

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
24th Navajo Nation Council --- Second Year, 2020

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING A
RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT TO U.S. BUREAU
OF RECLAMATION TO CONSTRUCT, OPERATE AND MAINTAIN REACH 7-
PUMPING PLANT 4, SHEEP SPRINGS TURNOUT AND TEMPORARY STAGING
AREA FOR NAVAJO GALLUP WATER SUPPLY PROJECT LOCATED ON NAVAJO
NATION TRUST LANDS IN SHEEP SPRINGS CHAPTER (SAN JUAN COUNTY,
NEW MEXICO)

BE IT ENACTED:

SECTION ONE. AUTHORITY

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

SECTION TWO. FINDINGS

- A. The United States Bureau of Reclamation, 1235 La Plata Highway, Farmington, New Mexico 87401 has submitted a right-of-way application and a temporary construction easement application to construct, operate and maintain Reach 7 Navajo Gallup Water Supply Project located on, over and across Navajo Nation Trust Lands in Sheep Springs Chapter, San Juan County, New Mexico. The application are attached and incorporated as **Exhibit D.**
- B. "The Omnibus Public Land Management Act of 2009, Title X, Part III (Public Law 111.11)(Act) authorizes the Bureau of Reclamation to construct the Navajo-Gallup Water Supply Project (NGWSP) that includes water treatment plants, pipeline, several pumping stations and ancillary facilities. Once completed, the NGWSP will deliver a reliable source of potable water, sourced from the San Juan River, to Navajo communities in northwestern New Mexico, the City of Gallup,

NM, and the southwest portion of the Jicarilla Apache Reservation for municipal and industrial use. The NGWSP will connect to existing and future water distribution systems operated on the reservation by the Navajo Tribal Utility Authority (NTUA), and in Gallup, by the City of Gallup. The high quality, treated water provided by the NGWSP will bring immediate benefits, including improved health and well-being to tribal members." Applications, **Exhibit D**.

- C. The proposed permanent right-of-way and temporary construction easement consists of Navajo Nation Trust Lands located in San Juan County, New Mexico and the location is more particularly described on the Legal Descriptions and survey maps attached and incorporated as **Exhibit B**.
- D. The Bureau of Reclamation in a letter written to the Program Manager of the Navajo Nation's General Land Development Department dated February 6, 2020 states "It should be noted that your office has previously obtained the field clearances for these parcels with the work that was completed on Reach 4C through 8 ROW application package that was approved as Resolution [No. RDCAP-009-19] and granted on April 24, 2019, and further, the BIA granted the Reach 4C through 8 ROW that is recorded as TAAMS No. 791 4200187192, on October 2, 2019. The parcels herein requested will overlap the Reach 4C through 8 ROW at the south end of Reach 7 and the north end of Reach 8." See Application, **Exhibit D**. The Navajo Nation Department of Justice memorandum dated April 24, 2020 and the Consent Forms are attached as **Exhibit C**.
- E. The Bureau of Reclamation "understands that the Navajo Nation is waiving all customary fees and consideration for the ROW in accordance with the authorizing legislation in the Omnibus Public Land Management Act of 2009, Title X, Part III, Section 10602(c)(2) (Public Law 111.11)." Application, **Exhibit D**.
- F. The Biological Resources Compliance Form NNDFW Review No. EOR010650 is attached as **Exhibit E**.
- G. The Navajo-Gallup Water Supply Project Class III Inventory and Ethnographic Summary for the San Juan Lateral, Volume 1: Reaches 3-8, Hogback Diversion, and Shiprock Connection, Navajo Nation, McKinley and San Juan Counties, New Mexico is attached as **Exhibit F**.
- H. The Tooh Haltsooi Council of Naataanii Chapter Resolution TC-2017-0191 supporting the Navajo-Gallup Water Supply Project is attached as **Exhibit G**.

- I. Navajo Nation President's Executive Order No. 07-2017 stating support for the Navajo-Gallup Water Supply Project and a memorandum dated September 9, 2016 supporting a waiver of the bond requirement under 25 C.F.R. § 169.103 are attached as **Exhibit H**.
- J. RDCAP-009-19 approving a right-of-way and temporary easement for Reaches 4C-8 of the Navajo-Gallup Water Supply Project, the Executive Order Official Review No. 010650 regarding the Reaches 4C-8, the TAAMS No. 791 4200187192 for Project No. Reach 4C-8 and TAAMS No. 791 4200191683 for Project No. Reach 4C-8 are attached as **Exhibit I**.
- K. The Executive Official Review Document No. 014167 entitled "BOR ROW Reach 7 Pumping Plant No. 4" is attached as **Exhibit J**.

SECTION THREE. APPROVAL

- A. The Resources and Development Committee of the Navajo Nation Council hereby grants approval of a Right-of-Way and Temporary Construction Easement to U.S. Bureau of Reclamation to construct, operate and maintain Reach 7-Pumping Plant #4 of the Navajo Gallup Water Supply Project located on, over and across Navajo Nation Trust Lands in Sheep Springs Chapter, San Juan County, New Mexico. The location is more particularly described on the map attached hereto as **Exhibit B**.
- 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-1**.
- C. The Resources and Development Committee of the Navajo Nation Council hereby approves Temporary Construction Easement subject to, but no limited to, the terms and conditions incorporated herein as **Exhibit A-2**.
- D. The Resources and Development Committee of the Navajo Nation Council hereby waives valuation and waives compensation for the Right-of-Way and Temporary Construction Easement because it has determined that accepting the agreed-upon compensation and waiving valuation is in its best interest of the Navajo Nation, pursuant to Title 25 C.F.R. § 169.110.

- E. The Resources and Development Committee of the Navajo Nation Council hereby waives the requirement for a bond, insurance or alternative form of security on the part of the Grantee, based on the determination that the Reach 7-Pumping Plant #4 of the Navajo Gallup Water Supply Project benefits the Navajo Nation and such a waiver is in the best interest of the Navajo Nation, pursuant to Title 25 C.F.R. § 169.103(f)(2).
- F. The Resources and Development Committee of the Navajo Nation Council hereby grants the Right-of-Way and Temporary Construction Easement as long as the Grantee Bureau of Reclamation or its successors or assigns use the right-of-way and temporary construction easement for the construction, operation and maintenance of the Navajo Gallup Water Supply Project.
- G. The Resources and Development Committee of the Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to affect the intent and purpose of this resolution.

CERTIFICATION

I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 24th Navajo Nation Council at a duly called meeting held by a teleconference for which a quorum was present and that same was passed by a vote of 5 in favor, and 0 opposed, on this 2nd day of September 2020.



Thomas Walker, Jr., Vice Chairperson
Resources and Development Committee
of the 24th Navajo Nation Council

Motion: Honorable Wilson C. Stewart, Jr.
Second: Honorable Mark A. Freeland

Vice Chairperson Thomas Walker, Jr. not voting.

**EXHIBIT "E"**

**NAVAJO NATION RIGHT-OF-WAY TERMS & CONDITIONS:
BUREAU OF RECLAMATION (GRANTEE)
(Navajo Gallup Water Supply Project Reach 7 – Pumping Plant #4, Sheep
Springs Turnout & Temporary Staging Area)**

1. The term of the permanent right-of-way shall begin on the date it is granted by the Secretary of the Interior (Secretary) and shall continue as long as the Grantee Bureau of Reclamation (BOR) or its successors, or assigns uses the right-of-way for the construction, operation, and maintenance of the Navajo Gallup Water Supply Project (Project).
2. The annual consideration for the use of land is assessed at **\$19,382.00 (annually adjusted)**, which shall be the Navajo Nation's contribution to the Project because the Project will provide water to the Navajo Nation.

The Grantee must obtain the approval of the Navajo Nation if any portion of the right-of-way is used for any other purpose than authorized by the approval of this right-of-way.

3. The Grantee may develop, use, and occupy the right-of-way for the purpose(s) of constructing, operating, and maintaining the Navajo Gallup Water Supply Project. The Grantee may not develop, 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 at the sole discretion of the Navajo Nation.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all applicable 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, including compliance with the Programmatic Agreement for the Consideration and Management of Effects on Historic Properties Arising from Construction of the Navajo Gallup Water Supply Project pursuant to Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation's regulation, last date of execution by all signatories being November 21, 2011, and any amendments thereto.
 - c. BOR shall give employment preference to qualifying Navajos and other Indians in accordance with applicable Navajo and federal law. BOR shall utilize Navajo contractors and Navajo businesses (to purchase goods and materials) in accordance with applicable law.

- d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq., to the extent that it is applicable. 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 re-vegetation 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 re-vegetation 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 provided that nothing herein shall be deemed to increase the liability of the United States beyond the provisions of the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 982 (28 U.S.C. § 1346(b), 2671 et seq.) or other applicable law.
 11. The Grantee shall not assign, convey, or transfer, 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 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 at the sole discretion of the Navajo Nation. Congress has authorized BOR to transfer Project title under P.L. 111-11 1062 (f). It is anticipated that after Project title is transferred to the Navajo Nation, the Navajo Tribal Utility Authority will operate and maintain the Project. Therefore, the Grantee may assign and transfer the right-of-way to the Navajo Tribal Utility Authority as authorized by federal law without further approval of the Navajo Nation or the Secretary.
 12. At the relinquishment of this right-of-way, the Grantee, other than the United States 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 site assessment of the premises at least sixty (60) days prior to delivery of the said premises. This provision 12 shall not apply to the United States as Grantee.

13. Holding over by the Grantee after the relinquishment 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. This provision 13 shall not apply to the United States as Grantee.
14. The Navajo Nation and the Secretary shall have the right, at any reasonable time during the term of the right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any improvements located thereon.
15. 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 of the Navajo people) 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.
16. Any action or claim brought against the Navajo Nation arising out of the injury to person or property (tort) may be heard in the Courts of the Navajo Nation in accordance with applicable Navajo and federal law. No action or claim shall be brought against the Navajo Nation in any state court.
17. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.
18. 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.
19. 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.
20. 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 remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.



**NAVAJO NATION TEMPORARY CONSTRUCTION EASEMENT TERMS AND
CONDITIONS: BUREAU OF RECLAMATION (GRANTEE)
(Navajo-Gallup Water Supply Project – Reach _____)**

1. The term of the temporary construction easement shall begin on the date it is granted by the Secretary of the Interior (Secretary) and shall continue as long as the Grantee Bureau of Reclamation (BOR), or its successors, or assigns, uses the ROW temporary construction easement for the construction, operation and maintenance of the Navajo-Gallup Water Supply Project (Project) with a maximum term of no more than four (4) years.
2. Consideration for the use of the land for the temporary construction easement is assessed at \$_____, which shall be the Navajo Nation's contribution to the Project because the Project will provide water to the Navajo Nation.

The Grantee must obtain the approval of the Navajo Nation if any portion of the right-of-way is used for any other purpose than authorized by the approval of this right-of-way.

3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of constructing, operating, and maintaining the Navajo-Gallup Water Supply Project. The Grantee may not develop, 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 at the sole discretion of the Navajo Nation.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all applicable 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, including compliance with the Programmatic Agreement for the Consideration and Management of Effects on Historic Properties Arising from Construction of the Navajo-Gallup Water Supply Project, pursuant to Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation's regulation, last date of execution by all signatories being November 21, 2011, and any amendments thereto.
 - c. BOR shall give employment preference to qualifying Navajos and other Indians in accordance with applicable Navajo and federal law. BOR shall utilize Navajo contractors and Navajo businesses (to purchase goods and materials) in accordance with applicable law.
 - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq., to the extent that it is applicable. 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 re-vegetation 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 re-vegetation 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 provided that nothing herein shall be deemed to increase the liability of the United States beyond the provisions of the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 982 (28 U.S.C. § 1346(b), 2671 et. seq.) or other applicable law.
11. The Grantee shall not assign, convey or transfer, 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 at the sole discretion of the Navajo Nation. Congress has authorized BOR to transfer Project title under P.L. 111-11 10602(f). It is anticipated that after Project title is transferred to the Navajo Nation, the Navajo Tribal Utility Authority will operate and maintain the Project. Therefore, the Grantee may assign and transfer the right-of-way to the Navajo Tribal Utility Authority as authorized by federal law without further approval of the Navajo Nation or the Secretary.
12. At the relinquishment of this right-of-way, the Grantee, other than the United States, 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 site assessment of the premises at least sixty (60) days prior to delivery of the said premises. This provision 12, shall not apply to the United States as Grantee.

13. Holding over by the Grantee, after the relinquishment 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. This provision 13 shall not apply to the United States as Grantee.
14. The Navajo Nation and the Secretary shall have the right, at any reasonable time during the term of the right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any improvements located thereon.
15. 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 of the Navajo people) 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.
16. Any action or claim brought against the Navajo Nation arising out of the injury to person or property (tort) may be heard in the Courts of the Navajo Nation in accordance with applicable Navajo and federal law. No action or claim shall be brought against the Navajo Nation in any state court.
17. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.
18. 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.
19. 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.
20. 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 remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.

**NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS:
BUREAU OF RECLAMATION (GRANTEE)
(Navajo-Gallup Water Supply Project – Reach _____)**

1. The term of the permanent right-of-way shall begin on the date it is granted by the Secretary of the Interior (Secretary) and shall continue as long as the Grantee Bureau of Reclamation (BOR) or its successors, or assigns uses the right-of-way for the construction, operation and maintenance of the Navajo-Gallup Water Supply Project (Project).
2. The annual consideration for the use of the land is assessed at \$_____ (annually adjusted), which shall be the Navajo Nation's contribution to the Project because the Project will provide water to the Navajo Nation.

The Grantee must obtain the approval of the Navajo Nation if any portion of the right-of-way is used for any other purpose than authorized by the approval of this right-of-way.

3. The Grantee may develop, use, and occupy the right-of-way for the purpose(s) of constructing, operating, and maintaining the Navajo-Gallup Water Supply Project. The Grantee may not develop, 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 at the sole discretion of the Navajo Nation.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all applicable laws and regulations of the Navajo Nation and of the United States, now in force and effect, or as may hereafter 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, including compliance with the Programmatic Agreement for the Consideration and Management of Effects on Historic Properties Arising from Construction of the Navajo-Gallup Water Supply Project, pursuant to Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation's regulation, last date of execution by all signatories being November 21, 2011, and any amendments thereto.
 - c. BOR shall give employment preference to qualifying Navajos and other Indians in accordance with applicable Navajo and federal law. BOR shall utilize Navajo contractors and Navajo businesses (to purchase goods and materials) in accordance with applicable law.
 - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq., to the extent that it is applicable. 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 re-vegetation 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 re-vegetation 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, provided that nothing herein shall be deemed to increase the liability of the United States beyond the provisions of the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 982 (28 U.S.C. § 1346(b), 2671 et. seq.) or other applicable law.
11. The Grantee shall not assign, convey, or transfer, 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 at the sole discretion of the Navajo Nation. Congress has authorized BOR to transfer Project Title under P.L. 111-11 10602 (f). It is anticipated that after Project title is transferred to the Navajo Nation, the Navajo Tribal Utility Authority will operate and maintain the Project. Therefore, the Grantee may assign and transfer the right-of-way to the Navajo Tribal Utility Authority as authorized by federal law without further approval of the Navajo Nation or the Secretary.
12. At the relinquishment of this right-of-way, the Grantee, other than the United States 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 site assessment of the premises at least sixty (60) days prior to delivery of the said premises. This provision 12, shall not apply to the United States as Grantee.
13. Holding over by the Grantee after the relinquishment 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. This provision 13 shall not apply to the United States as Grantee.

14. The Navajo Nation and the Secretary shall have the right, at any reasonable time during the term of the right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any improvements located thereon.
15. 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 of the Navajo people) 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.
16. Any action or claim brought against the Navajo Nation arising out of the injury to person or property (tort) may be heard in the Courts of the Navajo Nation in accordance with applicable Navajo and federal law. No action or claim shall be brought against the Navajo Nation in any state court.
17. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.
18. 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.
19. 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.
20. 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 shall remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.

Legal Description – Permanent Right-of-Way
Navajo Gallup Water Supply Project
Reach 7 – Pumping Plant No. 4
Parcel No. PP4-1(P)
Drawing No. 1695-529-60320



Navajo-Gallup Water Supply Project - Reach 7 - Parcel No. PP4-1(P) - Pumping Plant 4 - Permanent Right-Of-Way - Tribal Trust Land

A parcel of land lying on Navajo Nation Tribal Trust Land in Section 36, Township 23 North, Range 18 West, and in Section 01, Township 22 North, Range 18 West, N.M.P.M.; San Juan County, New Mexico. More particularly described as follows:

Point of Beginning being the northwest corner of said parcel, from which the Southwest Corner of Section 36, Township 23 North, Range 18 West bears South 63° 49' 20" West a distance of 2879.08 feet; thence from the Point of Beginning South 86° 19' 29" East a distance of 400.00 feet; thence South 03° 26' 15" West a distance of 781.56 feet; thence South 86° 33' 43" East a distance of 400.01 feet to a point from which the Southeast Corner of said Section 36 bears South 75° 53' 30" East a distance of 2002.93 feet; thence South 03° 26' 17" West a distance of 471.32 feet to a point on the North line of said Section 01 from which the Northeast Corner of Section 01 bears South 89° 29' 02" East a distance of 2639.13 feet; thence continuing along the same bearing South 03° 26' 17" West a distance of 328.68 feet to a point that is the southeast corner of said parcel from which the Northeast Corner of Section 01 bears North 81° 08' 18" East a distance of 2014.53 feet; thence North 86° 33' 43" West a distance of 800.00 feet to the southwest corner of said parcel from which the Northwest Corner of Section 01 bears North 82° 53' 41" West a distance of 2508.10 feet; thence North 03° 26' 15" East a distance of 287.86 feet to a point on the North line of said Section 01 from which the Northwest Corner of Section 01 bears North 89° 28' 36" West a distance of 2638.97 feet; thence continuing along the same bearing North 03° 26' 15" East a distance of 1295.36 feet to the Point of Beginning.

Parcel No. PP4-1(P) contains 21.88 acres more or less.

**Legal Description – Permanent Right-of-Way
Navajo Gallup Water Supply Project
Reach 7 – Sheep Springs Turnout
Parcel No. PP4-2(P)
Drawing No. 1695-529-60320**

**Navajo-Gallup Water Supply Project - Reach 7 - Parcel No. PP4-2(P) - Sheep Springs Turnout -
Permanent Right-Of-Way - Tribal Trust Land**

A parcel of land lying on Navajo Nation Tribal Trust Land in Section 36, Township 23 North, Range 18 West, N.M.P.M.; San Juan County, New Mexico. More particularly described as follows:

Point of Beginning being the northwest corner of said parcel, from which the Southwest Corner of Section 36, Township 23 North, Range 18 West bears South 52°07'20" West a distance of 3342.32 feet; thence from the Point of Beginning South 86°33'48" East a distance of 150.00 feet to a point that is the northeast corner of said parcel; thence South 03°26'12" West a distance of 507.07 feet; thence South 07°48'48" East a distance of 167.38 feet; thence South 03°26'12" West a distance of 113.39 feet; thence North 86°19'29" West a distance of 150.00 feet on the north boundary line of Parcel No. PP4-1(P); thence North 03°26'12" East a distance of 97.99 feet; thence North 07°48'48" West a distance of 167.38 feet; thence North 03°26'12" East a distance of 521.84 feet to the Point of Beginning.

Parcel No. PP4-2(P) contains 2.71 acres more or less.

