

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

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANTING OF  
A RIGHT-OF-WAY TO CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.,  
TO CONSTRUCT, OPERATE AND MAINTAIN A SINGLE PHASE 14.4/24.9 KV  
"MARIE ANTONIO" POWER DISTRIBUTION LINE ON, OVER AND ACROSS  
NAVAJO NATION FEE LANDS (BECENTI VICINITY, MCKINLEY COUNTY, NEW  
MEXICO)

E IT ENACTED:

SECTION ONE. FINDINGS

A. Pursuant to 2 N.N.C. § 500(A), the Resources and Development Committee is established as a standing committee of the Navajo Nation Council; and

B. Pursuant to 2 N.N.C. § 501(B)(2)(a), the Resources and Development Committee of the Navajo Nation Council has authority to give final approval of rights-of-way on Navajo Nation lands and unrestricted (fee) land; and

C. The Continental Divide Electric Cooperative, Inc. (hereinafter CDEC), P.O. Box 1087, Grants, New Mexico, 87020, has submitted a right-of-way application, attached as Exhibit A, to construct, operate and maintain the single phase 14.4/24.9 kV "Marie Antonio" power distribution line on, over and across Navajo Nation Fee lands (Becenti vicinity, McKinley County, New Mexico); and

D. The proposed right-of-way is situated across Navajo Nation Fee Land and is 2,745.53 feet long, 20 feet wide, and consists of 1.26 acres, more or less, located in the South West  $\frac{1}{4}$  of Section 2, Township 18 North, Range 13 West, NMPM, in McKinley County, New Mexico. The location is more particularly described on the map and description attached hereto and incorporated herein as Exhibit B; and

E. The Navajo Land Department staff of the Division of Natural Resources has obtained the necessary consents of the affected land users (grazing permittees) which are attached hereto as Exhibit C; and

F. The environmental studies and archeological studies and clearances have been completed and are attached hereto as Exhibit D; and incorporated herein by this reference; and

G. Navajo Nation technical reviewing departments recommend that CDEC be assessed \$32,292.00 right-of-way contribution for the portion of the right-of-way on Navajo Fee lands.

**SECTION TWO. APPROVING THE GRANTING OF A RIGHT-OF-WAY TO CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC., TO CONSTRUCT, OPERATE AND MAINTAIN THE SINGLE PHASE 14.4/24.9 KV "MARIE ANTONIO" POWER DISTRIBUTION LINE ON, OVER AND ACROSS NAVAJO NATION FEE LANDS (BECENTI VICINITY, MCKINLEY COUNTY, NEW MEXICO)**

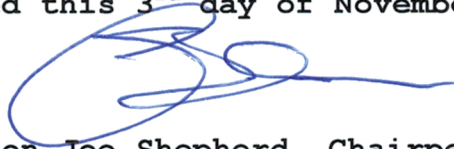
A. The Navajo Nation Council's Resources and Development Committee hereby approves the granting of a right-of-way to Continental Divide Electric Cooperative, Inc., to construct, operate and maintain the single phase 14.4/24.9 kV "Marie Antonio" power distribution line on, over and across Navajo Nation Fee Lands 2,745.53 feet long, 20 feet wide, and consists of 1.26 acres, more or less, located in the South West  $\frac{1}{4}$  of Section 2, Township 18 North, Range 13 West, NMPM, (Becenti vicinity, McKinley County, New Mexico). The location is more particularly described on the survey map attached hereto as Exhibit B and subject to but not limited to the terms and conditions contained in Exhibit E..

B. The Navajo Nation approves a \$32,292.00 right-of-way assessment to CDEC and waives this assessment.

C. The Navajo Nation Council's Resources and Development Committee hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to effectuate the intent and purpose of this resolution.

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the 23<sup>rd</sup> Navajo Nation Council at a duly called meeting at Navajo Nation Council Chambers, Window Rock, (Navajo Nation) Arizona, at which quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, 0 abstained this 3<sup>rd</sup> day of November, 2015.

A handwritten signature in blue ink, appearing to read 'Alton Joe Shepherd', is written over the printed name.

