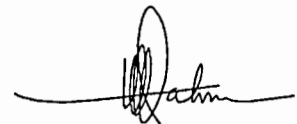
Leanna Begay (NLTDS and GLDD)	Wildlife Manager	Navajo Nation Fish and Wildlife	Approved	no comments	No Reply	13-Feb-2023
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Robert Allan DNR (NLTDS and GLDD)	Attorney (Approver)	Division of Natural Resources	Approved	no comments	No Reply	13-Feb-2023
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W. Mike Halona - NLD (NLTDS - Admin)	Navajo Land Administration Department	Approved	no comments	No Reply	13-Feb-2023
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Dorothy Senior Navajo Approve 1 Need to 1 No 28-Feb-
Barber- EnvironmentNation EPA d . adhere to . Reply 2023
Redhorse al Specialist
(NLTDS
and
GLDD)

NN CWA
Laws &
Regulation
re: 402,
401, and
404
permits
and
compliance. Contact
NN Water
Quality &
NPDES
Program
@ 928-
871-7185.
Conditional approval
for
Lybrook
Waterline
project.

Dorothy Barber - Redhorse

Patrick Principal Navajo Approve no No 28-Feb-
Antonio Hydrologist Nation EPA d comments Reply 2023
EPA
(NLTDS
and
GLDD)

Patrick Antonio

Merle EnvironmentNavajo Approve no No 21-Feb-
Chischilly al Specialist Nation EPA d comments Reply 2023
(NLTDS
and
GLDD)

Yolanda EnvironmentNavajo Approve 1 Please see 1 No 21-Feb-
Barney al Program Nation EPA d . attached . Repl 2023
NNEPA Manager memorandu y
(NLTDS
and
GLDD)

m
approving
this
project.

Yolanda Barney

Rebecca Senior Minerals Approve 1 This vote 1 No 17-Feb-
Gilchrist Mining Department d is . Reply 2023
MIN Engineer
(NLTDS (Reviewer)
and
GLDD)
contingent
upon the
uploaded
Terms and
Conditions,
dated
02.17.2023
,
permanentl
y being
included in
the
application
approval
package. -
rkg



Richard Senior Minerals Approve no No 17-Feb-
Carlton Geologist Department d comments Reply 2023
(NLTDS
and
GLDD)



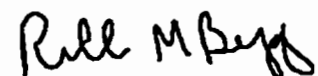
Steven Principal Minerals Approve no No 17-Feb-
Prince Petroleum Department d comments Reply 2023
MIN Engineer (
(NLTDS Approver)
and
GLDD)



Olsen Archaeologi Navajo Approve no No 19-Feb-
John st Nation d comments Reply 2023
(NLTDS Heritage and
and Historic
GLDD) Preservation
Department



Richard Department Navajo Approve no No 19-Feb-
Begay Manager III Nation d comments Reply 2023
NNHP (Approver) Heritage and
(NLTDS Historic
and Preservation
GLDD) Department



Jeremy Bekis (NLTDS and GLDD) Remedial Project Manager Navajo Nation EPA d Approve no comments No Reply 01-Mar-2023

Jeremy Bekis

Shelby Dayzie - EPA (NLTDS and GLDD) Remedial Project Manager Navajo Nation EPA d Approve no comments No Reply 01-Mar-2023

Shelby Dayzie

Tanya Yazzie (NLTDS and GLDD) Environmental Specialist Navajo Nation EPA d Approve 1. Document 1. No Approved due to User inaction within 10 Business Days No Reply 01-Mar-2023

Tanya Yazzie

Warren Roan - EPA (NLTDS and GLDD) Environmental Department Manager Navajo Nation EPA d Approve 1. Document 1. No Approved due to User inaction within 10 Business Days No Reply 01-Mar-2023

Warren Roan


Byron Bitsoie Sr (NLTDS and GLDD) Acting Land Department Manager NLD Approved no comments No Reply 09-Mar-2023

Tier 12 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
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Irvin Chee (NLTDS and GLDD) Principal Tribal Court Advocate Navajo Nation Department of Justice Approve no comments No Reply 03-Mar-2023

Irvin Chee

Veronica Blackhat (NLTDS and GLDD)	Assistan Navajo Nation Attorney Department General of Justice	Approved	<i>no comments</i>	<i>No Reply</i>	03-Mar-2023	
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Tier 13 Document Voting Results
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User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
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Bidtah Becker	Chief Legal Counsel	OPVP	Approved	<i>no comments</i>	<i>No Reply</i>	30-Aug-2023	
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Brittany Smith	Executive Staff Assistant
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Individuals in blue font performed the Approval on behalf of all members in the group.
This is possible when Peer Approval has been enabled for the Project.