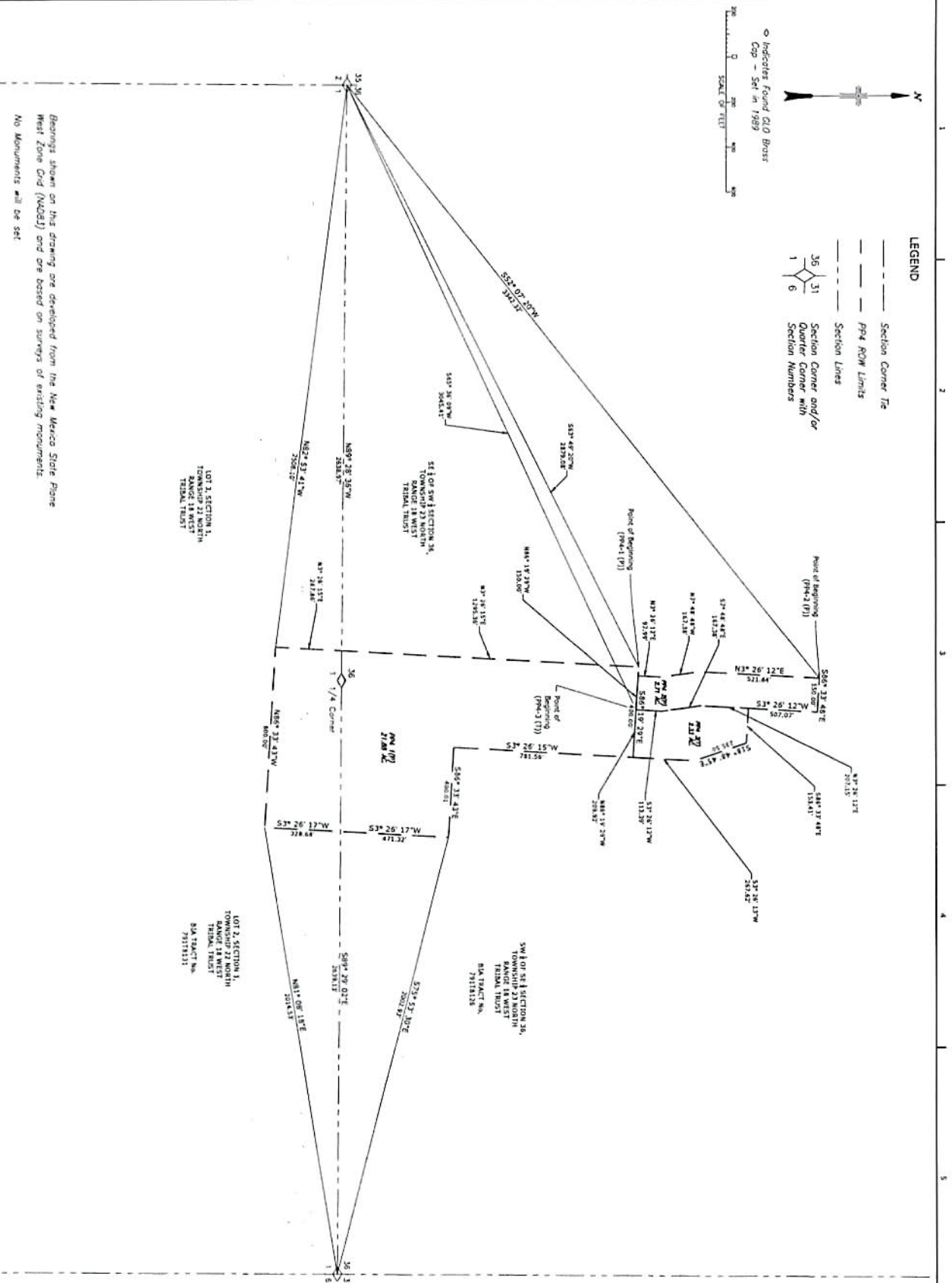
**Legal Description – Temporary Easement
Navajo Gallup Water Supply Project
Reach 7 – Staging area
Parcel No. PP4-3(T)
Drawing No. 1695-529-60321**

Navajo-Gallup Water Supply Project - Reach 7 - Parcel No. PP4-3(T) - Staging Area - Temporary Right-Of-Way - Tribal Trust Land

A parcel of land lying on Navajo Nation Tribal Trust Land in Section 36, Township 23 North, Range 18 West, N.M.P.M.; San Juan County, New Mexico. More particularly described as follows:

Point of beginning being the southwest corner of said parcel, a point on the north boundary line of Parcel PP4-1, from which the Southwest Corner of Section 36, Township 23 North, Range 18 West bears South 65° 36' 09" West a distance of 3045.41 feet; thence from the Point of Beginning, proceeding northerly on the east boundary line of Parcel No. PP4-2(P), North 03° 26' 12" East a distance of 113.39 feet; thence North 07° 48' 48" West a distance of 167.38 feet; thence North 03° 26' 12" East a distance of 207.15 feet to a point that is the northwest corner of said parcel; thence South 86° 33' 48" East a distance of 153.41 feet to a point that is the northeast corner of said parcel; thence South 18° 48' 45" East a distance of 235.50 feet to a point that is the eastern-most point of said parcel; thence South 03° 26' 13" West a distance of 267.62 feet to a point that is the southeast corner of said parcel and common to the northeast corner of Parcel PP4-1; thence North 86° 19' 29" West on the north boundary line of PP4-1(P) a distance of 209.92 feet to the Point of Beginning.

Parcel No. PP4-3(T) contains 2.33 acres more or less.



<p>RECLAMATION</p> <p>U.S. DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION NAVAJO-GALLUP WATER SUPPLY PROJECT NEW MEXICO</p> <p>SAN JUAN LATERAL</p> <p>PUMPING PLANT NO. 4 (TOOTH HALTS001)</p>		<p>1695-529-60320</p> <p>Sheet 1</p>
<p>ALWAYS THINK SAFETY</p>		
<p>DATE: 2020-03-04 DRAWN BY: KJUNTERMAN CHECKED BY: KJUNTERMAN APPROVED BY: KJUNTERMAN PROJECT NO.: 1695-529-60320 SHEET NO.: 1</p>		

[illegible][illegible][illegible][illegible][illegible][illegible]

STATE OF TEXAS
COUNTY OF DALLAS

[illegible]

2/5/2020

DRAFT, NOT FOR CIRCULATION

Reference: *Wiley Encyclopedia of Statistics*, 2000, pp. 100-101.

[illegible]

My e-Comments will appear on "My e-Comments" page.

 $\gamma_1, \gamma_2, \gamma_3$

1695-529-6032

PAPCUL, MO, 494-1191,
494-2177, 494-2071

1695-529-6032

ALWAYS THINK SAFETY

... & THINK ABOUT IT FIRST

... BEFORE YOU START

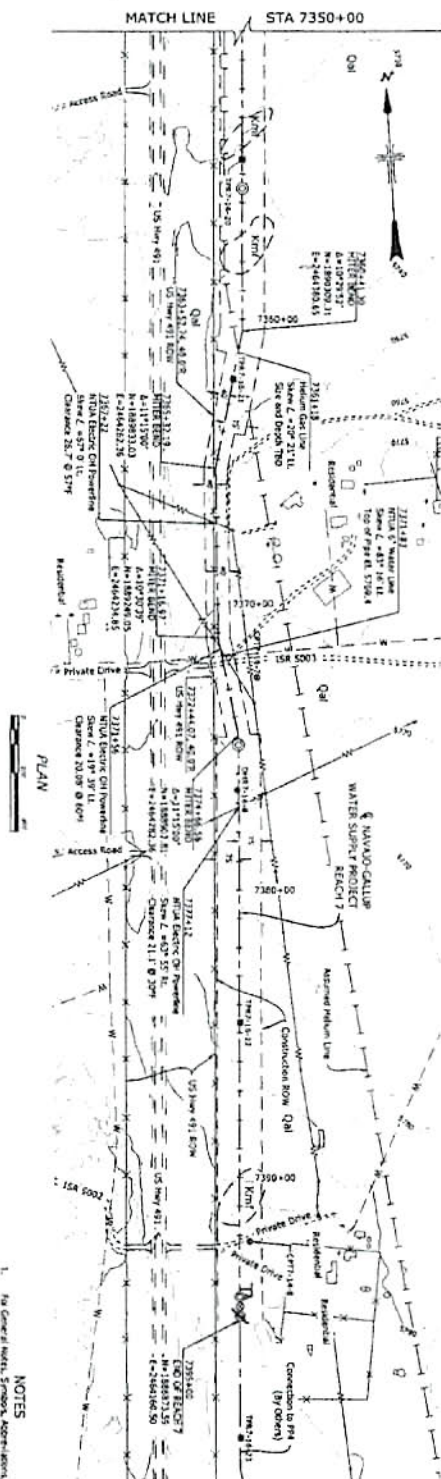
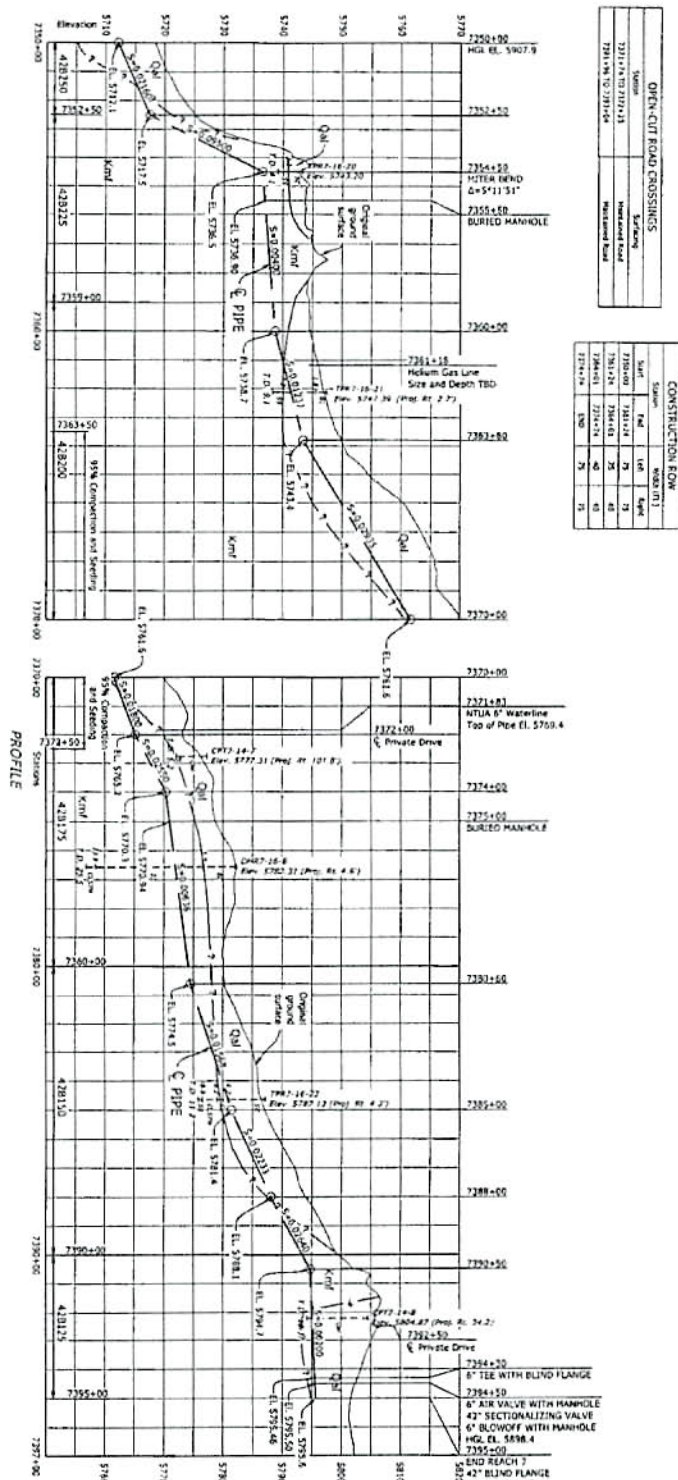
"SAFETY" IS THE WATER SUPPLY PROJECT

... THE FIRST

SAN JUAN LATERAL

PUMPING PLANT NO. 4 (TOOM MALTSÖÖT)

RECLAMATION



1. For General Model, Symbols, Abbreviations, Page Classification, and Citeology Note, see (16517).
2. For Medium List requirements, see specifications.

NAME	_____	DATE
ADDRESS	_____	
CITY	_____	
STATE	_____	

1695-D-60703

PLAN AND PROFILE
STA. 7350+00
TO
END

3	2019-09-18 Clough, Nicholas W F S.
2	2019-07-18 Clough, Nicholas W F S.

 ALWAYS THINK SAFETY

U. S. DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
AJG-GALLUP WATER SUPPLY PROJECT
NEW MEXICO

SAN JUAN LATERAL - BLOCK 4C - 8

REACH 7 LINE PIPE

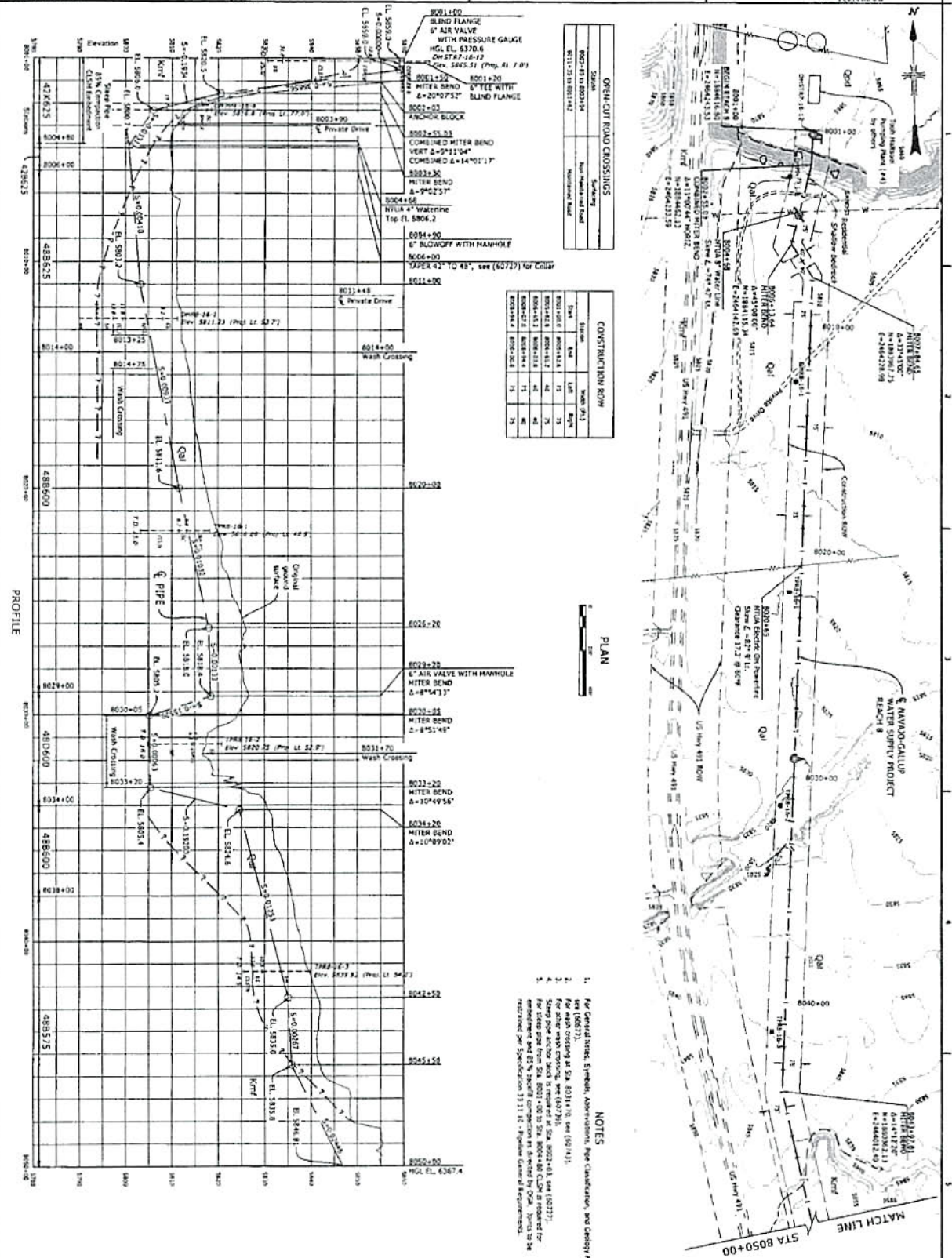
RECLAMATION

END POINT
STATION 8000+00
LAST SAVED DATE
11/11/10
LAST SAVED BY
J. J. J.

END POINT
STATION 8000+00
LAST SAVED DATE
11/11/10
LAST SAVED BY
J. J. J.

C

O



Station	Structure	Notes
8001+00 TO 8002+00	San Juan Lateral	As Shown
8002+00 TO 8003+00	San Juan Lateral	As Shown

Station	Structure	Notes
8001+00	San Juan Lateral	As Shown
8002+00	San Juan Lateral	As Shown
8003+00	San Juan Lateral	As Shown
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8029+00	San Juan Lateral	As Shown
8030+00	San Juan Lateral	As Shown
8031+00	San Juan Lateral	As Shown
8032+00	San Juan Lateral	As Shown
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8034+00	San Juan Lateral	As Shown
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8049+00	San Juan Lateral	As Shown
8050+00	San Juan Lateral	As Shown



PLAN

NOTES

1. For General Notes, Symbols, Abbreviations, Pipe Classifications, and Gravity Note, see (60673).
2. For water crossing at Sta. 8031+00, see (60673).
3. For water crossing at Sta. 8031+00, see (60673).
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100. For water crossing at Sta. 8031+00, see (60673).

PROJECT NAME: SAN JUAN LATERAL - BLOCK 4C - B
 DRAWN BY: J. J. J.
 CHECKED BY: J. J. J.
 DATE: 11/11/10
 SCALE: AS SHOWN
 SHEET NO: 1695-D-60705
 TOTAL SHEETS: 1695-D-60705

NO.	DATE	DESCRIPTION
1	11/11/10	Initial Design
2	11/11/10	Revised Design
3	11/11/10	Final Design
4	11/11/10	Construction
5	11/11/10	As-Built

ALWAYS THINK SAFETY

U.S. DEPARTMENT OF THE INTERIOR
 BUREAU OF RECLAMATION
 NAVAJO-GALLUP WATER SUPPLY PROJECT
 NEW MEXICO

SAN JUAN LATERAL - BLOCK 4C - B

REACH 8 LINE PIPE

RECLAMATION

U.S. DEPARTMENT OF THE INTERIOR
 BUREAU OF RECLAMATION
 NAVAJO-GALLUP WATER SUPPLY PROJECT
 NEW MEXICO

REACH 8 LINE PIPE

(Red Line) Station 7395+00 shown on construction plans as the End of Reach 7. Will be included in PP4 Contract. Sheep Springs Turnout line should cross under HWY 491 just south of this point.

Need clarification from Mike Branan if this section of old Reach 7 Construction ROW should be included in the PP4 Permanent ROW Plat. And if it should remain 150' wide. (Kevin, Nick, Input?)

(Green) Reach 7 Construction ROW

Cultural Site

Cultural Site

(Blue) Reach 4C-8 South Staging Area already submitted for Temporary ROW 2.5 Acres

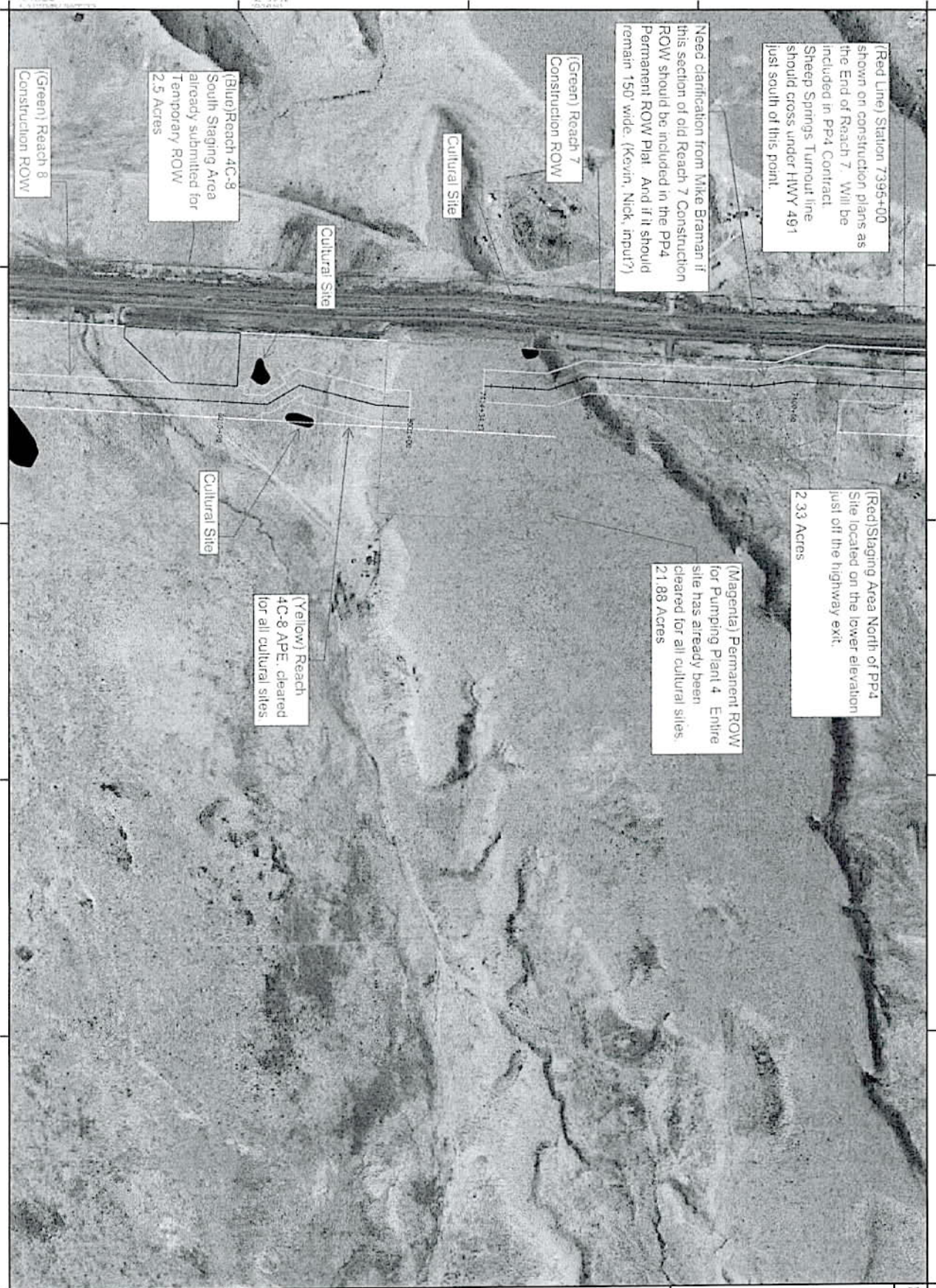
(Green) Reach 8 Construction ROW

(Red) Staging Area North of PP4 Site located on the lower elevation just off the highway exit. 2.33 Acres

(Magenta) Permanent ROW for Pumping Plant 4. Entire site has already been cleared for all cultural sites. 21.88 Acres