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

Motion: Honorable Leonard Tsosie  
Second: Honorable Davis Filfred

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS

RIGHT-OF-WAY APPLICATION

COMES NOW THE APPLICANT Continental Divide Electric Cooperative, Inc. of this 02 day of May, 2014, who hereby petition(s) the Bureau of Indian Affairs and respectfully files under the terms and provisions of the Act of February 5, 1948 (62 Stat. 17;25 USC 323-328), and Departmental Regulations 25 CFR 169, an application of a 50 (term of years) right-of-way for the following purposes and reasons:

Provide Electrical Service to the home of Marie Bennett Antonio

Across the following described Navajo Fee Lands (easement description):

SW/4, Section 02, T18N, R13W, NMPM McKinley County New Mexico Crownpoint Chapter

Said right-of-way across Navajo Fee Lands to be approximately 2,745.53 in length, 20 in width, and 1.26 in acres, as shown on attached map of definite location, attached hereto, and made a part hereof.

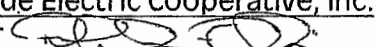
SAID APPLICANT UNDERSTANDS AND EXPRESSLY AGREES TO THE FOLLOWING STIPULATIONS:

1. To construct and maintain the right-of-way in a workmanlike manner.
2. To pay all damages and compensation, in addition to the deposit made pursuant to 169.4, determined by the Secretary to be due the landowners and authorized users and occupants of the land due to the survey, granting, construction and maintenance of the right-of-way.
3. To indemnify the landowners and authorized users and occupants against any liability for loss of life, personal injury and property damage arising from the construction, maintenance, occupancy or use of the lands by the applicant, his employees, contractors and their employees, or subcontractors and their employees.
4. To restore the lands as nearly as may be possible to their original condition upon the completion of construction, to the extent compatible with the purpose for which the right-of-way was granted.
5. To clear and keep clear the lands 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 construction and maintenance of the project.
6. To take soil and resources conservation protection measures, including weed control, on the land covered by the right-of-way.

7. To do everything reasonable within its power to prevent and suppress fires on or near the lands to be occupied under the right-of-way.
8. To build and repair such roads, fences and trails as may be destroyed or injured by construction work and to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the right-of-way.
9. That upon revocation or termination of the right-of-way, the applicant shall, so far as in reasonably possible, restore the land to its original condition. The determination of "reasonably possible" is subject to Secretary's approval.
10. To at all times keep the Secretary informed of its address, and in case of corporations, of the address of its principal place of business and the names and addresses of its principal officers.
11. That the applicant will not interfere with the use of the lands by or under the authority of the landowners for any purpose not inconsistent with the primary purpose for which the right-of-way is granted.
12. During the term of this Grant of Easement, if any previously unidentified cultural resources are discovered within the easement area, work should be halted immediately and the BIA and/or Tribal Contractor should be contacted immediately.

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 to the same effect as if the same were herein set out in full.

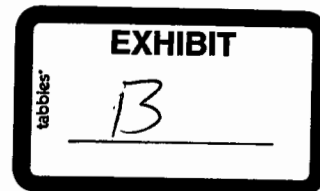
DATE May 2, 2014 APPLICANT Continental Divide Electric Cooperative, Inc.  
Debbie Olivar 

REQUIRED SUPPORTING DOCUMENTS:

1. ( ) Written consent of landowner (ROW Form 94-7).
2. ( ) Map (plats) of definite location (2 original mylars & 2 copies, See 25 CFR 169.6, 169.7, 169.8, 169.9, 169.10 and 169.11).
3. ( ) Deposit of estimated damages or compensation (See 169.4 and 169.14).
4. ( ) Evidence of Authority of Officers to Execute Papers (ROW Form 94-4)
5. ( ) For corporation or business, requirements of 25 CFR 169.4 and 169.5 (unless previously filed):
  - ( ) a. State certified copy of corporate charter or articles of incorporation.
  - ( ) b. Certified copy of corporate resolution, by-laws, articles of partnership or association authorizing signatory to file the application.



**RIGHT OF WAY FOR  
MARIE ANTONIO POWER LINE PROJECT  
LINE A  
MCKINLEY COUNTY, NEW MEXICO  
WORK ORDER NUMBER 50300**



DESCRIPTION of a right-of-way easement for the Continental Divide Electric Coop. Inc.'s Marie Antonio Power Line Project, Line A, located within sections 2 and 11, Township 18 North, Range 13 West, New Mexico Principal Meridian, Crownpoint, McKinley County, State of New Mexico, and being more particularly described as follows:

A strip of land, twenty (20) feet wide, being ten (10) feet on each side of the following described centerline:

BEGINNING at B.O.P. Station 0+00, existing pole number 25678, in section 11, T18N, R13W, NMPM, said parcel being Navajo Tribal Trust Land, and from which point the USGLO brass cap for the northwest corner of section 11, T18N, R13W, bears N45°59'48"W a distance of 2,524.66 feet,