☐ RESUBMITTAL

NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



DOJ	
3/2/23 @ 10:40p	
DATE / TIME	
<input type="checkbox"/> 7 Day Deadline	
DOC #:	20131
SAS #:	
UNIT:	NM

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

CLIENT TO COMPLETE

DATE OF REQUEST:	2/3/2023	DIVISION:	Division of Natural Resources
CONTACT NAME:	Ettie Anderson Abasta	DEPARTMENT:	General Land Developemnt Department
PHONE NUMBER:	871-6447	E-MAIL:	caabasta@navajo-nsn.gov

TITLE OF DOCUMENT: Lybrook (MDWCA) ROW and TCE Water System

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 3-02-23 1:41 PM	REVIEWING ATTORNEY/ADVOCATE: 1 min clue 3-10-23
---------------------------------------	--

DATE TIME OUT OF UNIT:

DOJ ATTORNEY / ADVOCATE COMMENTS

- Document is legally sufficient.

REVIEWED BY: (Print) Tina E. [Signature]	Date / Time 3-3-23	SURNAMED BY: (Print) V Blackhat	Date / Time 3/3/23 4:10pm
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DOJ Secretary Called: _____ for Document Pick Up on _____ at _____ By: _____

PICKED UP BY: (Print) _____ DATE / TIME: _____



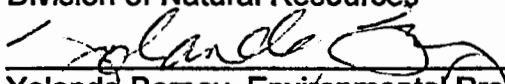
DR. BUU NYGREN *PRESIDENT*
RICHELLE MONTOYA *VICE PRESIDENT*

The Navajo Nation | Yideeskáądi Nitsáhákees

February 15, 2023

MEMORANDUM

TO: Navajo Land Title Data Systems
Land Department
Division of Natural Resources

FROM: 
Yolanda Barney, Environmental Program Manager
Public Water Systems Supervision Program
Surface and Ground Water Protection Department
Navajo Nation Environmental Protection Agency

SUBJECT: DOCUMENT No. 20131

The Navajo Nation Environmental Protection Agency's Surface and Ground Water Protection Department (SGWP) reviewed Document No. 020131, Project #6421307, Right of Way and Construction Easement on Tribal Trust Lands for the Lybrook Mutual Domestic Water Consumers Association water system improvements. This project is sponsored by the Navajo Nation Water Resources Department for the "Lybrook Loop Connection Project." The SGWP recommends approval of this document with the following conditions:

1. All proposed drinking water projects (extensions, upgrades, new wells, new public water systems, etc.) must comply with the design review and construction permit requirements pursuant to §§1501 and 1601 of the Navajo Nation Primary Drinking Water Regulations. The project sponsor(s) must apply for a drinking water construction permit.
2. All proposed wastewater projects will need to be permitted by the Domestic Wastewater Program-NNEPA. Extensions, upgrades, new sewer infrastructure, septic tanks and other wastewater infrastructure must comply with the design review and construction permit requirements pursuant to §201 of the Domestic Wastewater Regulations. The project sponsor(s) must apply for a wastewater construction permit.
3. If there is surface disturbance (more than 1 acre) that may impact "waters of the Navajo Nation," then the project sponsor will need to apply for a 401-certification permit from the Navajo Water Quality Program. A 404 Certification Permit must be obtained from the EPA or Army Corp of Engineers if the activity is relating to dams, highways, airports or mining projects. Please contact the Water Quality Program at 928-871-7185.

If there are any questions, please contact ybarney@navajopublicwater.org.

xc: PWSID#NN3500296
DWWID#NN35190021

**RESOURCES AND DEVELOPMENT COMMITTEE
25th NAVAJO NATION COUNCIL**

SECOND YEAR 2024


**ROLL CALL
VOTE TALLY SHEET**

LEGISLATION #0005-24: AN ACTION RELATING TO THE RESOURCE AND DEVELOPMENT COMMITTEE; APPROVING THE GRANT OF RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT TO LYBROOK MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION TO CONSTRUCT, OPERATE AND MAINTAIN THE WATER SYSTEM IMPROVEMENT PROJECT LOCATED ON NAVAJO NATION TRUST LANDS IN NAGEEZI CHAPTER (RIO ARRIBA COUNTY, NEW MEXICO); WAIVING CONSIDERATION AND THE VALUATION REQUIREMENT PURSUANT TO TITLE 25 CODE OF FEDERAL REGULATIONS SECTION 169.110 (A). *Sponsor: Honorable Danny Simpson*

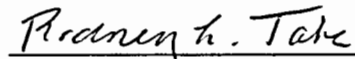
Date: January 17, 2024 – Regular Meeting (Mentmore, New Mexico)
Location: Navajo Division of Transportation – #16 Old Coalmine Road, Naat’áanii Board
Room – Mentmore, New Mexico 87319

Main Motion:

M: Rickie Nez **S:** Casey Allen Johnson **V:** 4-0-1 (CNV)
In Favor: Shawna Ann Claw; Casey Allen Johnson; Rickie Nez; Danny Simpson
Opposition: None
Excused: None
Not Voting: Brenda Jesus, *Chairperson*



Honorable Brenda Jesus, *Chairperson*
Resources and Development Committee



Rodney L. Tahe, *Legislative Advisor*
Office of Legislative Services