(Yellow) Reach 4C-8 APE cleared for all cultural sites

Cultural Site



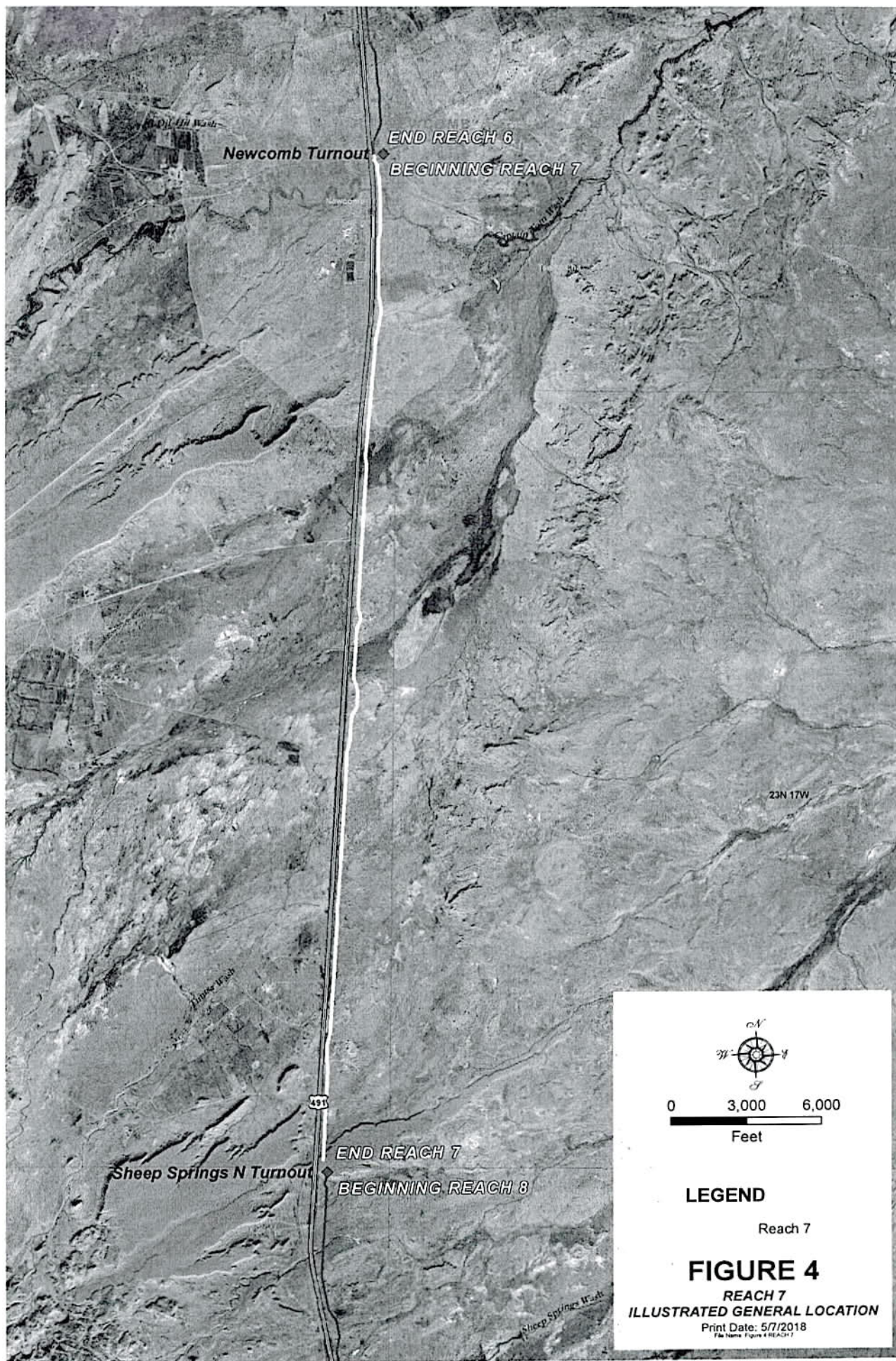
RECLAMATION
BUREAU OF RECLAMATION

SAFETY

SAN JUAN LATERAL - PP4

REPOSTED ROW

Project Name San Juan Lateral - PP4	Project Number 123456789	Project Location San Juan Lateral - PP4
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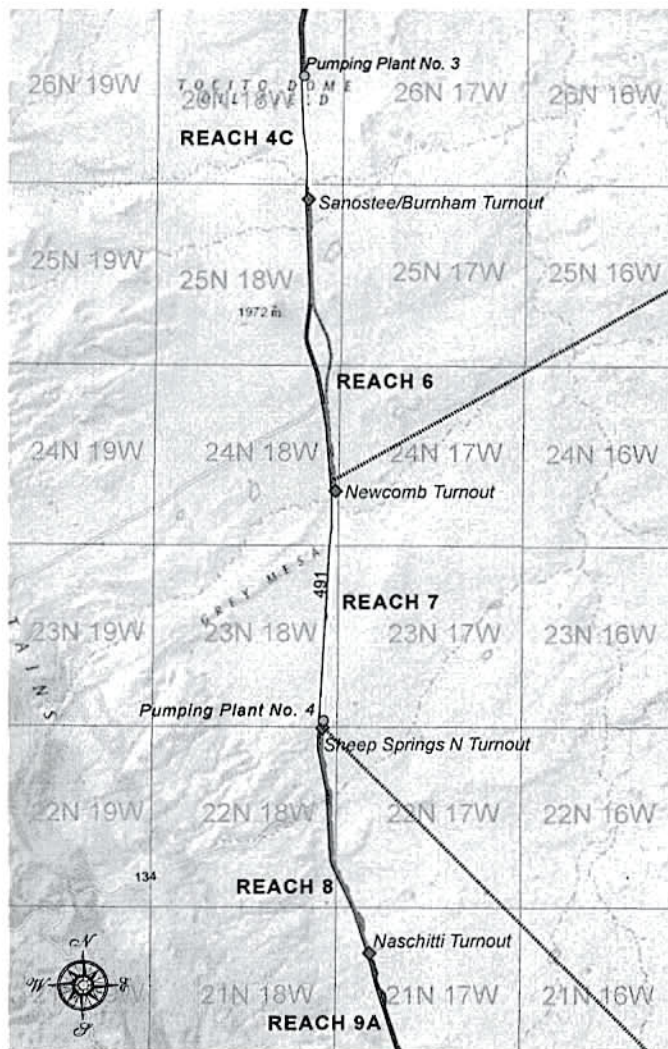


0 3,000 6,000
Feet

LEGEND

Reach 7

FIGURE 4
REACH 7
ILLUSTRATED GENERAL LOCATION
Print Date: 5/7/2018
File Name: Figure 4 REACH 7



SHEET 1	
SHEET 2	
SHEET 3	
SHEET 4	
SHEET 5	
SHEET 6	
SHEET 7	
SHEET 8	
SHEET 9	
SHEET 10	



REACH 7

SHEET INDEX



**NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL**

Doreen N. McPaul
Attorney General

Kimberly A. Dutcher
Acting Deputy Attorney General

EXHIBIT

C

MEMORANDUM

TO: Stevie Hudson
Leasing Agent Specialist
General Land Development Department

THROUGH: *[Signature]*
Veronica Blackhat, Asst. Attorney General
Natural Resources Unit, Dept. of Justice

FROM: *[Signature]*
Irvin Chee, Tribal Court Advocate
Natural Resources Unit, Dept. of Justice

DATE: April 24, 2020

SUBJECT: Document No. 014167 and 014276, re: BOR NGWSP ROW for Reach 7 and 10

The Department of Justice had reviewed the above-referenced DNR documents and is returning both packet to General Land Development Department ("GLDD") as legally insufficient.

For your information, I went and re-reviewed both packet thoroughly again mainly on consent forms. It appears that these consent forms that are attached are the same consent forms that were attached to Reach 8 BOR packet. We had already reviewed and dealt with Reach 8 but it appears that you had attached Reach 8 consent forms for Reach 7 which is ok but my advisory memorandum (Invoking Surface Use Compensation Damages) for Reach 8 is not attached and it should also be attached for Reach 7. If you are attaching the consent forms that were attached to Reach 8 then you need to attach all of the consent forms since some of them are missing along with attaching my advisory memorandum I did for that same packet. Please sort out the consent forms and put them in order as indicated in the memorandum by your right-of-way for both packet.

If you should have any questions, please call me at 928 871-6347. Thank you.

xc: W. Mike, Halona, Navajo Land Department, Department Manager




NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

CHERIE ESPINOSA
Acting Deputy Attorney General

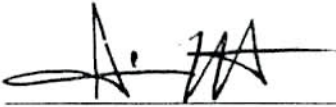
MEMORANDUM

TO: 164 Document Reviewers

THROUGH:


Veronica Blackhat, Asst. Attorney General
Natural Resources Unit, Dept. of Justice

FROM:


Irvin Chee, Tribal Court Advocate
Natural Resources Unit, Dept. of Justice

DATE: January 25, 2019

SUBJECT: **Document No. 010650 - Bureau of Reclamation Right-of-Way Reach 4C-8, NGWSP**

The Department of Justice has re-reviewed the above-referenced EOR and is considering the document to be legally sufficient after the consent forms were attached.

The packet was returned to GLDD office on November 19, 2018 to attach the land users consent(s). District No. 12 District Grazing Committee member, Elouise Brown, identified forty-four (44) land users. Out of the forty-four land users, twenty-six (26) had valid permit and were considered to be eligible for surface use compensation damages. The consent by twenty-six land users are now attached.

If you should have any question, please feel free to call me at 928 871-6347. Thank you.

xc: W. Mike Halona, Department Manager, Navajo Land Department

Z:\NRU\DNR\GLDD\2018-01-25 NNDOJ Memo GLDD- Doc 10650 BOR ROW Reach 4C-8, NGWSP



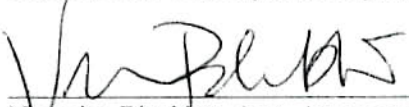
NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

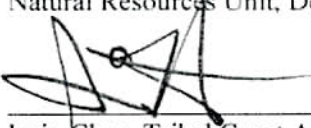
ETHEL B. BRANCH
ATTORNEY GENERAL

CHERIE ESPINOSA
ACTING DEPUTY ATTORNEY GENERAL

MEMORANDUM

TO: Howard Martinez, Land Support Agent
General Land Development Department

THROUGH: 
Veronica Blackhat, Asst. Attorney General
Natural Resources Unit, Dept. of Justice

FROM: 
Irvin Chee, Tribal Court Advocate
Natural Resources Unit, Dept. of Justice

DATE: November 19, 2018

SUBJECT: **Bureau of Reclamation Right-of-Way Reach 4C-8, NGWSP**

The Department of Justice has reviewed the above-referenced EOR and is returning the document to GLDD (General Land Development Department) office as legally insufficient.

On November 5, 2018, I informed Stevie Hudson that the land users consent are not attach and they need to be attached. Stevie informed me that they have the forty-four (44) land users consent(s) for the BOR Reach 4C-8 project. She will need to separate them and put them in order by valid permits and invalid permits to determine which land users are in compliance and which are not in compliance to determine the eligible for surface use compensation damages. She informed me at the time that she will have the consent ready the next day but we never received them.

Per our conversation after explaining the status of the packet, you wanted the packet back so you could separate the grazing permits from valid and invalid permits and you needed time to separate them and put them in order so they could be attached to the packet for approval.

Please return the EOR packet to DOJ after the concerns are addressed so I can complete my review. If you should have any questions, please call me at 928/871-6347. Thank you.

xc: W. Mike Halona, Department Manager, Navajo Land Department

X:\NRU\DNR\GLDD\2018-11-19 NDOJ Memo GLDD- BOR ROW Reach 4C-8. NGWSP

CONSENT FORM #1
(No expected damages)

**CONSENT TO USE
NAVAJO NATION LANDS**

TO WHOM IT MAY CONCERN:

I, Daisy L. MIKE, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito & Little Water area of Sanostee Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

7-13-19 Daisy L. Mike _____
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

18 Jul 18 [Signature] 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

**CONSENT TO USE
NAVAJO NATION LANDS**

TO WHOM IT MAY CONCERN:

I, Leo R. BECENTI, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM-87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito & Little Water area of Sanostee Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

07/12/18 Leo R. Becenti _____
Date Land User Signature or Thumbprint Census No. Permit No. 0543

Witness: _____

13th 18 _____
Date Grazing Official or Land Board Member District No. 12

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

**CONSENT TO USE
NAVAJO NATION LANDS**

TO WHOM IT MAY CONCERN:

I, Elsie M. BECENTI, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito & Little Water area of Sanostee Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

7-12-18 Elsie Becenti _____ 0543
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

13 Jul 2018 [Signature] 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Leonard BARBER, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito & Little Water area of Sanostee Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

07-13-18 Leonard Barber _____
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

18 Jul 18 CEK Br _____
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

**CONSENT TO USE
NAVAJO NATION LANDS**

TO WHOM IT MAY CONCERN:

I, Marietta BARBER, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito & Little Water area of Sanostee Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

7-12-18 Marietta Barber _____
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

7 Jul 18 [Signature] 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

**CONSENT TO USE
NAVAJO NATION LANDS**

TO WHOM IT MAY CONCERN:

I, Sharon MARTIN, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito & Little Water area of Sanostee Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

7/13/18 [Signature] _____
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

18 Jul 18 [Signature] _____
Date Grazing Official or Land Board Member District No. 12

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1

(No expected damages)

**CONSENT TO USE
NAVAJO NATION LANDS**

TO WHOM IT MAY CONCERN:

I, LARRY BENALLY, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito & Little Water area of Sanostee Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

7/2/2018 Larry Benally
Date Land User Signature or Thumbprint

Census No. Permit No.

Witness: _____

05 Jul 2018
Date

[Signature]
Grazing Official or Land Board Member

12
District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

**CONSENT TO USE
NAVAJO NATION LANDS**

TO WHOM IT MAY CONCERN:

I, Joe H. BARBER, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito & Little Water area of Sanostee Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

7/2/18 Joe Barber
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

05 Jul 2018
Date

[Signature]
Grazing Official or Land Board Member

12
District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

**CONSENT TO USE
NAVAJO NATION LANDS**

TO WHOM IT MAY CONCERN:

I, Emma Lov BADONIE, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito & Little Water area of Sanostee Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

7-11-18 Emma Lov Badonie 0278528
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

18 Jul 18 [Signature] 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

**CONSENT TO USE
NAVAJO NATION LANDS**

TO WHOM IT MAY CONCERN:

I, Anna M. Mike, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito & Little Water area of Sanostee Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

7-16-18 Anna M. Mike
Date Land User Signature or Thumbprint

Census No. Permit No.

Witness: _____

Box
Shiprock N.M. 87420
Housing S. of old fair child

18 Jul 18 [Signature]
Date Grazing Official or Land Board Member

12
District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

**CONSENT TO USE
NAVAJO NATION LANDS**

TO WHOM IT MAY CONCERN:

I, Helen Willie-Henderson, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito & Little Water area of Sanostee Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

7/9/18 Helen Henderson _____ 30-2
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

13 Jul 18 [Signature] 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

**CONSENT TO USE
NAVAJO NATION LANDS**

TO WHOM IT MAY CONCERN:

I, Lillie ATCITY, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito area of Sanostee Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

7-10-18 Lillie Atcity 12-3577
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

18 Jul 18 [Signature] 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

**CONSENT TO USE
NAVAJO NATION LANDS**

TO WHOM IT MAY CONCERN:

I, Ronald Begay, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito & Little Water area of Sanostee Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

7-11-18 Ronald Begay _____ 23-0
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

13 Oct 18 [Signature] 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

**CONSENT TO USE
NAVAJO NATION LANDS**

TO WHOM IT MAY CONCERN:

I, Raymond Baldwin, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito & Little Water area of Sanostee Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

7/11/18
Date



Land User Signature or Thumbprint

Census No.

19-2
Permit No.

Witness: Charles Baldwin

[Signature]

13 Jul 18
Date

[Signature]
Grazing Official or Land Board Member

12
District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]

Field Agent Signature

CONSENT FORM #1
(No expected damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Larry Dixon, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito & Little Water area of Sanostee Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: Need 3" Value

07-09-18 [Signature] 69-3
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

13 Jul 18 [Signature] 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

**CONSENT TO USE
NAVAJO NATION LANDS**

TO WHOM IT MAY CONCERN:

I, Larry HENDERSON, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito & Little Water area of Sanostec Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

7/11/18 Larry Henderson _____ _____
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

13 Jul 18 EL B 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Michael HENDERSON, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito & Little Water area of Sanostec Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: Just want Storage tanks to be not on our grazing area.

7/12/18 Michael Henderson _____
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

13 Jul 18 [Signature] 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, David C. NEZ, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito & Little Water area of Sanostee Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: I am going to request to NOT have a above ground storage tank on our customary land use area.

7/16/18
Date

[Signature]
Land User Signature or Thumbprint

Census No.

Permit No.

Witness: _____

18 Jul 18
Date

[Signature]
Grazing Official or Land Board Member

12
District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Howard B. Begay, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the Tocito & Little Water area of Sanostee Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: There ~~are~~ water on west of Highway etc But it dry of
Spring. Summer, we used water on west of Highway, the it need
repair.

7-17-18
Date

Howard B. Begay
Land User Signature or Thumbprint
P.O. BOX Sanostee N.M. 87461

12-3008
Permit No.

Witness: _____

18 Jul 2018
Date

[Signature]
Grazing Official or Land Board Member

12
District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

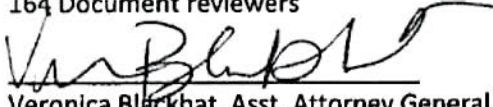


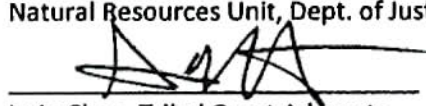
NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

CHERIE ESPINOSA
Acting Deputy Attorney General

MEMORANDUM

TO: 164 Document reviewers

THROUGH: 
Veronica Blackhat, Asst. Attorney General
Natural Resources Unit, Dept. of Justice

FROM: 
Irvin Chee, Tribal Court Advocate
Natural Resources Unit, Dept. of Justice

DATE: April 5, 2019

SUBJECT: Document No. 010650: Bureau of Reclamation Right-of-Way Reach 4C-8 NGWSP

The Department of Justice apologizes for inadvertently stating in their memorandum dated January 25, 2019 that the District Grazing Committee had identified forty-four (44) land users and out of forty-four land users, twenty-six (26) had valid grazing permits. This needs to be corrected and we are correcting it to state that: "Out of forty-four (44) land users, nineteen (19) land users had valid grazing permits". All of the nineteen consent(s) are attached to the packet. Again, the Department of Justice apologizes for the inadvertent error.

If you should have any questions, please call me at 928 871-6347. Thank you.

xc: Yazzie, Elerina, Department Manager, General Land Development Department



GENERAL LAND DEVELOPMENT DEPARTMENT

Post Office Box 69, Saint Michaels AZ 86511

TO: Elerina Yazzie, Department Manager
General Land Development Department

FROM: ~~Howard Martinez~~
Howard Martinez, Land Support Agent
General Land Development Department

DATE: June 19, 2018

SUBJECT: Field Investigation for Bureau of Reclamation - Reach 8 ROW Consent

The Bureau of Reclamation of 1235 La Plata Highway, Farmington, New Mexico 87401 is requesting to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust Lands located in the area of Sheepsprings Navajo Chapter, New Mexico.

11 The Field Investigation on the above project was completed. I met with District Grazing Member, Mr. Bennie Joe to identify the affected land users. After review of his records he indicated there are fifteen (15) valid Grazing Permit Holder. Ms. Nita S. Yazzie, Mr. Jackie S. Allen, Ms. Linda D. Begay, Ms. Niva Nelson, Ms. Shannon M. Coleman, Mr. Harrison R. Johnson, Sr., Ms. Priscilla Long, Mr. Ernest Yazzie, Mr. James Billie, Ms. Marie R. Billie, Ms. Loretta J. Dez, Mr. Wallace S. Johnson, Mr. Fernando L. Foster and Mr. Phillip L. Foster and Ms. Laverne Yabeny.

12 There were twelve (12) land users gave their written consent for Navajo-Gallup Water Supply Project: Mr. Jackie S. Allen, Ms. Linda D. Begay, Ms. Niva Nelson, Mr. Harrison R. Johnson, Sr., Ms. Priscilla Long, Mr. Ernest Yazzie, Mr. James Billie, Ms. Marie R. Billie, Ms. Loretta J. Dez, Mr. Wallace S. Johnson, Mr. Fernando L. Foster and Mr. Phillip L. Foster. There are three (3) Mr. Joe cannot identify their where about: Ms. Nita S. Yazzie, Ms. Shannon Coleman, and Ms. Laverne Yabeny. Mr. Joe also identify ten (10) invalid or deceased land users: Ms. Loretta Peter, Mr. Don Foster, Ms. Hilda Teller, Ms. Flora Bake, Mr. Larry Keedah, Sr., Ms. Violet Begay, Ms. Susan Dilyou, Mr. Leo Sheman, Mr. David Yazzie and Ms. Lucy Curtis.

In conclusion, out of forty (40) land users, I collected twelve (12) written consents, there were three (3) land users that I was unable to locate. Nine (9) are concluded as deceased and one (1) was deemed invalid. All written documents were digitized and archived.