Thence N16°31'27"E a distance of 1,235.00 feet to P.O.T. Station 12+35.00, at which point the centerline of the power line crosses the centerline of a private drive,

Thence continuing N16°31'27"E a distance of 529.18 feet to P.O.T. Station 17+64.18, at which point the centerline of the power line enters the SW¼ section 2, T18N, R13W, NMPM, said parcel being Navajo Fee Land, and from which point the USGLO brass cap for the northwest corner of section 11, T18N, R13W, NMPM, bears N88°27'14"W a distance of 2,318.59 feet, and from which point the 2 inch aluminum Tyree Survey cap for the southern quarter corner of section 2, T18N, R13W, NMPM, bears S88°27'14"E a distance of 423.70 feet,

Thence continuing N16°31'27"E a distance of 1,275.88 feet to P.I. Station 30+40.06, from which point the Base Station having the True New Mexico State Plane West, NAD83, US Survey Feet Coordinates of N 1752085.256, E 2619953.651, bears S80°42'56"E a distance of 3,075.26 feet,

Thence N18°06'56"W a distance of 1,469.65 feet to P.O.T. Station 45+09.71, at which point the centerline of the power line enters the NW¼ section 2, T18N, R13W, NMPM, said parcel being Indian Allotment Number 279701, and from which point the USGLO brass cap for the northwest corner of section 2, T18N, R13W, NMPM, bears N38°02'14"W a distance of 3,384.50 feet,

Thence continuing N18°06'56"W a distance of 866.32 feet to E.O.P. Station 53+76.03, and the point of termination of the above described right-of-way easement for Line A, and at which point the USGLO brass cap for the northwest corner of section 2, T18N, R13W, NMPM, bears N44°35'22"W a distance of 2,586.92 feet,

The above described right-of-way contains 2.47 acres, more or less, in area. The right-of-way is 1.018 miles in length.

NOTICE: This is a single page of a multi-page document. No individual page can be interpreted alone and must be considered in the context of the entire document including but not limited to descriptions, surveyor statements, and plat.

### **SUMMARY DESCRIPTION**

<u>T18N R13W</u>	<u>LENGTH</u>	<u>MILES</u>	<u>WIDTH</u>	<u>ACREAGE</u>
Section 11	1,764.18'	0.334	20'	0.81
SW¼ Sec. 2	2,745.53'	0.520	20'	1.26
NW¼ Sec. 2	866.32'	0.164	20'	0.40
SUBTOTAL	5,376.03'	1.018		2.47

NOTICE: This is a single page of a multi-page document. No individual page can be interpreted alone and must be considered in the context of the entire document including but not limited to descriptions, surveyor statements, and plat.

US GENERAL LAND OFFICE SURVEY  
PENALTY \$250 FOR REMOVAL  
T19N R13W  
S34 | S35  
S3 | S2  
T18N  
1948

US GENERAL LAND OFFICE SURVEY  
PENALTY \$250 FOR REMOVAL  
S35  
S2  
1948

US GENERAL LAND OFFICE SURVEY  
PENALTY \$250 FOR REMOVAL  
T19N R13W  
S35 | S36  
S2 | S1  
T18N  
1948

IA 279701

N:1754801.589  
E:2616192.344  
LATITUDE: 35°49'20.213"  
LONGITUDE: -108°11'38.152"

E.O.P. Sta. 53+76.03  
Line "A"

N18°06'56"W 866.32'

P.O.T. Sta. 45+09.71  
Enter NW¼ Sec. 2

2

N18°06'56"W  
1,468.65'

P.I. Sta. 30+40.06

S80°42'56"E  
3,075.26'

Base Station  
True NMSP Y  
NAD83 US Sur.  
Coordinate  
N 1752085.  
E 2619953.

NAVAJO TRIBAL FEE

TREE SURVEY  
T18N R13W  
S11  
S75 | S1  
S35 | S36

P.O.T. Sta. 17+64.18  
Enter SW¼ Sec. 2

N86°27'14"W  
2,318.59'

N16°31'27"E 529.18'

S88°27'14"E  
423.70'

P.O.T. Sta. 12+35.00  
Private Drive

N45°59'46"W  
2,524.66'

N16°31'27"E  
1,235.00'