CONSENT FORM #1
(No expected damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, JACKIE S. ALLEN, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the area of Sheepsprings Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

6-19-18 [Signature] _____ 0485
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

7-5-18 [Signature] 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Niva Nelson, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the area of Sheepsprings Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

7/18/2018 Niva Nelson .0556
Date Land User Signature or Thumbprint Census No. Permit No.
PO Box 111, Shiprock, NM 87420

Witness: _____

7-24-2018 Bonnie Joe 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

Peter Ch
Field Agent Signature

CONSENT FORM #1
(No expected damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Harrison R. Johnson Sr., hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the area of Sheepsprings Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

6-19-2018 Harrison R. Johnson Sr. 0558
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

7-5-18 Bennett 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

**CONSENT TO USE
NAVAJO NATION LANDS**

TO WHOM IT MAY CONCERN:

I, Priscilla LONG, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the area of Sheepsprings Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

6-21-18 Priscilla Long _____ 0558
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: [Signature] _____

7-5-18 [Signature] 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Ernest Yazzie, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the area of Sheepsprings Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

7-16-18 Ernest Yazzie _____
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

Box 1000
Shiprock, NM 87420

7-17-1820 Bonnie _____
Date Grazing Official or Land Board Member District No. 12

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, James BILLIE, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the area of Sheepsprings Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

6-19-18 James Billie _____ .0686
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

7-5-8 Bernie 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Marie R. BILLIE, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the area of Sheepsprings Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

6-19-18 Marie Rose Billie _____ 0686
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

7-5-18 Bernice _____ 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Loretta J. DEZ, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the area of Sheepsprings Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

7-13-18 [Signature] _____
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: [Signature] _____

7-17-20 [Signature] _____
Date Grazing Official or Land Board Member District No. 12

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Wallace S. JOHNSON, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the area of Sheepsprings Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

6-19-18 Wallace S. Johnson _____ 0686
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

7-5-18 Bonnie _____ 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

**CONSENT TO USE
NAVAJO NATION LANDS**

TO WHOM IT MAY CONCERN:

I, Fernando L. FOSTER, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the area of Sheepsprings Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

6-21-19 [Signature] 0550
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

7-5-18 [Signature] 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

CONSENT FORM #1
(No expected damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Phillip L. FOSTER, hereby grant consent to The Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my customary land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Trust lands located in the area of Sheepsprings Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

I acknowledge that I do not expect any damage to my improvements or diminishment in value of my land use rights and/or I expect the value of my land use rights to be enhanced as a result of the above-referenced project as proposed.

Remarks: _____

6-21-18 Phillip L. Foster _____ 0550
Date Land User Signature or Thumbprint Census No. Permit No.

Witness: _____

7-5-18 Bernie 12
Date Grazing Official or Land Board Member District No.

ACKNOWLEDGEMENT OF FIELD AGENT

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

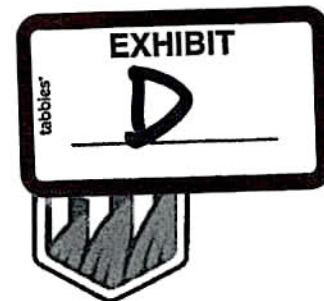
[Signature]
Field Agent Signature



IN REPLY REFER TO

United States Department of the Interior

BUREAU OF RECLAMATION
Four Corners Construction Office
1235 La Plata Highway
Farmington, NM 87401



FCCO-202
2.2.3.19

FEB 6 2020

HAND DELIVER

Ms. Elerina Yazzie
Program Manager
General Land Development Department
2B Taylor Rd., Bldg. #8966
Saint Michaels, AZ 86511

Subject: Applications for Consent to a Grant of Right-of-Way (ROW) - Tribal Trust Land - Reach 7 Pumping Plant No. 4 and Sheep Springs Turnout, and a Temporary Easement - Reach 7 Staging Area - Navajo-Gallup Water Supply Project (NGWSP) - San Juan Lateral - Sheep Springs Chapter, San Juan County, New Mexico.

Dear Ms. Yazzie:

The Bureau of Reclamation hereby submits the enclosed applications, and requests tribal consent to a grant of ROW and Temporary Easement over Navajo Nation Tribal Trust Lands in the area of the Sheep Springs Chapter. The Bureau of Indian Affairs (BIA) requires that Reclamation obtain said consent, and that it be submitted with an application for ROW. Enclosed are the applications and additional pertinent documents on CD format that are respectfully submitted for your review and processing.

It should be noted that your office has previously obtained the field clearances for these parcels with the work that was completed on the Reach 4C through 8 ROW application package that was approved as Resolution [No. RDCAP-009-19] and granted on April 24, 2019, and further, the BIA granted the Reach 4C through 8 ROW that is recorded as TAAMS No. 791 4200187192, on October 2, 2019. The parcels herein requested will overlap the Reach 4C through 8 ROW at the south end of Reach 7 and the north end of Reach 8.

Reclamation understands that the Navajo Nation is waiving all customary fees and consideration for the ROW in accordance with the authorizing legislation in the Omnibus Public Land Management Act of 2009, Title X, Part III, Section 10602(c)(2) (Public Law 111-11).

Reclamation and the Navajo Nation have negotiated terms and conditions for the ROW and TCE; it is our understanding that documents entitled "Terms and Conditions" will be added to this application by the Navajo Nation.

See next page

INTERIOR REGION 7 • UPPER COLORADO BASIN
COLORADO, NEW MEXICO, UTAH, WYOMING

Applications for Consent to a Grant of Right-of-Way (ROW) - Tribal Trust Land

From previous page

In order to allow for additional processing by the BIA and avoid impacts to the NGWSP construction schedule, Reclamation respectfully requests that consent to the grant of this ROW be received on or before July 31, 2020.

If you have any questions, please contact Mike Braman at 505-324-5024. For Text Telephone Relay Service access, call the Federal Relay System Text Telephone (TTY) number at (800) 877-8339.

Sincerely,



Patrick Page

ACTING Construction Engineer

Enclosures

cc: Dr. Rudy Shebala
Executive Director
Navajo Nation Division of Natural Resources
P.O. Box 9000
Window Rock, AZ 86515

Mr. Jason John
Branch Director
Navajo Nation Department of Water Resources
P.O. Box 678
Ft. Defiance, AZ 86504

Ms. Michelle Hoskie
General Land Development Department
P.O. Box 69
Saint Michaels, AZ 86511

Mr. Howard Martinez
General Land Development Department
P.O. Box 69
Saint Michaels, AZ 86511
(w/o encls to ea)

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION**

APPLICATION FOR CONSENT TO A GRANT OF TEMPORARY EASEMENT

Tribal Trust Land
Navajo-Gallup Water Supply Project - Reach 7
Pumping Plant No. 4 – Temporary Easements and Staging Area

1. **Applicant Name and Address:** The Bureau of Reclamation, Four Corners Construction Office, having a principle place of business at 1235 La Plata Highway, Farmington, New Mexico, 87401. Hereby petitions the Navajo Nation General Land Development Department, and respectfully files under the terms and provisions of the Act of February 5, 1948 (62 Stat. 17; 25 USC 323-328), and Bureau of Indian Affairs Departmental Regulations 25 C.F.R., Ch. 1, Subchapter H, Part 169, Subpart C § 169.102(a) as applicable, a request for Temporary Easement for the Navajo-Gallup Water Supply Project (NGWSP), Reach 7, Pumping Plant No. 4 Staging Area, for as long as said temporary easement is required for the construction of Pumping Plant No. 4, the Sheep Springs Turnout, and the Staging Area, over, under across and through Navajo Nation Tribal Trust Land in the area of the Sheep Springs Navajo Tribal Chapter, located in San Juan County, New Mexico.
2. **Tract(s) or parcel(s) affected by the right-of-way:**
Landowner Name: Navajo Nation
Tracts and Parcels:
Tract No. 791 T 8126 - Parcel No. PP4-3(T): a temporary easement, located in Township 23 North, Range 18 West, Section 36, the Southwest Quarter of the Southeast Quarter, N.M.P.M.; San Juan County, New Mexico.
3. **General Location:**
NMWSP – Reach 7 - Parcel No. PP4-3(T) - Staging Area: will be located adjacent to Pumping Plant No. 4 and the Sheep Springs Turnout that will be constructed on Tribal Trust land on the east side of the U.S. Highway 491 NMDOT ROW fence, approximately two miles north of the Sheep Springs community, between Mile Marker 49 and Mile Marker 50, and is illustrated on Drawing No. 1695-529-60320, that is attached hereto, and by reference is made a part of.
4. **Purpose:** The Omnibus Public Land Management Act of 2009, Title X, Part III (Public Law 111-11) (Act) authorizes the Bureau of Reclamation to construct the Navajo-Gallup Water Supply Project (NGWSP) that includes water treatment plants, pipeline, several pumping stations and ancillary facilities. Once completed, the NGWSP will deliver a reliable source of potable water, sourced from the San Juan River, to Navajo communities in northwestern New Mexico, the City of Gallup, NM, and the southwest portion of the Jicarilla Apache Reservation for municipal and industrial use. The NGWSP will connect to existing and future water distribution systems operated on the reservation by the Navajo Tribal Utility Authority (NTUA), and in Gallup, by the City of Gallup. The high-quality treated water provided by the NGWSP will bring immediate benefits, including improved health and wellbeing to Tribal members.

Required Supporting Documents - §169.102(b)

1. Legal Description:
Reach 7 - Pumping Plant No. 4 - Staging Area - Parcel No. PP4-3(T) (CD)
2. ROW Drawing No. 1695-529-60320 - Pumping Plant No. 4 - Staging Area - Parcel No. PP4-3(T) (CD)
Plan and Profile Drawing Nos. 1695-D-60703 and 1695-D-T60705 (CD)
Aerial View - Pumping Plant No. 4, and Sheep Springs Turnout (CD)
Map - Proposed ROW and TCE - Pumping Plant No. 4, and Sheep Springs Turnout - 10-04-19 (CD)
Maps - Reach 7 Pipeline Alignment - Dated 05-15-18 (CD)
Site Map - Pumping Plant No. 4 and Sheep Springs Turnout (CD)
NGWSP Project Map - Drawing No. 1695-529-537 - Dated 08-14-18 (CD)
3. ROW Grant - NGWSP Block 4C-8 - BIA Shiprock Agency - TAMMS No. 791 4200187192 - 10-02-19 (CD)
Tribal Resolution - DNR No. RDCAP-009-19 - Approving Block 4C-8 ROW and TCE - 04-24-19 (CD)
Chapter Resolution - Sheep Springs - Signed 03-06-11 (CD)
Consent to ROW - Block 4C-8 - Grazing Lease Holders (CD)
Waiver of Bonding Requirement - 25 CFR § 169.103 - Dated 12-20-16 (CD)
Navajo Nation Support of Waiver of 25 CFR § 169.103 - Dated 09-09-16 (CD)
Title Status Reports - Tract No. 791 T 8126, and 791 T 8131 - Shiprock Agency - 06-05-17 (CD)
Permission to Survey - Reach 3-9 - 09-17-09 (CD)
Permission to Conduct Engineering Data Collection - San Juan Lateral - Dated 10-05-16 (CD)
Navajo Nation Executive Order No. 07-2017 in Support of the NGWSP - Dated 05-22-17 (CD)
4. Valuation:
Memo - BIA Waiver for Appraisal and Compensation - 25 CFR Part 169.12 - Dated 06-29-07 (CD)
5. Organizational Documents: Not Applicable, Applicant is United States DOI - BOR.
6. Biological, Cultural Resource and Environmental Documentation:
BRCF - Block 4C-8 - NNDFW - Approved 09-05-18 (CD)
Biological Survey - Block 4C-8 - Ecosystem Management - 09-14-18
Class III Inventory Report and Concurrence of Eligibility Determination - Signed 10-11-16 (CD)
Memo - BIA - Acceptable NEPA and NHPA Sufficiency Documentation - Dated 10-29-2015 (CD)
NEPA Sufficiency Review - Block 4C-8 - March 2019 (CD)
Phase I Environmental Site Assessment for Block 4C-8 - May 2019 (CD)
Final Environmental Impact Statement and Record of Decision can be viewed at:
<http://www.usbr.gov/uc/envdocs/eis/navgallup/FEIS/index.html>


THE APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

To conform and to abide by all applicable requirements with respect to the right-of-way herein applied for. The applicant agrees to conform to and abide by the rules, regulations, and requirements contained in the Code of Federal Regulations, Title 25 Indians, Part 169, as amended, and by reference includes such rules, regulations and requirements as a part of this application as if the same were herein set out in full.

Applicant Point of Contact Information:

Name: Michael (Mike) Braman
Address: 1235 La Plata Highway
Farmington, New Mexico, 87401
Phone: 505-324-5024
E-mail: mbraman@usbr.gov

Date: FEB. 5, 2020

Applicant Signature: 

Print Name: BART DEMING
ACTING FOR PAT PALE, CONST. ENGINEER

5. **Temporary Easement - Pumping Plant No. 4 Staging Area:** The Pumping Plant No. 4 Staging Area - Parcel No. PP4-3(T) will serve as a parking area, a storage and a lay-down area for Reclamation and contractor vehicles, construction equipment, and materials that will be used during the construction of Pumping Plant No. 4, and the Sheep Springs turnout. The staging area will be located east of and adjacent to the Sheep Springs Turnout, Parcel No. PP4-2(P) as illustrated on drawing no. 1695-529-60320. The area will be fenced, and graveled, and once construction and revegetation is completed the parcel will be returned to a condition as good or better than exists prior to use. Reclamation requests that said temporary easement be in effect for as long as said staging area is required for the construction and revegetation. Parcel No. PP4-3(T) will contain 2.33 acres more or less.

6. **Legal Description:**

Reach 7 - Pumping Plant No. 4 - Staging Area - Parcel No. PP4-3(T) - Temporary Easement - Drawing No. 1695-529- 60320: a parcel of land lying on Navajo Nation Tribal Trust land in Tract No. 791 T 8126, located in Section 36, Township 23 North, Range 18 West, N.M.P.M.; San Juan County, New Mexico, containing 2.33 acres more or less. More particularly described as follows:

Point of Beginning being the southwest corner of said parcel, a point on the north boundary line of Parcel PP4-1(P), from which the Southwest Corner of Section 36, Township 23 North, Range 18 West bears South 65° 36' 09" West a distance of 3045.41 feet; thence from the Point of Beginning, proceeding northerly on the east boundary line of Parcel No. PP4-2(P), North 03°26'12" East a distance of 113.39 feet; thence North 07°48'48" West a distance of 167.38 feet; thence North 03°26'12" East a distance of 207.15 feet to a point that is the northwest corner of said parcel; thence South 86° 33' 48" East a distance of 153.41 feet to a point that is the northeast corner of said parcel; thence South 18°48'45" East a distance of 235.50 feet to a point that is the eastern-most point of said parcel; thence South 03° 26' 13" West a distance of 267.62 feet to a point that is the southeast corner of said parcel and common to the northeast corner of Parcel PP4-1; thence North 86° 19' 29" West on the north boundary line of PP4-1(P) a distance of 209.92 feet to the Point of Beginning.

Reach 7 - Pumping Plant No. 4 Staging Area - Parcel No. PP4-3(T) contains 2.33 acres more or less.

7. **Term:** Reclamation requests a grant of Temporary Easement for as long as the easement is used for the intended purpose. Reclamation requests that the easement expire, without notification, when construction is completed and when, by mutual agreement, revegetation is deemed satisfactory.
8. **Ownership of Permanent Improvements:** The facilities and ancillary appurtenances that constitute Pumping Plant No. 4, and the Sheep Springs Turnout, will be constructed and owned by the Bureau of Reclamation. It is Reclamation's intent to transfer the operation, maintenance, and replacement (OM&R) responsibility of the NGWSP to the NTUA. It is envisioned that Reclamation would retain title to the facilities for the foreseeable future, however, the Act does provide authority for eventual title transfer to the Navajo Nation.
9. **Construction Schedule:**
Obtain ROW: November 23, 2020
Obtain Bids and Establish Contracts: June 10, 2020
Award Contract: August 19, 2020
Notice to Proceed Issue: September 9, 2020
Begin Construction: October 7, 2020
Construction 50% Completed by: March 2022
Construction Complete: September 4, 2023

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

APPLICATION FOR CONSENT TO A GRANT OF PERMANENT EASEMENT FOR RIGHT-OF-WAY

Tribal Trust Lands
Navajo-Gallup Water Supply Project - Reach 7
Pumping Plant No. 4 and Sheep Springs Turnout

1. **Applicant Name and Address:** The Bureau of Reclamation, Four Corners Construction Office, having a principle place of business at 1235 La Plata Highway, Farmington, New Mexico, 87401. Hereby petitions the Navajo Nation General Land Development Department, and respectfully files under the terms and provisions of the Act of February 5, 1948 (62 Stat. 17; 25 USC 323-328), and Bureau of Indian Affairs Departmental Regulations 25 C.F.R., Ch. 1, Subchapter H, Part 169, Subpart C § 169.102(a) as applicable, a request for Permanent Easements for Right-of-Way (ROW) for the Navajo-Gallup Water Supply Project (NGWSP) facilities herein described, without limitation in term, over, under, across and through Navajo Nation Tribal Trust Lands in the area of the Sheep Springs Navajo Tribal Chapter, located in San Juan County, New Mexico.
2. **Tract(s) or parcel(s) affected by the right-of-way:**
Landowner Name: Navajo Nation
Tracts and Parcels:
 - a. **Tract No. 791 T 8126 and Tract No. 791 T 8131:** Reach 7 - Pumping Plant No. 4 - Parcel No. PP4-1(P) will be constructed within Tract No. 791 T 8126, that is located in Section 36, Township 23 North, Range 18 West, the Southwest Quarter of the Southeast Quarter, and the Southeast Quarter of the Southwest Quarter, and in Tract No. 791 T 8131, that is located in Section 01, Township 22 North, Range 18 West, the Northwest Quarter of the Northeast Quarter, and the Northeast Quarter of the Northwest Quarter, N.M.P.M.; San Juan County, New Mexico.
 - b. **Tract No. 791 T 8126:** Reach 7 - Sheep Springs Turnout - Parcel No. PP4-2(P) will be constructed within Tract No. 791 T 8126, that is located in Section 36, Township 23 North, Range 18 West, the Southwest Quarter of the Southeast Quarter, and the Southeast Quarter of the Southwest Quarter, N.M.P.M.; San Juan County, New Mexico.
3. **General Location:**
NGWSP – Reach 7 - Parcel No. PP4-1(P) - Pumping Plant No. 4, and Parcel No. PP4-2(P) - Sheep Springs Turnout: Pumping Plant No. 4 and the Sheep Springs turnout will be constructed on Tribal Trust land on the east side of U.S. Highway 491, being north of the Sheep Springs community, between Mile Marker 49 and Mile Marker 50. The facilities will be constructed adjacent to each other to the east of the U.S. Highway 491 NMDOT ROW fence.
4. **Purpose:** The Omnibus Public Land Management Act of 2009, Title X, Part III (Public Law 111-11) (Act) authorizes the Bureau of Reclamation to construct the Navajo-Gallup Water Supply Project (NGWSP) that includes water treatment plants, pipeline, several pumping stations and ancillary facilities. Once completed, the NGWSP will deliver a reliable source of potable water, sourced from the San Juan River, to Navajo communities in northwestern New Mexico, the City of Gallup, NM, and the southwest portion of the Jicarilla Apache Reservation for municipal and industrial use. The NGWSP will connect to existing and future water distribution systems operated on the reservation

by the Navajo Tribal Utility Authority (NTUA), and in Gallup, by the City of Gallup. The high-quality treated water provided by the NGWSP will bring immediate benefits, including improved health and wellbeing to Tribal members.

5. **Easements for ROW:** The Permanent Easements for ROW will be used for the construction, operation, maintenance and/or replacement of:
- a. **Pumping Plant No. 4:** The Pumping Plant No. 4 facility will consist of a building containing pumping facilities that will include, but not be limited to a water pumps, a chlorine injection facility, water storage and regulation tanks, and water transmission pipelines. In addition, ancillary appurtenances will be constructed that are necessary for the safe and efficient operation of the pumping plant and pipeline that may include, vaults, valves, fiber optic supervisory control and data acquisition systems (SCADA), cathodic protection systems, single phase and three phase electrical power to support the operation of the pumping plant and pipeline infrastructure, a graveled and fenced yard, an access road for ingress and egress, and a patrol road. The ROW for Pumping Plant No. 4 will overlap and extend to the east, beyond the NGWSP Reach 7 and Reach 8 point of connection that will be located within the Block 4C-8 alignment, and will be constructed within a portion of the existing BIA Shiprock Agency ROW Grant No. TAMMS No. 791-4200187192, that is attached hereto, and by reference made a part hereof. The Reach 7 Pumping Plant No. 4 Permanent Easement for ROW will contain 21.88.
 - b. **Sheep Springs Turnout:** The Sheep Springs Turnout facility will provide the Navajo Tribal Utility Authority (NTUA) a point to access treated water from said pumping plant, to be distributed to the Sheep Springs Community and surrounding areas. In addition to the turnout facility, ancillary appurtenances will be constructed that are necessary for the safe and efficient operation of the facility and the ancillary pipeline that may include, but not limited to vaults, valves, fiber optic supervisory control and data acquisition systems (SCADA), cathodic protection systems, single phase and three phase electrical power to support the operation of the pumping plant and pipeline infrastructure, a graveled and fenced yard, an access road for ingress and egress, and a patrol road. The ROW for the Sheep Springs Turnout will overlap the NGWSP Reach 7 and Reach 8 point of connection that will be located within the Block 4C-8 alignment and will be constructed within a portion of the existing BIA Shiprock Agency ROW Grant No. TAMMS No. 791-4200187192, that is attached hereto, and by reference made a part hereof. The Reach 7 Sheep Springs Turnout Permanent Easement for ROW will contain 2.71 acres.