B.O.P. Sta. 0+00  
Line "A"  
Ex. Pole 25678

US GENERAL LAND OFFICE SURVEY  
PENALTY \$250 FOR REMOVAL  
T18N R13  
S2 | S1  
S11 | S1  
1948

US GENERAL LAND OFFICE SURVEY  
PENALTY \$250 FOR REMOVAL  
S11  
1948

11

NAVAJO TRIBAL TRUST





# THE NAVAJO NATION



**BEN SHELLY**  
PRESIDENT

**REX LEE JIM**  
VICE-PRESIDENT

## MEMORANDUM

TO : Howard P. Draper, Supervisor  
Project Review Section, NLD

FROM : Esther Kee  
Esther Kee, R/W Agent  
Project Review Section, NLD

DATE : July 18, 2014

SUBJECT: CDEC Antonio Power Line Extension Project

Continental Divide Electric Cooperative, Inc., 200 E. High St., Grants, New Mexico 87020, submitted an application for right of way to construct, operate and maintain a single phase distribution line to serve Marie Antonio near Becenti Chapter, McKinley County, New Mexico.

The power line will be 1,764.18 feet on Navajo Trust Land and 2,745.53 feet on Navajo Fee Land, a distance of 4,509.71 feet in length, 20 feet wide, 2.07 acres, in Sections 2 and 11, Township 18 North, Range 13 West, NMPM, Becenti, McKinley County, New Mexico,

The proposed project is within Becenti Range Unit 7, permitted to Arlene Arviso-Arthur and Marie Antonio for grazing. I informed the affected grazing permittees on the proposed request and they had no objection. I obtained the land users consent along with the concurrence of the District 20 Land Board member, Lucy Cayatineto.

Field clearance complete, land users consent, map and supporting documents are all attached for your information and reference.

cc: Project file

CONSENT 3

(Waiver of compensation for damages)

CONSENT TO USE  
NAVAJO TRIBAL LANDS

TO WHOM IT MAY CONCERN:

I, Marie Antonio, hereby grant consent to the Navajo Tribe and the Bureau of Indian Affairs to permit **Continental Divide Electric Cooperative, Inc.** of 200 E. High St., Post Office Box 1087, Grants, New Mexico 87020, to use a portion of my land use area for the following purpose(s): **Right of way to construct, operate maintain a single phase distribution line across TNT & Navajo Fee Lands located in Section 11 & SW/4 of Section 2, T18N, R13W, McKinley County, New Mexico**, as shown on the map showing the location of the proposed project on the back of this consent form.

I hereby waive any rights I may have to compensation for the diminishment in value of my land use rights as a result of the above-referenced project as proposed.

REMARKS:

7/14/14      x Marie Antonio      \_\_\_\_\_      Recent RLI.7  
Date      Land User Signature (or Thumbprint)      Census No.      Permit No.

WITNESS: \_\_\_\_\_

7/16/14      Larry Chaffin      \_\_\_\_\_      20  
Date      Grazing Committee 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 to the land user in Navajo or English// (check where applicable)

E. Peter Kie  
Field Agent Signature

CONSENT 3

(Waiver of compensation for damages)

CONSENT TO USE  
NAVAJO TRIBAL LANDS

TO WHOM IT MAY CONCERN:

I, Arlene Arviso Arthur, hereby grant consent to the Navajo Tribe and the Bureau of Indian Affairs to permit **Continental Divide Electric Cooperative, Inc.** of 200 E. High St., Post Office Box 1087, Grants, New Mexico 87020, to use a portion of my land use area for the following purpose(s): **Right of way to construct, operate maintain a single phase distribution line across TNT & Navajo Fee Lands located in Section 11 & SW/4 of Section 2, T18N, R13W, McKinley County, New Mexico**, as shown on the map showing the location of the proposed project on the back of this consent form.

I hereby waive any rights I may have to compensation for the diminishment in value of my land use rights as a result of the above-referenced project as proposed.

REMARKS:

7-16-14 Arlene Arviso Arthur Continental  
Date Land User Signature (or Thumbprint) Census No. Permit No.

WITNESS: \_\_\_\_\_

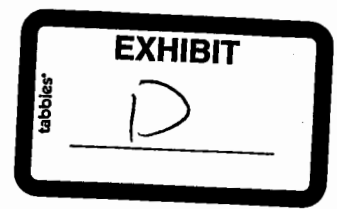
7/16/14 Larry Capatzeno 20  
Date Grazing Committee or Land Board Member District No.