6. **Legal Descriptions:**

- a. **Reach 7 - Pumping Plant No. 4 - Parcel No. PP4-1(P) - Permanent Right-of-Way - Drawing No. 1695-529- 60320:** a parcel of land lying on Navajo Nation Tribal Trust land in Tract No. 791 T 8126 and 791 T 8131, in Section 36, Township 23 North, Range 18 West, and in Section 01, Township 22 North, Range 18 West, N.M.P.M.; San Juan County, New Mexico, containing 21.88 acres more or less. More particularly described as follows:

Point of Beginning being the northwest corner of said parcel, from which the Southwest Corner of Section 36, Township 23 North, Range 18 West bears South 63° 49' 20" West a distance of 2879.08 feet; thence from the Point of Beginning South 86° 19' 29" East a distance of 400.00 feet; thence South 03° 26' 15" West a distance of 781.56 feet; thence South 86° 33' 43" East a distance of 400.01 feet to a point from which the Southeast Corner of said Section 36 bears South 75° 53' 30" East a distance of 2002.93 feet; thence South 03° 26' 17" West a distance of 471.32 feet to a point on the North line of said Section 01 from which the Northeast Corner of Section 01 bears South 89° 29' 02" East a distance of 2639.13 feet; thence continuing along the

same bearing South 03° 26' 17" West a distance of 328.68 feet to a point that is the southeast corner of said parcel from which the Northeast Corner of Section 01 bears North 81°08'18" East a distance of 2014.53 feet; thence North 86°33'43" West a distance of 800.00 feet to the southwest corner of said parcel from which the Northwest Corner of Section 01 bears North 82°53'41" West a distance of 2508.10 feet; thence North 03°26'15" East a distance of 287.86 feet to a point on the North line of said Section 01 from which the Northwest Corner of Section 01 bears North 89°28'36" West a distance of 2638.97 feet; thence continuing along the same bearing North 03° 26' 15" East a distance of 1295.36 feet to the Point of Beginning.

Pumping Plant No. 4 - Parcel No. PP4-1(P) contains 21.88 acres more or less.

- b. **Reach 7 - Sheep Springs Turnout - Parcel No. PP4-2(P) - Permanent Right-of-Way - Drawing No. 1695-529-60320:** A parcel of land lying on Navajo Nation Tribal Trust Land in Section 36, Township 23 North, Range 18 West, N.M.P.M.; San Juan County, New Mexico. More particularly described as follows:

Point of Beginning being the northwest corner of said parcel, from which the Southwest Corner of Section 36, Township 23 North, Range 18 West bears South 52°07'20" West a distance of 3342.32 feet; thence from the Point of Beginning South 86°33'48" East a distance of 150.00 feet to a point that is the northeast corner of said parcel; thence South 03°26'12" West a distance of 507.07 feet; thence South 07°48'48" East a distance of 167.38 feet; thence South 03°26'12" West a distance of 113.39 feet; thence North 86°19'29" West a distance of 150.00 feet on the north boundary line of Parcel No. PP4-1(P); thence North 03°26'12" East a distance of 97.99 feet; thence North 07°48'48" West a distance of 167.38 feet; thence North 03°26'12" East a distance of 521.84 feet to the Point of Beginning.

The Sheep Springs Turnout - Parcel No. PP4-2(P) contains 2.71 acres more or less.

7. **Term:** Reclamation requests grants of Permanent Easement for Right-of-Way (ROW) without limitation in term, and for as long as the easements are used for their intended purpose.
8. **Ownership of Permanent Improvements:** The facilities and ancillary appurtenances that constitute Pumping Plant No. 4, and the Sheep Springs Turnout, will be constructed and owned by the Bureau of Reclamation. It is Reclamation's intent to transfer the operation, maintenance, and replacement (OM&R) responsibility of the NGWSP to the NTUA. It is envisioned that Reclamation would retain title to the facilities for the foreseeable future, however, the Act does provide authority for eventual title transfer to the Navajo Nation.
9. **Construction Schedule:**
 - Obtain ROW: November 23, 2020
 - Obtain Bids and Establish Contracts: June 10, 2020
 - Award Contract: August 19, 2020
 - Notice to Proceed Issue: September 9, 2020
 - Begin Construction: October 7, 2020
 - Construction 50% Completed by: February 2022
 - Construction Complete: September 4, 2023

Required Supporting Documents - §169.102(b)

1. **Legal Description:**
 - Reach 7 - Pumping Plant No. 4 - Parcel No. PP4-1(P) in MS WORD Format (CD)
 - Reach 7 - Sheep Springs Turnout - Parcel No. PP4-2(P) in MS WORD Format (CD)

2. ROW Drawing No. 1695-529-60320 - Pumping Plant No. 4 - Parcel No. PP4-1(P) (CD)
ROW Drawing No. 1695-529-60320 - Sheep Springs Turnout - Parcel No. PP4-2(P) (CD)
Plan and Profile Drawing Nos. 1695-D-60703 and 1695-D-T60705 (CD)
Aerial View - Pumping Plant No. 4, and Sheep Springs Turnout (CD)
Map - Proposed ROW and TCE - Pumping Plant No. 4, and Sheep Springs Turnout - 10-04-19 (CD)
Maps - Reach 7 Pipeline Alignment - Dated 05-15-18 (CD)
NGWSP Project Map - Drawing No. 1695-529-537 - Dated 08-14-18 (CD)
3. ROW Grant - NGWSP Block 4C-8 - BIA Shiprock Agency - TAMMS No. 791 4200187192 - 10-02-19 (CD)
Tribal Resolution - DNR No. RDCAP-009-19 - Approving Block 4C-8 ROW and TCE - 04-24-19 (CD)
Chapter Resolution - Sheep Springs - Signed 03-06-11 (CD)
Consent to ROW - Block 4C-8 - Grazing Lease Holders (CD)
Waiver of Bonding Requirement - 25 CFR § 169.103 - Dated 12-20-16 (CD)
Navajo Nation Support of Waiver of 25 CFR § 169.103 - Dated 09-09-16 (CD)
Title Status Reports - Tract No. 791 T 8126, and 791 T 8131 - Shiprock Agency - 06-05-17 (CD)
Permission to Survey - Reach 3-9 - 09-17-09 (CD)
Permission to Conduct Engineering Data Collection - San Juan Lateral - Dated 10-05-16 (CD)
Navajo Nation Executive Order No. 07-2017 in Support of the NGWSP - Dated 05-22-17 (CD)
4. Valuation:
Memo - BIA Waiver for Appraisal and Compensation - 25 CFR Part 169.12 - Dated 06-29-07 (CD)
5. Organizational Documents: Not Applicable, Applicant is United States DOI - BOR.
6. Biological, Cultural Resource and Environmental Documentation:
BRCF - Block 4C-8 - NNDFW - Approved 09-05-18 (CD)
Biological Survey - Block 4C-8 - Ecosystem Management - 09-14-18
Class III Inventory Report and Concurrence of Eligibility Determination - Signed 10-11-16 (CD)
Memo - BIA - Acceptable NEPA and NHPA Sufficiency Documentation - Dated 10-29-2015 (CD)
NEPA Sufficiency Review - Block 4C-8 - March 2019 (CD)
Phase I Environmental Site Assessment for Block 4C-8 - May 2019 (CD)
Final Environmental Impact Statement and Record of Decision can be viewed at:
<http://www.usbr.gov/uc/envdocs/eis/navgallup/FEIS/index.html>

THE APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

To conform and to abide by all applicable requirements with respect to the right-of-way herein applied for. The applicant agrees to conform to and abide by the rules, regulations, and requirements contained in the Code of Federal Regulations, Title 25 Indians, Part 169, as amended, and by reference includes such rules, regulations and requirements as a part of this application as if the same were herein set out in full.

Applicant Point of Contact Information:

Name: Michael (Mike) Braman
Address: 1235 La Plata Highway
Farmington, New Mexico, 87401
Phone: 505-324-5024
E-mail: mbraman@usbr.gov

Date: FEB. 5, 2020

Applicant Signature: Bart Deming

Print Name: BART DEMING

ACTING FOR PAT PAGE, CONST. ENGINEER

Navajo Land Title Data System (NLTDS)
Navajo Land Title, NLTDS - Admin:
Document Information

Document Information

Document Name: 005_S008_00014167_BOR ROW Reach 7 PP No. 4.zip
Revision:
Version: 1
Document Desc: BOR ROW Reach 7 PP No. 4
Document Author: Stevie Hudson GLDD (NLTDS - Admin)
Document Status: Pending Verification
Document Type: 164 Review Process
Effective Date: 02-Mar-2020
Expires: Never
Uploaded from: Navajo Land Title Data System (NLTDS)
Folder Name: 005_S008_00014167
Size: 84566 KB
Date Uploaded: 02-Mar-2020
Maintained by: Project Management Team

No Document Distribution Locations

Applicant:
Census-Applicant:
Census-Co-Applicant:
Co-Applicant:

Tier 1 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date
Najamh Tariq (Navajo Land Title Data System Windowrock AZ)	Approver	Department of Water Resources	Approved	<i>no comments</i>	<i>No Reply</i>	03-Mar-2020
Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. EOR010650. ATCU mitigated and SCMEVE habitat is not present.	1.	06-Mar-2020
Rebecca Gilchrist MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	1. This vote is contingent upon the uploaded Terms and Conditions, dated 03.05.20, permanently being included in the application approval package. -rkg	1.	06-Mar-2020
Tamara Billie NNHP (Navajo Land Title Data System - Windowrock AZ)	HPD Reviewer	Historic Preservation Department	Approved	<i>no comments</i>	<i>No Reply</i>	09-Mar-2020

Tier 2 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date
Leanna Begay (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	<i>no comments</i>	<i>No Reply</i>	13-Mar-2020
Richard Begay NNHP (Navajo Land Title Data System - Windowrock AZ)	Navajo Nation Historic Preservation Officer	Historic Preservation Department	Approved	<i>no comments</i>	<i>No Reply</i>	13-Mar-2020
Robert Allan DNR (Navajo Land Title Data System - Windowrock AZ)	Deputy Director DNR	DNR Administration	Approved	1. CONDITIONAL: include CRCF and "environmental clearance" report, as well as terms and conditions	1.	10-Mar-2020
Steven Prince MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	<i>no comments</i>	<i>No Reply</i>	10-Mar-2020
W. Mike Halona (NLTDS - Admin)	NLD Department Manager III	NLD	Approved	<i>no comments</i>	<i>No Reply</i>	10-Mar-2020



NNDFW Review No. EOR010650

**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.: Navajo Gallup Water Supply Project - Reach 4C-8

DESCRIPTION: The Bureau of Reclamation is applying for a grant of right-of-way (ROW) and temporary construction easement (TCE) for Reaches 4C-8.

LOCATION: Sanostee, Two Grey Hills, Newcomb, Sheep Springs, & Naschitti, San Juan County, New Mexico

REPRESENTATIVE: Barry Longwell, U.S. D.O.I. Bureau of Reclamation, Upper Colorado Region

ACTION AGENCY: Bureau of Indian Affairs and Navajo Nation

B.R. REPORT TITLE / DATE / PREPARER: Volume I Planning Report and Final Environmental Impact Statement (Includes Appraisal-Level Alternative Designs and Cost Estimates) Navajo-Gallup Water Supply Project New Mexico – Arizona/JUL 2009/U.S. Department of the Interior, Bureau of Reclamation, Upper Colorado Region, Salt Lake City, Utah

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: [1] *Sclerocactus mesae-verdae* (Mesa Verde Cactus) G2, [2] *Athene cunicularia* (Burrowing Owl) G4.

FEDERALLY-LISTED SPECIES AFFECTED: [1] *Sclerocactus mesae-verdae* (Mesa Verde Cactus), Threatened; [2] *Athene cunicularia* (Burrowing Owl) MBTA.

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

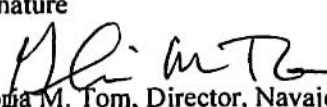
AVOIDANCE / MITIGATION MEASURES: NA

CONDITIONS OF COMPLIANCE*: The refined alignment in Reaches 4C, 6, 7, and 8 having suitable habitat for the Mesa Verde Cactus and Burrowing Owl shall be surveyed with appropriate survey buffers. The survey report will be submitted to our department before construction begins.

FORM PREPARED BY / DATE: Pamela A. Kyselka/16 JUL 2018

COPIES TO: (add categories as necessary)

☒ BIA ☐ _____

2 NTC § 164 Recommendation:	Signature	Date
<input type="checkbox"/> Approval		9/5/18
<input checked="" type="checkbox"/> Conditional Approval (with memo)		
<input type="checkbox"/> Disapproval (with memo)		
<input type="checkbox"/> Categorical Exclusion (with request letter)		
<input type="checkbox"/> None (with memo)	Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife	

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

Representative's signature

Date



**PRESIDENT
RUSSELL BEGAYE
VICE PRESIDENT
JONATHAN NEZ**

NAVAJO FISH AND WILDLIFE P.O. BOX 1480 WINDOW ROCK, AZ 86515

04 September 2018

EOR010650

Barry Longwell
U.S. Department of the Interior
Bureau of Reclamation

Dear Barry,

The Navajo Nation Department of Fish and Wildlife (NNDFW) reviewed your application for grant of ROW and TCE for Reaches 4C-8 of the Navajo-Gallup Water Supply Project. The purpose of this letter is to inform you that we are granting the proposed project a Conditional Approval. The refined alignment in Reaches 4C, 6, 7, and 8 having suitable habitat for the Mesa Verde Cactus and Burrowing Owl shall be surveyed with appropriate survey buffers. The survey report will be submitted to our department before construction begins.

Please contact me at 928-871-7065 with any questions that you have concerning the preliminary review of this project.

Sincerely,

Pamela A. Kyselka, Wildlife Biologist
Navajo Natural Heritage Program

CONCURRENCE

Gloria Tom, Director
Department of Fish and Wildlife

Date

9/5/18

xc: CONS-100-18
BIA



THE NAVAJO-GALLUP WATER SUPPLY PROJECT

**Class III Inventory and Ethnographic Summary for the
San Juan Lateral**

**Volume I: Reaches 3–8, Hogback Diversion, and Shiprock
Connection**

Navajo Nation, McKinley and San Juan Counties, New Mexico

**Submitted to:
USDI Bureau of Reclamation
Western Colorado Area
Durango Field Office**

Technical Report No. 15-14

602.261.7253 | paleowest.com | 115 West Main Street | Farmington, NM 87401

**THE NAVAJO-GALLUP WATER SUPPLY PROJECT
CLASS III INVENTORY AND ETHNOGRAPHIC SUMMARY FOR THE
SAN JUAN LATERAL**

VOLUME I: REACHES 3-8, HOGBACK DIVERSION, SHIPROCK CONNECTION

NAVAJO NATION, MCKINLEY AND SAN JUAN COUNTIES, NEW MEXICO

Prepared by:

**Jason Chuipka, M.A., RPA
James Potter, Ph.D., RPA**

Prepared for:

**USDI Bureau of Reclamation
Western Colorado Area
Durango Field Office**

Navajo Nation Cultural Resources Permit B13543

PaleoWest Technical Report No. 15-14

**PaleoWest Archaeology
115 West Main Street
Farmington, New Mexico 87401
(505) 516-0261
www.paleowest.com**

February 15, 2015

For Official Use Only. Disclosure of Site Locations is Prohibited (36 CFR 296.18)

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ABSTRACT

The Navajo-Gallup Water Supply Project (NGWSP) is a Bureau of Reclamation Upper Colorado Region (Reclamation) infrastructure project, which will ultimately consist of about 350 miles (563 kilometers) of pipeline, several pumping plants, and at least two water treatment plants. These facilities will convey water from the San Juan River to the eastern section of the Navajo Nation, southwestern portion of the Jicarilla Apache Nation, and the city of Gallup, New Mexico. The Omnibus Public Land Management Act of 2009, Title X Part III (Public Law 111-11), signed on March 30, 2009, provided the authorization for the NGWSP as a major component of the Navajo Nation San Juan River Basin Water Rights Settlement in New Mexico.

PaleoWest Archaeology (PaleoWest) was awarded Reclamation contract number R11PC40008 for undertaking the NGWSP Cultural Resource investigations on September 28, 2011. A Class I literature review of the entire project area was initiated by PaleoWest in the fall of 2011 and (Gilpin and Thompson 2013). The Archaeological Research Design and Sampling Plan for the NGWSP developed by PaleoWest in 2011-2012 and approved by the Bureau of Reclamation in 2013 (Potter et al. 2013).

The San Juan Lateral of the NGWSP comprises multiple contiguous pipeline reaches, water storage tanks, pumping plants, and a water treatment plant. The pipeline originates at the San Juan River east of Shiprock, New Mexico and runs in a generally southern direction for approximately 95 miles to the City of Gallup, New Mexico. A branch of the San Juan Lateral runs west from the vicinity of Yah-Ta-Hey Junction to the New Mexico-Arizona border on the east side of Window Rock, Arizona. The San Juan Lateral is mostly on lands of the Navajo Nation and crosses portions of San Juan and McKinley counties, New Mexico.

Reaches 3 to 8, the Shiprock Connection, and Hogback Diversion total 73.5 miles in length and are entirely on Navajo Nation trust lands. Also included are Pumping Plant 3 along Reach 5 and Pumping Plant 4 along Reach 7. The Navajo Nation lands crossed include those administered by the San Juan, Nenahnezad, Sanostee, Newcomb, and Sheep Springs Chapters of the Shiprock Agency; and the Naschitti Chapter and Two Gray Hills Chapter of the Fort Defiance Agency. The size of the APE surveyed for linear portions of the pipeline was 400 feet (122 m). A minimum buffer of 100 feet (30 m) was surveyed around the perimeter of pumping plant footprints, but in most cases was much larger so as to accommodate design changes. The total area inventoried for Reaches 3-8, the Hogback Diversion, the Shiprock Connection, and Pumping Plants 3 and 4 of the San Juan Lateral APE was 3,604 acres.

The Class III inventory and ethnographic work for Reaches 3-8, the Shiprock Connection, and Hogback Diversion occurred between August 2013 and June 2014, and documented a total of 660 cultural resources, including isolated occurrences (IOs), archaeological sites, in-use sites, Navajo Traditional Cultural Properties (Traditional cultural properties), and Jishchaa'. All of these resources are at least partially in the 400-foot-wide APE, and some may be directly impacted by construction as they are currently crossed by the 150-foot-wide construction ROW. Treatment of cultural resource sites on Reaches 3-8, the Shiprock Connection, and the Hogback Diversion will be outlined in the Research and Sampling Plan for the San Juan Lateral (Phase III), which is currently in progress. Treatment may include re-routes, archaeological testing, and data recovery as outlined in the approved NGWSP Research and Sampling Design (Potter et al.

2013). This will include consultation with NNHPD and Reclamation, as well as the NGWSP Programmatic Agreement Workgroup.

I. INTRODUCTION

PROJECT BACKGROUND

The Navajo-Gallup Water Supply Project (NGWSP) is a Bureau of Reclamation Upper Colorado Region (Reclamation) infrastructure project, which will ultimately consist of about 350 miles (563 kilometers) of pipeline, several pumping plants, and at least two water treatment plants. These facilities will convey water from the San Juan River to the eastern section of the Navajo Nation, southwestern portion of the Jicarilla Apache Nation, and the city of Gallup, New Mexico. These areas currently rely on a groundwater supply that is of poor quality and inadequate to meet the current and future demands of approximately 250,000 people in these communities. The Omnibus Public Land Management Act of 2009, Title X Part III (Public Law 111-11), signed on March 30, 2009, provided the authorization for the NGWSP as a major component of the Navajo Nation San Juan River Basin Water Rights Settlement in New Mexico. The act requires that all NGWSP features are completed no later than December 31, 2024.

PaleoWest Archaeology (PaleoWest) was awarded Reclamation contract number R11PC40008 for undertaking the NGWSP Cultural Resource investigations on September 28, 2011. A Class I literature review of the entire project area was initiated by PaleoWest in the fall of 2011 and (Gilpin and Thompson 2013). The Archaeological Research Design and Sampling Plan for the NGWSP developed by PaleoWest in 2011-2012 and approved by the Bureau of Reclamation in 2013 (Potter et al. 2013).

The project has two major pipelines: the San Juan Lateral and the Cutter Lateral (Figure 1). Each of these pipelines has multiple reaches, pumping plants, and water storage/treatment facilities. The San Juan Lateral begins at the San Juan River west of Farmington and run south, following the western edge of the San Juan Basin. The Cutter Lateral starts at Cutter Dam and run south, following the eastern edge of the San Juan Basin.

The report that follows summarizes the Class III inventory and ethnographic survey of Reaches 3-8, the Hogback Diversion, and Shiprock Connection of the San Juan Lateral. Site forms are included in Attachment 1, and the ethnographic reports are included in Attachment 2 which is confidential and submitted only to NNHPD. A second volume will be prepared for Reaches 9-11 of the San Juan Lateral. This report is being completed under authority of Reclamation contract number R11PC40008 and Task Order number R13PD40038 (Phase II, Task 2). Joe Tuomey, Ernie Rheume, and Lauren Jelinek were the Technical Advisors, Lynette Rock was the Contract Specialist, and Leslie Corpening was the Contracting Officer for Reclamation. Ron Maldonado provided oversight for the Navajo Nation Historic Preservation Department (NNHPD).

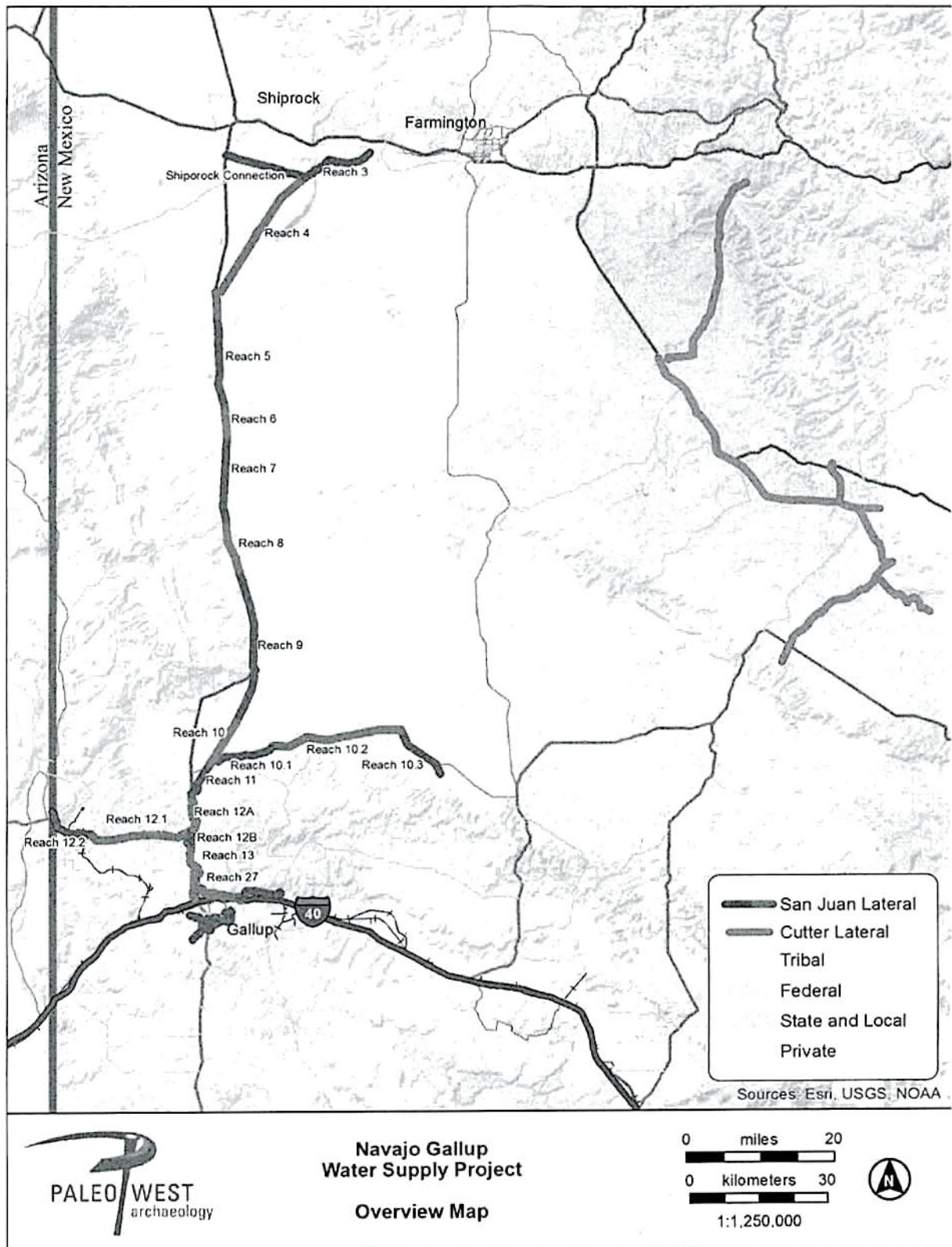


Figure 1. Map showing the Cutter and San Juan Laterals of NGWSP in northwest New Mexico.

SAN JUAN LATERAL DESCRIPTION

Overview

The San Juan Lateral of the NGWSP comprises multiple contiguous pipeline reaches, water storage tanks, pumping plants, and a water treatment plant. The pipeline originates at the San Juan River east of Shiprock, New Mexico and runs in a generally southern direction for approximately 95 miles to the City of Gallup, New Mexico. A branch of the San Juan Lateral runs west from the vicinity of Yah-Ta-Hey Junction to the New Mexico-Arizona border on the east side of Window Rock, Arizona. The San Juan Lateral is mostly on lands of the Navajo Nation and crosses portions of San Juan and McKinley counties, New Mexico.

Reaches 3 to 8, the Shiprock Connection, and Hogback Diversion total 73.5 miles in length and are entirely on Navajo Nation trust lands (Table 1). Also included in the inventory were Pumping Plant 3 along Reach 5 and Pumping Plant 4 along Reach 7. The Navajo Nation lands crossed include those administered by the San Juan, Nenahnezad, Sanostee, Newcomb, and Sheep Springs Chapters of the Shiprock Agency; and the Naschitti Chapter and Two Gray Hills Chapter of the Fort Defiance Agency.

Table 1. San Juan Lateral Reaches from North to South

Reach No.	Length (Miles)	Land Status	USGS 7.5' Quad	Legal Location
3, Shiprock Connection	17.4	Navajo Nation	The Hogback North; Fruitland, NM	T29N, R15W, Sec 9, 16-19 T29N, R16W, Sec 13-15, 21-22, 24, 28-30 T29N, R17W, Sec 17-18, 20-21, 23, 25-26 T29N, R18W, Sec 13-14
Hogback Diversion	8.4	Navajo Nation	The Hogback North	T28N, R17W, Sec 2, 11, 14 T29N, R16W, Sec 7-9, 18 T29N, R17W, Sections 13, 23-26, 35 T26N, R18W, Sec 1-2, 11, 14, 23 T27N, R17W, Sec 3-4, 16-17, 19-20, 30-31 T27N, R18W, Sec 36
4	19	Navajo Nation	Table Mesa, NM; Little Water, NM; The Hogback North; Sulphur Spring	T28N, R16W, Sec. 7, 18 T28N, R17W, Sec 12-13, 23-24, 26, 34-35 T29W, R16W, Sec. 29-31 T29N, R17W, Sec. 25-26, 35 T24N, R18W Sec 1, 12, 13, 24, 25
5	9.6	Navajo Nation	Little Water; Newcomb	T25N, R18W Sec 2, 11, 13, 14, 24, 25, 26, 35, 36 T26N, R18W Sec 23, 36, 35
6	3.7	Navajo Nation	Newcomb	T24N, R18W, Sec 12, 13, 24, 25
7	9.6	Navajo Nation	Newcomb; Sheep Springs	T22N, R18W, Sec 12, 13 T23N, R18W, Sec 1, 12, 13, 24, 25, 36 T24N, R18W, Sec 25, 36
8	5.8	Navajo Nation	Sheep Springs; Naschitti	T21N, R17W Sec 6, 7, 8 T22N, R17W Sec 31 T22N, R18W Sec 13, 24, 25
Total	73.5			



P.O. Drawer "I" • Sheep Springs, New Mexico 87364

(505) 732-5408 • fax: (505) 732-5409

RESOLUTION OF TOOH HALTSOOI COUNCIL OF NAATAANII CHAPTER

Supporting And Approving The Navajo-Gallup Water Supply Project Which Will Provide The Opportunity
For Accessible Water To The Tooh Haltsooi Council Of Naataanii Chapter Community .

RESOLUTION TC-2017-0191

WHEREAS:

1. Pursuant To 26 N.N.C., Section 3 (A) The Tooh Haltsooi Council of Naataanii Chapter Is A Duly Certified Chapter Of The Navajo Nation Government As Of August 24, 2007 Per TCDCAU-23-07, As Listed At 11 N.N.C., Part 1 Of Section 10; and
2. Pursuant To 26 N.N.C. , Section 1 (B) Tooh Haltsooi Council of Naataanii Chapter Is Vested With The Authority To Review All Matters Affecting The Community And To Make Appropriated Correction When Necessary And Make Recommendations To The Navajo Nation And Other Local Agencies For Appropriate Actions; And
3. The Tooh Haltsooi Council of Naataanii Chapter Pursuant To Title 26, N.N.C., Section 3 (A) Of The Navajo Nation Local Government Act , The Chapter Exists As A Local Unit Government Recognizes As A Political Subdivision Of The Navajo Nation Authorized To Review All Matters Affecting The Community; And
4. The Tooh Haltsooi Council Of Naataanii Chapter Is Aware That The Public Law 111-11 Section 10601 Authorized The State Of The Interior , Acting Through The Commissioner Of The Bureau Of Reclamation , To Design And Construct The Navajo-Gallup Water Supply Project; And
5. The Tooh Haltsooi Council Of Naataanii Chapter Is Also Aware That The Navajo-Gallup Water Supply Project Will Provide Reliable And Sustainable Municipal, Industrial, And Domestic Water Supplies From The San Juan River To 43 Chapters Of The Navajo Nation, The City Of Gallup And The Southwest Portion Of The Jicarilla Apache Nation; And
6. Tooh Haltsooi Council of Naataanii Community Is One Of The 43 Identified To Be Served By The Navajo-Gallup Water Supply Project.

NOW, THEREFORE, BE IT RESOLVED THAT:

The Tooh Haltsooi Council Of Naataanii Chapter Sees This Project To Provide A Reliable Long Term Water Supply To A Much Needed Area Within The Community And Address Future Community And Economical Growth.

The Tooh Haltsooi Council Of Naataanii Chapter Recognizes Community Members That Live In The Rural Areas Do Not Have Running Water Into Their Homes And This Will Provide Water To These Areas So The Community Members Will Have And Live A Good Quality Of Life.


The Tooh Haltsooi Council Of Naataanii Chapter Fully Support The Design, Construction And Implementation Of The Navajo-Gallup Water Supply Project And Recognizes That The Project Is In The Best Interest Of The Chapter And The Navajo Nation.

CERTIFICATION

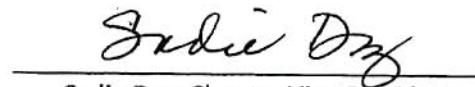
We Hereby, Certify That The Foregoing Resolution Was Duly Considered By The Toohaltsoii Council of Naataanii Chapter At A Duly Called Meeting In Sheep Springs, Navajo Nation,(New Mexico) At Which A Quorum Of Chapter Members Was Present And That Same Was Passed By A Vote Of 35 In Favor, 1 Opposed And 1 Abstained On This 19th Day Of February, 2017.


Motion By: Ivin Harry

Second By: Robert Johnson


Brian T. Yazzie, Chapter President


Sally Ann Joe, Secretary/Treasurer


Sadie Dez, Chapter Vice-President


Amber K. Crotty, Council Delegate



THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT

EXHIBIT

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EXECUTIVE ORDER NO. 07-2017

**NAVAJO-GALLUP WATER SUPPLY PROJECT
IS A NAVAJO NATION PRIORITY PROJECT; THE SUCCESS OF THIS HIGH-
PROFILE PROJECT WILL SHOWCASE THE NAVAJO NATION AND ITS
DIVISIONS AND PROGRAMS; AND WILL PROVIDE THE OPPORTUNITY FOR
ACCESSIBLE WATER TO THE EASTERN NAVAJO NATION**

May 22, 2017

WHEREAS:

The Navajo-Gallup Water Supply Project (Project) is one of fourteen projects selected nationwide to be a priority of President Obama in October 2011 that will be expedited through permitting and environmental review processes. This is an important step in the Administration's efforts to improve the efficiency of federal reviews needed to help job-creating infrastructure projects move as quickly as possible from the drawing board to completion. The United States Bureau of Reclamation (BOR) is the lead federal agency tasked to construct the Project with the assistance of the Navajo Nation, Jicarilla Apache Nation and City of Gallup. This project is an enormous challenge for the Navajo Nation and is an excellent opportunity for the Nation to showcase their coordination and Programs to President Donald Trump and the United States Government.

The Project will provide a reliable long-term water supply to much of the Navajo Nation within New Mexico. The Project has an estimated construction cost of \$1.131 billion. U.S. Discretionary funding received through FY2016 is \$301 million and FY2017 funding request is \$87 million. BOR has already received \$180 million in mandatory appropriations for Project construction.

This Project is a high priority for this administration and I fully support its expedited implementation and urge cooperation among all Navajo Nation programs to make this Project a reality. This Project is an example of the success brought about by years of hard work by staff and representatives of the Navajo Nation, State of New Mexico and United States.

The foundation of our administration are the four pillars of: Navajo Veterans, Elders and Youth, Infrastructure Development, and Job Creation. These priorities were mandated by the Navajo people and we stand committed to providing progress in these areas for our great Navajo Nation. In July 2015, the Navajo Nation Three Branch Agreement was executed in cooperation with the Legislative Branch and Judicial Branch for the "One Nation, One Voice" initiative. For the first time in our history, the three branches of government stand united in the priority needs of our Navajo Nation. The Navajo-Gallup

Water Supply Project is specifically listed under these Common Priorities of the Navajo Nation.

Over the next several years the Project will be constructed in Reaches (phases). Construction may occur concurrently on several Reaches over the next several years. The legislated completion date for the Project is December 2024. It is important that the Navajo Nation programs align themselves properly to coordinate information and permitting of the various Reaches of the Project. The Navajo Nation Department of Water Resources-Water Management Branch will serve as point of contact for the Project on behalf of the entire Navajo Nation. NNDWR-WMB may be reached at (928) 729-4004.

IT IS ORDERED THAT:

The Navajo-Gallup Water Supply Project is a priority project of the Navajo Nation.

The programs within the Executive Branch are hereby directed to promptly process all necessary permits, contracts, and any related matters to this Project for its successful coordination, implementation and construction. The programs and personnel are hereby directed to review and streamline their 164 review process.

THEREFORE BE IT RESOLVED, THAT:

I, Russell Begaye, President of the Navajo Nation, by the authority vested in the Office of the President pursuant to 2 N.N.C. §§ 1005 (A) and (C)(14), hereby direct this Executive Order shall become effective immediately and remain in effect until rescinded, to be binding upon Navajo Nation Executive Branch Directors, employees, and agents, and to be subjected to enforcement under the Navajo Nation Personnel Policies Manual.

Executed this 30th day of May, 2017.


Russell Begaye, President
The Navajo Nation

ATTEST:


Ethel Branch, Attorney General
Navajo Nation Department of Justice



THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT

September 9, 2016

Lawrence S. Roberts
Assistant Secretary – Indian Affairs
Department of the Interior
MS-3642-MIB
1849 C Street, N.W.
Washington, D.C. 20240

Subject: Navajo Nation's Support of Waiver Request under 25 C.F.R. § 1.2, of the 25 C.F.R. § 169.103 Bond Requirement for all Navajo-Gallup Water Supply Project (NGWSP) Rights of Way

Dear Assistant Secretary Roberts:

The Navajo-Gallup Water Supply Project (NGWSP) is the cornerstone of the Navajo Nation San Juan River Basin in New Mexico Water Rights Settlement Agreement (Settlement). The Navajo Nation has been working closely with the Bureau of Reclamation and the Bureau of Indian Affairs (BIA) to ensure the project's completion by 2024, the deadline mandated by the authorizing legislation. As such, and through a financial assistance agreement with Reclamation, the Nation has taken an active role in designing and constructing a portion of the project on the Cutter Lateral.

One of the major undertakings involved in getting the project built is the acquisition of the right-of-way (ROW) necessary to construct, operate, and maintain the project. On April 21, 2016, new 25 C.F.R. Part 169 ROW Regulations took effect which differ in a significant way for purposes of NGWSP project completion from the pre-existing 25 C.F.R. §169 Regulations that had been in effect when Reclamation and the Nation began seeking consents from allottees for ROW across individual Indian allotments. The new regulations omitted BIA's authority to directly waive the bonding requirement when seeking ROW. The new regulations do allow grantees to seek a waiver from individual Indian allottees and tribes, but in the case of NGWSP, going back and seeking this consent for waiver now would result in significant delays and added expenses to the project.

We understand that Reclamation and BIA are in the process of seeking a waiver, under 25 C.F.R. § 1.2, of the 25 C.F.R. § 169.103 bond requirement for all NGWSP ROWs not issued prior to April 21, 2016, whether the ROW-holder is a federal agency or an agency of the Navajo Nation. The Nation fully supports their request and believes it is in the best interest of the Nation and its people. A waiver will help ensure that Reclamation's and the Nation's ROW acquisition process is not delayed on NGWSP which will result in the project getting completed within the legislated deadline which will benefit the Nation and its people.

Sincerely,

THE NAVAJO NATION

A handwritten signature in dark ink, appearing to read "Russell Begaye", written over the printed name.

Russell Begaye, President



OFFICE OF THE SECRETARY OF THE INTERIOR
EXECUTIVE SECRETARIAT
Correspondence Transmittal

Date ES Received: 10/05/2016

ES Tracking #: ESO-00072732

Date Forwarded for Signature: 12/13/2016

To: Roberts, Lawrence S.
From: Pinto, Sharon
BIA - Navajo Regional Office
Subject: Request for Waiver under 25 C.F. R. 1.2 of the 25 C.F.R. 169.103 Bond Requirement for Right-of-Way Applications for the Navajo-Gallup Water Supply Project

Response Summary: Request for Waiver under 25 CFR § 1.2 of the 25 CFR § 169.103 Bond Requirement for Right-of-Way Applications for the Navajo-Gallup Water Supply Project

Lead Response Office: IA OTS RES

Response Writer: IA OTS RES

Surnaming Office

Approved By

Date Approved

DBIA	M. Smith	11/22/2016
IA OTS	H. Riggs	11/22/2016
IA OTS RES	S. Roundface	11/22/2016
SOLDIA	J. Turner	11/22/2016
IA Advisor	C. Hastings	11/28/2016
IA COS	S. Walters	12/09/2016

Deputy Secretary

Associate Deputy Secretary

Executive Secretariat

Secretary

SIGMAC:

Other (NOT SECRETARY):

COMMENTS:



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Washington, DC 20240

NOV 22 2016

IN REPLY REFER TO:

Memorandum

To: Principal Deputy Assistant Secretary – Indian Affairs

From: ^{Acting} Director, Bureau of Indian Affairs

Subject: Request for Waiver under 25 CFR § 1.2 of the 25 CFR § 169.103 Bond Requirement for Right-of-Way Applications for the Navajo-Gallup Water Supply Project

The Navajo-Gallup Water Supply Project (NGWSP) in northwest New Mexico is the cornerstone of the Northwestern New Mexico Rural Water Projects Act, Pub. L. 111-11, § 10301 *et seq.* (March 30, 2009) (the Settlement Act) and the 2010 Navajo Nation San Juan River Water Rights Settlement Agreement between the Navajo Nation (the Nation), the State of New Mexico, and the United States. The NGWSP is a major infrastructure project comprising about 280 miles of pipeline, 24 pumping plants and two water treatment plants, as well as numerous water regulation and storage facilities, that altogether will provide a long-term, sustainable and reliable municipal and industrial water supply from the San Juan River Basin to more than 43 Chapters on the Navajo Reservation, to the southwest portion of the Jicarilla Apache reservation, and to the city of Gallup, New Mexico. The Settlement Act provides that all project features are to be completed no later than December 31, 2024, mandating an aggressive construction schedule for a project of this scale.

On October 11, 2011, President Obama designated the NGWSP as one of 14 federal infrastructure projects to be expedited through permitting and environmental review processes, in order to improve the efficiency of federal reviews needed to help infrastructure projects move as quickly as possible from the drawing board to completion. NGWSP was the only project within the Department of the Interior (Department) to be designated among these priority projects, which came as a result of a Presidential Memorandum dated August 31, 2011, in which President Obama directed agencies to expedite environmental reviews and permit decisions for a select number of high priority infrastructure projects.

In accordance with the President's directive, the Department has worked diligently to advance the NGWSP from the drawing board to completion, and in 2012, the Bureau of Reclamation (Reclamation) in coordination and cooperation with the Bureau of Indian Affairs (BIA) began the process of preparing rights-of-way (ROW) applications, including seeking consent for the ROW's from individual Indian allottees and the Nation. Reclamation has received the necessary consents from individual Indian allottees on 25 allotments where ROW's are needed for the project. This represents all of the allotted land required for the project. In addition, Reclamation has received consent from the Navajo Nation for two parcels of Navajo tribal land, and will be seeking consent for approximately seven more ROW applications across Navajo tribal land over the next two to three years for the remaining portion of pipeline to be constructed (approximately 100 miles).

While all of the necessary consents on allotted lands were received prior to April 21, 2016, the date the new 25 CFR Part 169 Right of Way Regulations took effect, and not all applications for ROW's across allotted lands have been submitted to BIA. For instance, Reclamation has not yet

completed applications for four out of the 25 parcels of allotted lands for which it has obtained consents. In addition, Reclamation recently received consent from the Navajo Nation on two tribal land parcels and another one is pending, but the associated ROW applications for those parcels were not submitted to BIA before the new ROW regulations took effect.

The timing of the submission of these post-April 21, 2016, ROW applications has introduced a critical issue because the new ROW regulations differ in a significant way for purposes of NGWSP project completion from the pre-existing 25 CFR Part 169 Right of Way Regulations that had been in effect when Reclamation began seeking consents for the NGWSP Project and the President identified the NGWSP as a high-priority project.

The old ROW regulations at 25 CFR § 169.5 (2015) permitted BIA to grant waivers to federal agencies for the bond requirement for ROWs, in recognition that the Anti-Deficiency Act prohibits federal agencies from contracting to broad-based indemnification terms. (See 25 CFR § 169.5 (2015) "When the applicant is the U.S. Government or a State Government or an instrumentally thereof and is prohibited by law from executing any of the above stipulations, the Secretary may waive the requirement that the applicant agree to any stipulations so prohibited.")

The new ROW regulations omitted BIA's authority to directly waive the bond requirement in recognition of federal agencies' Anti-Deficiency Act limitations. (See 25 CFR § 169.103.) Instead, the new ROW regulations subject federal agencies to the bond requirements applicable to all other parties, and provide only two more nuanced avenues for waiver of the bond requirement; a 25 CFR § 1.2 waiver from the Assistant Secretary – Indian Affairs, or a 25 CFR § 169.103(f) waiver that requires allottees to request the waiver or for the BIA to defer to the Nation to the maximum extent possible for a determination that the waiver is in its best interest (depending upon whether the ROW is sought from allottees or the Nation). (See 25 CFR § 1.2 "[T]he Secretary retains the power to waive or make exceptions to his regulations as found in chapter 1 of title 25 CFR in all cases where permitted by law and the Secretary finds that such waiver or exception is in the best interest of the Indians;" and 25 CFR § 169.103(f) "We may waive the requirement for a bond, insurance, or alternative form of security: (1) For individually owned Indian land, if the Indian landowners of the majority of the interests request it and we determine, in writing, that a waiver is in the Indian landowners' best interest considering the purpose of and risks associated with the right-of-way, or ... (2) For tribal land, deferring, to the maximum extent possible, to the tribe's determination that a waiver of a bond, insurance or alternative form of security is in its best interest.")

While 25 CFR § 169.103 provides for the waiver of the requirement for a bond, insurance, or alternative form of security so long as consent for such waiver is received from the tribe (for tribal trust land) or the majority of interests of individual Indian landowners (for allotted land), this was not sought for the pending NGWSP ROW applications because the consent process was initiated well before the new rules took effect (and 25 CFR Part 169 (2016) contained clear waiver language).

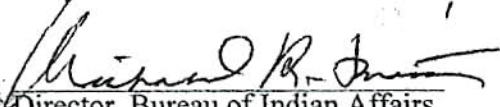
Reclamation and BIA recognize that although the consent process for the NGWSP ROW's was initiated well before the new ROW regulations were proposed, the agencies could seek a determination from the Navajo Nation that waiver of the bond requirement for remaining or future trust land ROW applications would be in the Nation's best interest, and that it could seek consent from a majority of allottees for a waiver of the bond requirement for remaining or future allottee ROW applications; however, engaging in this process would result in a significant impact to the construction schedule for the NGWSP, which in turn could impact the agencies' ability to complete the project within its legislated deadline of 2024. (See Pub. L. 111 § 10701(e)(1)(A)(ix) (March 30, 2009) ("NAVAJO-GALLUP WATER SUPPLY PROJECT—Not later than December 31, 2024, the construction of all Project facilities shall be completed.")).

Reclamation and the BIA recognize the allottee consent process for these ROWs took nearly four years, and re-engaging with the allottees to obtain their recommendations for waiver of the bond requirement likely will not allow Reclamation to meet the President's directive that the NGWSP move forward apace. Furthermore, re-submitting trust land ROW applications to the Nation that have either gone through, or are in the process of going through, the Nation's consent approval process would result in direct impacts to impending construction contracts where these ROWs are required. Therefore, Reclamation and BIA respectfully submit this waiver request, seeking a waiver, under 25 CFR § 1.2, of the 25 CFR § 169.103 bond requirement for all NGWSP ROWs not issued prior to April 21, 2016, whether the ROW applicant is a federal agency, a state agency, an agency of the Nation, or an instrumentality thereof. Reclamation and BIA request that the Assistant Secretary expedite review of this request in order to aid the Department in moving the NGWSP forward in the face of the unforeseen slow-down created by the application of the new ROW regulations, which unexpectedly omitted the federal agency bond waiver provision from the 25 CFR Part 169 (2016) ROW regulations.

In the spirit of the President's initiative, and in order to meet the aggressive Congressionally mandated schedule for completing this high-priority project, we respectfully request that the Assistant Secretary waive the 25 CFR § 169.103 bond requirement for all NGWSP ROWs not issued prior to April 21, 2016, recognizing that doing so is in the best interest of the Navajo Nation, the Jicarilla Apache Nation, and their members, because it will permit NGWSP construction to proceed in accordance with a schedule that will allow the project to be completed as directed by the President of the United States and Congress and project benefits bargained for by the Tribes on behalf of their members pursuant to a negotiated water settlement to accrue to the benefit of the Tribal communities served as contemplated under the Navajo San Juan Water Rights Settlement. The Navajo Nation confirmed that the waiver was in the best interest of the Nation in the attached letter of support signed by President Begaye dated September 9, 2016.

For the reasons stated herein, we recommend approval of the Assistant Secretary to waive the regulatory requirement under 25 CFR § 169.103 for a bond for all NGWSP ROWs not issued prior to April 21, 2016, whether the ROW applicant is a federal agency, a state agency, an agency of the Nation, or an instrumentality thereof.

Concur with waiver request:


Director, Bureau of Indian Affairs

12/20/2016
Date

Do not concur with waiver request:

Director, Bureau of Indian Affairs

Date

Waiver Request is approved:


Principal Deputy Assistant Secretary – Indian Affairs

12/14/2016
Date

Waiver Request is denied:

Principal Deputy Assistant Secretary – Indian Affairs

Date

Attachment



IN REPLY REFER TO:

Real Estate Services

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

JUN 29 2007

Memorandum

To: Regional Director, Navajo Region

From: Director, Bureau of Indian Affairs

Subject: Request for Waiver of Regulation - 25 CFR Part 169.12

Please be advised that the Assistant Secretary - Indian Affairs pursuant to 25 CFR 1.2 granted *(see attached)* the request for the Navajo Nation and individual landowners to waive the regulatory requirements found at 25 CFR Part 169.12. *(see attached)*

The granting of the waiver will allow the landowners to waive the requirement for an appraisal when the Indian landowners have agreed to waive compensatory consideration of the fair market value and to forego the requisite appraisal. This approval will allow the utility and roadway providers to proceed with the application for rights-of-way for the purpose of installing utilities or roadways. This approved action has been determined to be in the best interests of the landowners.

You are instructed to notify the Tribe and landowners of this decision and provide them with a copy of the decision analysis.

Attachment

ATTACHMENT

To Memorandum to Assistant Secretary - Indian Affairs from Director, Bureau of Indian Affairs Requesting to Waive or Make an Exception to 25 CFR Section 169.12

Under the following circumstances, the appraisal requirement in 25 CFR § 169.12 is deemed waived when the landowner upon which the right-of-way will be located waives compensatory consideration and the right to be provided with information as to the fair market value of the right-of-way and:


- The utility/roadway provider is either a federal or tribal government agency or enterprise or an energy cooperative;
- The individual owner will directly benefit from the utility line/roadway;
- The utility line/roadway serves a school, hospital, housing development or other tribal facility that benefits the community;
- The landowner who waives consideration is the tribe or individual owner; or
- The health and safety of the individual owner will be enhanced by the installation of the utility line/roadway.

In all other circumstances, the Regional Director/Superintendent may approve for the Navajo Region the waiver of the appraisal when it is determined that it is in the best interest of the landowner for the utility line/roadway to be installed and the waivers by the landowner of consideration and the request to be provided certain information as to the fair market value of the right-of-way are not due to undue influence or fraud.

Based upon our analysis of the facts in this waiver request and conditions set forth, we concur with the Navajo Regional Director's recommendation. This waiver of 25 CFR § 169.12 is hereby approved as it is determined that this action is in the best interest of the landowners.

Recommendation Accepted and Request for Waiver is Granted.

Date: *June 29, 2007*


Carl J. Artman
Assistant Secretary-Indian Affairs

Title 25: Indians

CHAPTER I: BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER A: PROCEDURES AND PRACTICE

PART 1: APPLICABILITY OF RULES OF THE BUREAU OF INDIAN AFFAIRS

1.2 - Applicability of regulations and reserved authority of the Secretary of the Interior.

The regulations in chapter I of title 25 of the Code of Federal Regulations are of general application. Notwithstanding any limitations contained in the regulations of this chapter, the Secretary retains the power to waive or make exceptions to his regulations as found in chapter I of title 25 CFR in all cases where permitted by law and the Secretary finds that such waiver or exception is in the best interest of the Indians.

[25 FR 3124, Apr. 12, 1960]

TITLE 25 — INDIANS [25 CFR]

PART 169 — RIGHTS-OF-WAY OVER INDIAN LANDS [25 CFR 169]

§ 169.12 Consideration for right-of-way grants.

Except when waived in writing by the landowners or their representatives as defined in §169.3 and approved by the Secretary, the consideration for any right-of-way granted or renewed under this part 169 shall be not less than but not limited to the fair market value of the rights granted, plus severance damages, if any, to the remaining estate. The Secretary shall obtain and advise the landowners of the appraisal information to assist them (the landowner or landowners) in negotiations for a right-of-way or renewal.

[45 FR 45910, July 8, 1980. Re-designated at 47 FR 13327, Mar. 30, 1982]



United States Department of the Interior

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



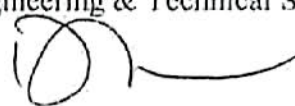
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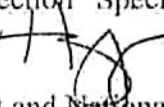
MC 620: Branch of Environmental Quality Act Compliance and Review

OCT 29 2015

MEMORANDUM

To: Supervisory Civil Engineer, Engineering & Technical Support Division

Through: Deputy Director, Trust Services 

From: Supervisory Environmental Protection Specialist, Branch of Environmental Quality Act Compliance & Review 

Subject: National Environmental Policy Act and National Historic Preservation Act Compliance Documents - Navajo Gallup Water Supply Project

This memo provides guidance to the Division, as the Regional lead for the Navajo-Gallup Water Supply Project, concerning the various compliance documents for the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA).

For NEPA, the following documents would be considered acceptable:

- Sufficiency Analysis (see attachment);
- "Finding of No New Significant Impact" per 43 CFR § 46.140 (c); or
- "Finding of No Significant Impact" per 40 CFR §1508.13.

As for compliance with the NHPA, the NGWSP does have an executed Programmatic Agreement (PA) concerning historic properties between federal, tribal, and state entities regarding effects on historic and cultural properties. The PA allows for the construction activities to proceed efficiently. In addition, there may be Reach-by-Reach compliance documents considered acceptable provided that the compliance document is signed by the Navajo Tribal Historic Preservation Officer:

- Cultural Resources Compliance Form (CRCF);
- A Bureau of Reclamation letter; or
- A letter from NNHPD.

Should you have questions regarding the NHPA, please contact Mr. Terry McClung, Regional Archaeologist at ext. 8349, or Ms. Harilene Yazzie, Supervisory Environmental Protection Specialist, at ext. 8287, regarding questions related to the NEPA.



IN REPLY REFER TO

United States Department of the Interior

BUREAU OF RECLAMATION

Western Colorado Area Office
Durango Field Division
185 Suttle Street, Suite 2
Durango, Colorado 81303-7911

LETTER OF AGREEMENT

Between

THE U.S. DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

And

BUREAU OF INDIAN AFFAIRS

The U.S. Department of the Interior, Bureau of Reclamation and Bureau of Indian Affairs (BIA) are entering into this Agreement to provide an established process for National Environmental Policy Act (NEPA) compliance in support of the Navajo Gallup Water Supply Project (NGWSP). The NGWSP is a municipal and industrial water pipeline with associated infrastructure being built to provide water to the Navajo Nation, Jicarilla Apache Nation and the City of Gallup, NM.


The NGWSP is described and analyzed in the NGWSP Project Planning Report and Final Environmental Impact Statement (PR/FEIS) dated July 2009, and the subsequent Record of Decision dated October 1, 2009.


Reclamation and BIA officials in the project area offices have determined that National Environmental Policy Act (NEPA) compliance for updated project planning will be determined for independent sections of the pipeline as more refined information of the pipeline route and associated environmental studies are available. This information will be organized into the NGWSP NEPA Sufficiency Review Process (NEPA SRP) Environmental Analysis Form as found in Attachment A to this document. Development of this Form was the result of a collaborative effort between BIA and Reclamation as described in Attachment B (Development of a NEPA Sufficiency Review Process for Long-Term Implementation of the NGWSP).

The outcome of the NEPA SRP, collaboratively completed and signed by both agencies, will determine whether the existing PR/FEIS sufficiently addresses environmental impacts for a particular section of pipeline; or, if it doesn't, that further NEPA action is warranted (e.g., a tiered Environmental Assessment). The results of the NEPA SRP will be signed by appropriate representatives of both agencies with responsibility for determining the need for, and type of, further NEPA action.

If a additional NEPA action is required, Reclamation and BIA will provide joint oversight of the process, with Reclamation designated as the Lead Agency, and BIA designated as a Cooperating Agency according to Department of Interior NEPA guidelines at 43 CFR Part 46.

This Letter of Agreement becomes effective upon signature by authorized officials of Reclamation and BIA.

 5-23-13
(Date)
Ed Warner
Manager
Western Colorado Area Office
Bureau of Reclamation

 6/10/13
(Date)
Sharon A. Pinto
Director
Navajo Regional Office
Bureau of Indian Affairs

PUBLIC LAW 111-11, as Amended by:

Public Law 114-57 "New Mexico Native American Water Settlements Technical Corrections Act"

Public Law 111-11. "Northwestern New Mexico Rural Water Projects Act"

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RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
24th Navajo Nation Council --- First Year, 2019

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING A
RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT TO US. BUREAU
OF RECLAMATION TO CONSTRUCT, OPERATE AND MAINTAIN REACHES 4C - 8
NAVAJO GALLUP WATER SUPPLY PROJECT LOCATED ON TRIBAL TRUST LANDS
IN SANOSTEE, TWO GREY HILLS, NEWCOMB, SHEEP SPRINGS AND
NASCHITTI CHAPTERS, SAN JUAN COUNTY, NEW MEXICO

BE IT ENACTED:

SECTION ONE. AUTHORITY

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

SECTION TWO. FINDINGS

- A. The United States Bureau of Reclamation, 1235 La Plata Highway, Farmington, New Mexico 87401, has submitted a right-of-way application and a temporary construction easement application to construct, operate and maintain Reaches 4C-8 Navajo-Gallup Water Supply Project located on, over and across Navajo Nation Trust Lands in Sanostee, Two Grey Hills, Newcomb, Sheep Springs and Naschitti Chapters, San Juan County, New Mexico. The applications are attached and incorporated as **Exhibit D-1 and Exhibit D-2**.
- B. "The Omnibus Public Land Management Act of 2009, Title X, Part III (Public Law 111-11)(Act) authorizes the Bureau of Reclamation to construct the Navajo-Gallup Water Supply Project(NGWSP) that includes water treatment plants, pipeline, several pumping stations and ancillary facilities. Once completed, the NGWSP will deliver a reliable source of potable water, sourced from the San Juan River, to Navajo communities in northwestern New Mexico, the City of Gallup, NM, and the southwest portion of the Jicarilla Apache

Reservation for municipal and industrial use. The NGWSP will connect to existing and future water distribution systems operated on the reservation by the Navajo Tribal Utility Authority (NTUA), and in Gallup, by the City of Gallup. The high quality, treated water provided by the NGWSP will bring immediate benefits, including improved health and well-being to tribal members." Applications, **Exhibit D-1 and D-2**.

- C. The proposed permanent right-of-way and temporary construction easement consists of Navajo Nation Trust Lands located in San Juan county, New Mexico and the location more particularly described on the survey maps attached and incorporated as **Exhibit B**.
- D. It has been determined that there are nineteen (19) valid permit holders; the Consent Forms and the Navajo Nation Department of Justice memorandum dated April 5, 2019 are attached as **Exhibit C**.
- E. The Bureau of Reclamation requests a waiver of valuation and waiver of compensation for the right-of-way and temporary construction easement. See, 25 CFR § 169.110 (a)(1)(2). The Bureau of Reclamation requests all customary fees be waived as allowed by the Omnibus Public Land Management Act of 2009, Title X, Part III (Public Law 111-11).
- F. The Bureau of Reclamation requests a waiver of bond, insurance, or alternative form of security. See, 25 CFR § 169.103 (f)(2).
- G. The Phase I Environmental Site Assessment for Reaches 4C to 8 of the Navajo-Gallup Water Supply Project in San Juan County, New Mexico is attached as **Exhibit E**.
- H. The applications for the Rights-of-Way and Temporary Construction Easement as submitted by the United States Bureau of Reclamation have been reviewed by the Navajo Nation Environmental Protection Agency, Department of Water Resources, Fish and Wildlife, Historic Preservation Department, Minerals Department, Division of Natural Resources and the Department of Justice and "Approved" or found "Sufficient". See, **Exhibit F**.

SECTION THREE. APPROVAL

- A. The Resources and Development Committee of the Navajo Nation Council hereby grants approval of a Right-of-Way and

Temporary Construction Easement to U.S. Bureau of Reclamation to construct, operated and maintain Reached 4C-8 Navajo-Gallup Water Supply Project located on, over and across Navajo Nation Trust Lands in Sanostee, Two Grey Hills, Newcomb, Sheep Springs and Naschitti Chapters, San Juan County, New Mexico. The location is more particularly described on the map attached hereto as **Exhibit B**.

- 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-1**.
- 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 A-2**.
- D. The Resources and Development Committee of the Navajo Nation Council hereby waives valuation and waives compensation for the Right-of-Way and Temporary Construction Easement because it has determined that accepting the agreed-upon compensation and waiving valuation is in its best interest of the Navajo Nation, pursuant to Title 25 CFR § 169-110.
- E. The Resources and Development Committee of the Navajo Nation Council hereby waives the requirement for a bond, insurance or alternative form of security on the part of the Grantee, based on the determination that the Reaches 4C-8 Navajo Gallup Water Supply Project benefits the Navajo Nation and such a waiver is in the best interest of the Navajo Nation, pursuant to Title 25 CFR § 169-103 (f) (2).
- F. The Resources and Development Committee of the Navajo Nation Council hereby grants the Right-of-Way and Temporary Construction Easement as long as the Grantee Bureau of Reclamation or its successors or assigns use the right-of-way and temporary construction easement for the construction, operation and maintenance of the Navajo-Gallup Water Supply Project.
- G. 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 24th Navajo Nation Council at a duly called meeting at the Twin Arrows Navajo Casino, Leupp, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 4 in favor, and 0 opposed, on this 24th day of April 2019.



Thomas Walker, Jr., Vice-Chairperson
Resources and Development Committee
of the 24th Navajo Nation Council

Motion: Honorable Mark Freeland

Second: Honorable Wilson C. Stewart, Jr.

Vice-Chairperson Thomas Walker, Jr. not voting.

Document No. 010650Date Issued: 07/10/2018**EXECUTIVE OFFICIAL REVIEW**Title of Document: BOR, ROW & TCE Reach 4C thru 8 NGWSP Contact Name: YAZZIE, ELERINA BProgram/Division: DIVISION OF NATURAL RESOURCESEmail: _____ Phone Number: 928-871-6447

<input type="checkbox"/>			Sufficient	Insufficient
<input type="checkbox"/>	Business Site Lease			
	1. Division: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Controller: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	(only if Procurement Clearance is not issued within 30 days of the initiation of the E.O. review)			
	3. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Business and Industrial Development Financing, Veteran Loans, (i.e. Loan, Loan Guarantee and Investment) or Delegation of Approving and/or Management Authority of Leasing transactions			
	1. Division: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Fund Management Plan, Expenditure Plans, Carry Over Requests, Budget Modifications			
	1. Office of Management and Budget: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Controller: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Navajo Housing Authority Request for Release of Funds			
	1. NNEPA: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Lease Purchase Agreements			
	1. Office of the Controller: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	(recommendation only)			
	2. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Grant Applications			
	1. Office of Management and Budget: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Controller: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Five Management Plan of the Local Governance Act, Delegation of an Approving Authority from a Standing Committee, Local Ordinances (Local Government Units), or Plans of Operation/Division Policies Requiring Committee Approval			
	1. Division: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Relinquishment of Navajo Membership			
	1. Land Department: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Elections: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. Office of the Attorney General: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☐ Land Withdrawal or Relinquishment for Commercial Purposes

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

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

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

☐ Rights of Way

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

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

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

☐ Assignment of Mineral Lease

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

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


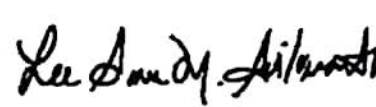


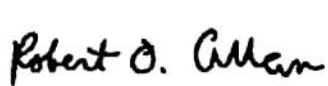
1. NLD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. F&W	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. HPD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5. NNEPA	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
6. DNR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
7. DOJ (sic)	_____	Date: 11/20/18	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8. OPVP DOJ	_____	Date: 2-1-19	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. OPVP	_____	Date: 2-5-19	<input checked="" type="checkbox"/>	<input type="checkbox"/>




[Handwritten signatures and initials over the table]

☐ OTHER:


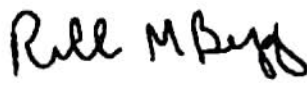
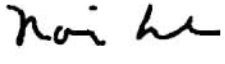
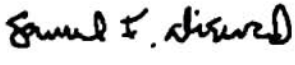

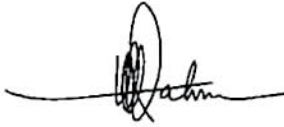
1. _____	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. _____	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. _____	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. _____	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
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 (Navajo Land Title Data System - Windowrock AZ)	Air and Toxics - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. Sufficient documentation.	1. No Reply	25-Oct-2018	
Lee Anna Martinez EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. Conditional Approval granted and contingent on compliance with 401 Cert and 404 permit. Contact Patrick Antonio at (928)871-7185.	1. No Reply	17-Aug-2018	
Najamh Tariq (Navajo Land Title Data System - Windowrock AZ)	Approver	Department of Water Resources	Approved	no comments	No Reply	15-Aug-2018	
Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. F&W Approver: BRCF #EOR010650 with memo is at ftp://www.nndfw.org/kyselka . Please provide signature approval and upload to the NLIDS.	1. No Reply	04-Sep-2018	
Patrick Antonio EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Supervisor	Navajo Nation Environmental Protection Agency	Approved	1. Surface disturbances greater than 1.0 acre require coverage under the federal Construction General Permit for storm water discharges from construction sites. The overall project EA (page V-41) states "A CWA NPDES storm water permit would also be obtained."	1. No Reply	15-Aug-2018	
Robert Allan DNR (Navajo Land Title Data System - Windowrock AZ)	Deputy Director DNR	DNR Administration	Approved	no comments	No Reply	24-Sep-2018	

Tamara Billie NNHP (Navajo Land Title Data System - Windowrock AZ)	HPD Reviewer	Historic Preservation Department	Approved	no comments	No Reply	27-Aug- 2018	
Warren Roan - EPA (Navajo Land Title Data System - Windowrock AZ)	Storage Tanks Program - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. No concerns regarding storage tanks and/or leaking storage tanks.	1. No Reply	20-Aug- 2018	
Yolanda Barney (Navajo Land Title Data System - Windowrock AZ)	Public EPA Water System Supervision Program	Navajo Nation Environmental Protection Agency	Approved	1. Please see attached memorandum approving the project.	1. No Reply	23-Aug- 2018	

Tier 2 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Bidtah N. Becker (FBFA)	FBFA Users	FBFA Action Team	Approved	no comments	No Reply	29-Oct-2018	
Richard Begay NNHP (Navajo Land Historic Title Data System - Windowrock AZ)	Navajo Nation Preservation Officer	Historic Preservation Department	Approved	no comments	No Reply	28-Oct-2018	
Ronnie Ben EPA (Navajo Land Control - Title Data System - Windowrock AZ)	Underground Injection Control - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. Conditional Approval contingent on compliance with All USEPA and NNEPA environmental laws.	1. No Reply	25-Oct-2018	
Sam Diswood (Navajo Land Review Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	no comments	No Reply	26-Oct-2018	
Steven Prince MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	1. Please permanently attach the uploaded Terms and Conditions document to the approval package. The ROW consideration is for 20 years and the TCE consideration is for 4 years. slp	1. No Reply	29-Oct-2018	
W. Mike Halona (NLTDS - Everytt)	DCD Division Director	Navajo Nation	Approved	no comments	No Reply	26-Oct-2018	



THE NAVAJO NATION
ENVIRONMENTAL PROTECTION AGENCY

Public Water Systems Supervision Program
Post Office Box 339, Window Rock, AZ 86515
Telephone (928) 871-7755
Fax (928) 871-7818
www.navajopublicwater.org



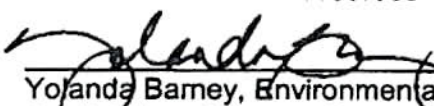
Russell Begaye
President

Jonathan Nez
Vice President

August 23, 2018

MEMORANDUM

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

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

SUBJECT: DOCUMENT No. 10650

The Navajo Nation Environmental Protection Agency's Public Water Systems Supervision Program ("PWSSP") reviewed Document No. 10650: Application for Consent to a Grant of Right-of-Way (ROW) and Temporary Construction Easement (TCE)-Tribal Trust Land-Reaches 4C through 8 - San Juan Lateral - Navajo Gallup Water Supply Project, San Juan County, New Mexico. This project will provide water to the communities of Sanostee, Two Grey Hills, Newcomb, Sheep Springs, and Naschitti chapters. PWSSP recommends approval of this project.

All proposed drinking water projects will need to be permitted by the PWSSP-NNEPA. All proposed drinking water projects (extensions, upgrades, new wells, new public water systems, etc.) must also comply with the design review and construction permit requirements of the PWSSP pursuant to §§ 1501 and 1601 of the Navajo Nation Primary Drinking Water Regulations.

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 Program.

If there are any questions, please contact me at 871-7755.

xc: Ronnie Ben, Environmental Department Manager, Surface/Ground Water Protection Dept., NNEPA
PWSID#NN3503059
PWSID#NN3503016
PWSID#NN3503031
PWSID#NN3500268
DWWP#NN35120031
DWWP#NN35120032
DWWP#NN35120033
DWWP#NN35140010

TAAMS No. 791 4200187192
Tribal Tract No. T8079/T8100/T8105
T8126/T8131/T8130/T8153
Project No. Reach 4C-8

UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
NAVAJO REGION, P. O. BOX 1060, GALLUP, NM 87305

GRANT OF EASEMENT FOR RIGHT-OF-WAY

The United States of America, acting by and through the Bureau of Indian Affairs, Department of the Interior Navajo Region, P. O. Box 1060, Gallup, New Mexico 87305 for, and on behalf, with the consent of Navajo Nation (the GRANTOR), under authority contained and under the Act of February 5, 1948 (62 Stat. 17; 25 USC 323-328); and Title 25, *Code of Federal Regulations*, Part 169 which by reference are made a part hereof, does hereby grant to Bureau of Reclamation, of 1235 La Plata Highway, Farmington, New Mexico 87401 (the GRANTEE).

1. **GRANT.** In consideration of: consideration for the use of land is assessed at \$88,424.850.34 which shall be the Navajo Nation's contribution to the project because the Project will provide a public benefit to the Navajo Nation.

GRANTOR does hereby grant to GRANTEE, a right-of-way for: construction, operation and maintenance of the Navajo Gallup Water Supply Project, (Reach 4C-8) over and across the Navajo Tribal Trust Land within various Sections within Township 21-26 North, Ranges 17 and 18 West, NMPM, San Juan County, New Mexico, being 156,327.11 feet in length, and 29.61 miles more or less.

This right-of-way is limited to and more particularly described to be 287.88 acres in area, as shown on Exhibit D-1, attached hereto, and made a part hereof.

2. **TERM.** This right-of-way is for a term without limitation so long as the right-of-way is used for the purpose above specified; PROVIDED, that GRANTEE develop, use and occupy the right-of-way for the purpose(s) of constructing, operating and maintaining the Navajo Gallup Water Supply Project. The Grantee may not develop, use or occupy the right-of-way for any other purpose without the prior written approval of the Navajo Nation and 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. The right-of-way may be cancelled by the Landowner and Grantee under any negotiated remedies identified in Section 13 (25 CFR §169.403) and/or in whole or in part by the GRANTOR (25 CFR §169.403) and/or in whole or in part by the GRANTOR (25 CFR §169.404) or for any of the following causes upon 30 days written notice, and failure of the GRANTEE within said notice period correct the basis for cancellation (25 CFR §169.405):

- A. Failure to comply with any term or condition of the Grant, or the applicable regulations.
- B. A non-use of the right-of-way for any consecutive two-year period (for the purpose for which it was granted).

3. MITIGATION MEASURES. (25 CFR §169.123) The GRANTEE agrees to comply with any mitigation measures or conditions described to protect environmental, biological and cultural resources within the right-of-way area as defined in the environmental compliance documentation.

4. RESERVATION OF JURISDICTION. (25 CFR §169.10, §169.125) The tribe maintains its existing jurisdiction over the land, activities, and persons within the right-of-way and this grant does not diminish to any extent: (a) the tribe's power to tax the land, any improvements on the land, or any person or activity within, the right-of-way; (b) the tribe's authority to enforce tribal law of general or particular application on the land subject to and within the right-of-way, as if there were no grant of right-of-way; (c) the tribe's inherent sovereign power to exercise civil jurisdiction over non-members on Indian land; or (d) the character of the land subject to the right-of-way as Indian country under 18 U.S.C. 1151.

5. LAWS. (25 CFR §169.9) GRANTEE shall comply with all applicable federal and tribal law.

6. REGULATORY PROVISIONS. (25 CFR §169.125):

- A. The tribe has the right to reasonable access to the lands subject to the grant to determine GRANTEE's compliance with consent conditions or to protect public health and safety;
- B. 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;
- C. BIA may treat any provision of a grant that violates Federal law as a violation of the grant;
- D. If historic properties, archeological resources, human remains, or other cultural items not previously reported are encountered during the course of any activity associated with this grant, all activity in the immediate vicinity of the properties, resources, remains, or items will cease and the GRANTEE will contact BIA and the tribe with jurisdiction over the land to determine how to proceed and appropriate disposition.
- E. GRANTEE must:
 - i. Construct and maintain improvements within the right-of-way in a professional manner consistent with industry standards;
 - ii. Pay promptly all damages and compensation, in addition to bond or alternative form of security 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, or reclaim the land if agreed to by the landowners;
 - 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;
 - vii. Operate, repair and maintain improvements consistent with the right-of-way grant;
 - 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 the land to its original condition, as much as reasonably possible, upon cancellation or termination of the right-of-way, or reclaim the land if agreed to by the landowners;
 - 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;
 - xii. Comply with the following due diligence requirements in 25 CFR §169.105;
 - xiii. Notify the BIA, if it files for bankruptcy or is placed in receivership.
- F. Unless GRANTEE would be prohibited by law from doing so, 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 grant, 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.

7. ENCROACHMENT (25 CFR §169.128). The Grantee may not unreasonably withhold its consent for a new right-of-way within its existing right-of-way that does not interfere with the use or purpose of its right-of-way.

8. PERMANENT IMPROVEMENTS. (25 CFR § 169.130) Bureau of Reclamation shall be the owner of any permanent improvements constructed during the term of the grant and said permanent improvements, appurtenances, fixtures and equipment placed within the right-of-way shall be removed or an option for landowner to take possession of and title to the permanent improvements or as otherwise negotiated.

9. AMENDMENT. This grant may not be amended except as provided in 25 CFR §169.204 - §169.206.

10. ASSIGNMENT (25 CFR §169.207). This grant may be assigned with written consent of the Landowners and BIA approval.

11. MORTGAGE. (25 CFR § 169.210) This grant may be mortgaged with prior written consent of the landowners and the Secretary of the Interior.

12. EFFECTIVE DATE (25 CFR §169.301). Grant will be effective on the date it is approved by the Secretary.

13. REMEDIES (25 CFR §169.403). Any disputes regarding violations, abandonment, or non-use may be addressed as set forth and in accordance with 25 CFR §169.403

14. BINDING EFFECT. The condition for this grant shall extend to and be binding upon and shall inure to the benefit of the successors of the GRANTEE.

15. BOND, INSURANCE, OR OTHER SECURITY. The Navajo Nation waived requirement for bond, insurance and other forms of security. In addition, 25 CFR 169.103 bond requirements for rights-of-way applications for the Navajo-Gallup Water Supply Project was waived by Principal Deputy Assistant Secretary – Indian Affairs on December 14, 2016.

16. ADDITIONAL CONDITIONS OR RESTRICTIONS. This grant incorporates by reference the conditions or restrictions set out in GRANTOR's consents, attached here.

IN WITNESS WHEREOF, GRANTOR, pursuant to the delegated authority found in 209 DM 8, 230 DM 1, and 3 IAM 4 and supplements thereto is granting and executing this grant of easement on this 2nd day of Oct, 2019.

UNITED STATES OF AMERICA

BY [Signature]
U.S. Department of the Interior
Bureau of Indian Affairs
Regional Director

ACKNOWLEDGEMENT

STATE OF : New Mexico

COUNTY OF : ss. McKinley

Subscribed and sworn to before me this 2nd day of October, 2019.

[Signature]
Signature of Notary Public

My commission expires March 16, 2021.



OFFICIAL SEAL
KATHY R. TOUCHINE
NOTARY PUBLIC - State of New Mexico

My Commission Expires 03/16/2021

TAAMS No. 791 4200191683
Tribal Tract No. T8079/T8100/T8105
T8126/T8131/T8130/T8153
Project No. Reach 4C-8

UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
NAVAJO REGION, P. O. BOX 1060, GALLUP, NM 87305

TEMPARARY CONSTRUCTION EASEMENT

The United States of America, acting by and through the Bureau of Indian Affairs, Department of the Interior Navajo Region, P. O. Box 1060, Gallup, New Mexico 87305 for, and on behalf, with the consent of Navajo Nation (the GRANTOR), under authority contained and under the Act of February 5, 1948 (62 Stat. 17; 25 USC 323-328); and Title 25, *Code of Federal Regulations*, Part 169 which by reference are made a part hereof, does hereby grant to Bureau of Reclamation, of 1235 La Plata Highway, Farmington, New Mexico 87401 (the GRANTEE).

1. **GRANT.** In consideration of: consideration for the use of land is assessed at \$145,816.04 which shall be the Navajo Nation's contribution to the project because the Project will provide a public benefit to the Navajo Nation.

GRANTOR does hereby grant to GRANTEE, a right-of-way for: Temporary Construction Easement (TCE) for the Navajo Gallup Water Supply Project, over and across the Navajo Tribal Trust Land within various Sections within Township 21-26 North, Ranges 17 and 18 West, NMPM, San Juan County, New Mexico, four (4) TCE parcels being a total of 156,327.11 feet in length, and 29.61 miles more or less. The temporary construction easement supplements the Grant of Easement for Right-of-Way and provides additional working space to be used for during construction of the water transmission pipeline with ancillary features and appurtenances.

This right-of-way is limited to and more particularly described to be 195.40 acres in area, as shown on Exhibit D-1, attached hereto, and made a part hereof.

2. **TERM.** The term of the temporary construction easement shall begin on the date it is granted by the Navajo Nation and shall continue as long as the Grantee Bureau of Reclamation (BOR) or its successors, or assigns uses the temporary construction easement for the construction, operation and maintenance of the Navajo Gallup Water Supply Project. The Grantee may not develop, use or occupy the right-of-way for any other purpose without the prior written approval of the Navajo Nation and 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. The right-of-way may be cancelled by the Landowner and Grantee under any negotiated remedies identified in Section 13 (25 CFR §169.403) and/or in whole or in part

by the GRANTOR (25 CFR §169.403) and/or in whole or in part by the GRANTOR (25 CFR §169.404) or for any of the following causes upon 30 days written notice, and failure of the GRANTEE within said notice period correct the basis for cancellation (25 CFR §169.405):

- A. Failure to comply with any term or condition of the Grant, or the applicable regulations.
- B. A non-use of the right-of-way for any consecutive two-year period (for the purpose for which it was granted).

3. MITIGATION MEASURES. (25 CFR §169.123) The GRANTEE agrees to comply with any mitigation measures or conditions described to protect environmental, biological and cultural resources within the right-of-way area as defined in the environmental compliance documentation.

4. RESERVATION OF JURISDICTION. (25 CFR §169.10, §169.125) The tribe maintains its existing jurisdiction over the land, activities, and persons within the right-of-way and this grant does not diminish to any extent: (a) the tribe's power to tax the land, any improvements on the land, or any person or activity within, the right-of-way; (b) the tribe's authority to enforce tribal law of general or particular application on the land subject to and within the right-of-way, as if there were no grant of right-of-way; (c) the tribe's inherent sovereign power to exercise civil jurisdiction over non-members on Indian land; or (d) the character of the land subject to the right-of-way as Indian country under 18 U.S.C. 1151.

5. LAWS. (25 CFR §169.9) GRANTEE shall comply with all applicable federal and tribal law.

6. REGULATORY PROVISIONS. (25 CFR §169.125):

- A. The tribe has the right to reasonable access to the lands subject to the grant to determine GRANTEE's compliance with consent conditions or to protect public health and safety;
- B. 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;
- C. BIA may treat any provision of a grant that violates Federal law as a violation of the grant;
- D. If historic properties, archeological resources, human remains, or other cultural items not previously reported are encountered during the course of any activity associated with this grant, all activity in the immediate vicinity of the properties, resources, remains, or items will cease and the GRANTEE will contact BIA and the tribe with jurisdiction over the land to determine how to proceed and appropriate disposition.
- E. GRANTEE must:
 - i. Construct and maintain improvements within the right-of-way in a professional manner consistent with industry standards;
 - ii. Pay promptly all damages and compensation 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, or reclaim the land if agreed to by the landowners;
- 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;
 - vii. Operate, repair and maintain improvements consistent with the right-of-way grant;
 - 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 the land to its original condition, as much as reasonably possible, upon cancellation or termination of the right-of-way, or reclaim the land if agreed to by the landowners;
 - 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;
 - xii. Comply with the following due diligence requirements in 25 CFR §169.105;
 - xiii. Notify the BIA, if it files for bankruptcy or is placed in receivership.
- F. Unless GRANTEE would be prohibited by law from doing so, 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 grant, 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.

7. ENCROACHMENT (25 CFR §169.128). The Grantee may not unreasonably withhold its consent for a new right-of-way within its existing right-of-way that does not interfere with the use or purpose of its right-of-way.

8. PERMANENT IMPROVEMENTS. (25 CFR § 169.130) No improvements are to be constructed within the boundaries of the temporary construction easement.

9. AMENDMENT. This grant may not be amended except as provided in 25 CFR §169.204 - §169.206.

10. ASSIGNMENT (25 CFR §169.207). This grant may be assigned with written consent of the Landowners and BIA approval.

11. MORTGAGE. (25 CFR § 169.210) This grant may not be mortgaged.

12. EFFECTIVE DATE (25 CFR §169.301). Grant will be effective on the date it is approved by the Secretary.

13. REMEDIES (25 CFR §169.403). Any disputes regarding violations, abandonment, or non-use may be addressed as set forth and in accordance with 25 CFR §169.403

14. BINDING EFFECT. The condition for this grant shall extend to and be binding upon and shall inure to the benefit of the successors of the GRANTEE.

15. BOND, INSURANCE, OR OTHER SECURITY. The Navajo Nation waived requirement for bond, insurance and other forms of security. In addition, 25 CFR 169.103 bond requirements for rights-of-way applications for the Navajo-Gallup Water Supply Project was waived by Principal Deputy Assistant Secretary – Indian Affairs on December 14, 2016.

16. ADDITIONAL CONDITIONS OR RESTRICTIONS. This grant incorporates by reference the conditions or restrictions set out in GRANTOR's consents, attached here.

IN WITNESS WHEREOF, GRANTOR, pursuant to the delegated authority found in 209 DM 8, 230 DM 1, and 3 IAM 4 and supplements thereto is granting and executing this grant of easement on this 1st day of October, 2019

UNITED STATES OF AMERICA

BY [Signature]
U.S. Department of the Interior
Bureau of Indian Affairs
Regional Director

ACKNOWLEDGEMENT

STATE OF : New Mexico
: ss.

COUNTY OF : McKinley

Subscribed and sworn to before me this 2nd day of October, 2019.

[Signature]

Signature of Notary Public

My commission expires March 16, 2021.



OFFICIAL SEAL
KATHY R. TOUCHINE
NOTARY PUBLIC - State of New Mexico
My Commission Expires 03/16/2021

Document No. 014167Date Issued: 02/06/2020**EXECUTIVE OFFICIAL REVIEW**Title of Document: BOR ROW Reach 7 Pumping Plant No. 4Contact Name: YAZZIE, ELERINA BProgram/Division: DIVISION OF NATURAL RESOURCESEmail: e_yazzie@navajo-nsn.govPhone Number: 9288716447☐ **Business Site Lease**

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

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

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

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

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

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

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

☐ **Lease Purchase Agreements**

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

☐ **Grant Applications**

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

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

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

☐ **Relinquishment of Navajo Membership**

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

☐ Land Withdrawal or Relinquishment for Commercial Purposes

1. Division:

2. Office of the Attorney General:

Date:

Date:

Sufficient Insufficient

☐☐☐☐

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

1. NLD

2. F&W

3. HPD

4. Minerals

5. NNEPA

6. DNR

7. DOJ

Date:

Date:

Date:

Date:

Date:

Date:

Date:

Date:

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐ Rights of Way

1. NLD

2. F&W

3. HPD

4. Minerals

5. NNEPA

6. Office of the Attorney General:

7. OPVP

Date:

Date:

Date:

Date:

Date:

Date:

Date:

Date:

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

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

1. Minerals

2. OPVP

3. NLD

Date:

Date:

Date:

☐☐☐☐☐☐

☐ Assignment of Mineral Lease

1. Minerals

2. DNR

3. DOJ

Date:

Date:

Date:

☐☐☐☐☐☐

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

1. NLD

2. F&W

3. HPD

4. Minerals

5. NNEPA

6. DNR*

7. DOJ

8. OPVP

9. OPVP

Date:

Date:

Date:

Date:

Date:

Date:

Date:

Date:

Date:

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☐ OTHER:

1.

2.

3.

4.

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Date:

Date:

Date:

Date:

Date:

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RESOURCES AND DEVELOPMENT COMMITTEE
24th Navajo Nation Council

SECOND YEAR 2020

ROLL CALL
VOTE TALLY SHEET:

Legislation # 0212-20: An Action Relating to Resources and Development; Approving a Right-of-Way and Temporary Construction Easement to U.S. Bureau of Reclamation to Construct, Operate and Maintain Reach 7 – Pumping Plant 4, Sheep Springs Turnout and Temporary Staging Area for Navajo Gallup Supply Project Located on Tribal Trust Lands in Sheep Springs Chapter (San Juan County, New Mexico) *Presenter: Honorable Rickie Nez and Co-Sponsor: Wilson C. Stewart, Jr.*

Date: September 2, 2020 – Regular Meeting (Teleconference)
Meeting Location: (RDC members called in via teleconference from their location within the boundary of the Navajo Nation.)

Main Motion:

Motion: Wilson C. Stewart, Jr. S: Mark A. Freeland Vote: 5-0-1 (VCNV)

In Favor: Mark A. Freeland, Wilson C. Stewart, Jr., Kee Allen Begay, Jr., Herman M. Daniels and Rickie Nez

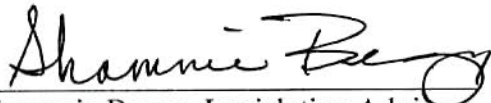
Oppose: NONE

Excuse: NONE

Not Voting: Presiding Vice-Chairperson Thomas Walker, Jr.,



Honorable Thomas Walker, Jr., Presiding Vice-Chairperson
Resources and Development Committee



Shammie Begay, Legislative Advisor
Office of Legislative Services