Acknowledgement of Field Agent

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

E. H. K. K.

Field Agent Signature



**AN  
ENVIRONMENTAL ASSESSMENT  
for  
Marie Antonio CDEC 14.4/24.9 kV 1Ø Power Line Extension Project  
CDEC WO# 50300**

**Continental Divide Electric Cooperative, Inc.  
P. O. Box 1087  
Grants, New Mexico 87020**

**Department of the Interior  
Bureau of Indian Affairs  
Navajo Region  
Eastern Navajo Agency**

**December 2013**

**in accordance with  
National Environmental Policy Act of 1969,  
As Amended  
DOI DM Part 516  
and  
NEPA Handbook  
516 DM  
59 IAM 3**

**J. R. Analla  
EA Services  
EAS-1311  
December 2013**

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**APPENDIX**

Appendix A

Wild and Scenic Rivers, New Mexico, [www.nps.gov/rivers/wildriverslist.html](http://www.nps.gov/rivers/wildriverslist.html)

Appendix B

EPA Designated Sole Source Aquifers in EPA Region VI.  
[www.epa.gov/safewater/swp/ssa/reg6.html](http://www.epa.gov/safewater/swp/ssa/reg6.html)

Appendix C

New Mexico Air Quality Bureau Correspondence, August 1, 2005

Appendix D

Air State Implementation Plans, EPA Region VI: South Central

Appendix E Correspondence, NAVAJO ENDANGERED SPECIES LIST (NESL) INFORMATION FOR:  
CDEC Marie Antonio Power Line Extension Project, Becenti Chapter, McKinley County,  
NM Nation Natural Heritage Program, Department of Fish and Wildlife 25 September 2013

NN Biological Resource Land Clearance Policies and Procedures

Biological Resource Compliance Form, NNDFW Review No. 13JRAE-08

Appendix F

A Cultural Resources Inventory of the Marie Antonio Powerline Extension, Becenti  
Chapter, McKinley County, New Mexico (DCD1-13-006), July 8, 2013

Appendix G

A Cultural Resource Compliance Form HPD-13-535

## Executive Summary

Due to the unique land status of the Navajo Nation; execution and approvals of right-of-way agreements by the Bureau of Indian Affairs (BIA), consistent with the prudent management of lands and resources, are federal actions subject to an environmental assessment as mandated by the *National Environmental Policy Act of 1969, as Amended, (NEPA)*. BIA policies and procedures for NEPA compliance are defined in *40 CFR Parts 1500-1508, Department of the Interior (DOI), Departmental Manual 516 DM, 59 IAM 3, Compliance Manual*.

The BIA approval of a right-of-way for an electrical power line extension project for Continental Divide Electric Cooperative, Inc. (CDEC) in the Becenti Chapter (BC) is a federal action requiring an environmental assessment (EA) as mandated by NEPA. Approval of the requested right-of-way for the Marie Antonio Power Line Extension (MAPLE) will allow CDEC the right of ingress and egress to construct, operate, maintain, repair, replace and remove, poles, wires, cables, conductors, markers and other necessary fixtures and appurtenances as may be required to provide 1 $\phi$ , 14.4/24.9 kV electrical service to the Marie Antonio homesite in the BC.

The MAPLE is found on *Antelope Lookout Mesa Quadrangle, New Mexico -7.5 Minute Series (Topographic)*; in *Section 25, T 13 N, R 13 W*, and *Sections 30, 19, 17, 18, T 13 N, R 12 W NMPM*.

The Navajo Nation Natural Heritage Program (NNNHP), Navajo Fish and Wildlife Department (NFWD) was consulted regarding the effect of the proposed undertaking on federally listed threatened or endangered species.

The Navajo Nation Natural Heritage Program (NNNHP), Navajo Fish and Wildlife Department (NFWD) was consulted regarding the effect of the proposed undertaking on federally listed threatened or endangered species. *Cultural Resource Compliance Form (HPD-13-535)* was issued for this undertaking on August 26, 2013 with the determination that "No historic properties affected"

This EA analyzes and evaluates the impacts of the proposed project and decision on the effects on a minority and low-income population and surrounding communities as mandated by *Executive Order 12898 (EO) of February 11, 1994, Federal Actions to address Environmental Justice in Minority Populations and Low-Income Populations*. The EO requires agencies to incorporate environmental justice into their missions by identifying and addressing disproportionately high and adverse human health or environmental effects of their programs and policies on minorities and low-income populations and communities.

The assessments and determinations of final impacts contained in this EA were developed in accordance with the *CEQ Guidelines 40 CFR 1500*. *40 CFR 1500* provides that the assessment shall include reasonable alternatives to the proposed action, identify a preferred alternative, give consideration to general and broad measures to minimize or eliminate adverse impacts and allow a final decision as to the need for an environmental impact statement (EIS) for the proposed CDEC MAPLE project.

Based on this EA, it is determined that approval of the proposed action will not have a significant impact on the quality of the human environment so as to require the preparation of an EIS.

**J. R. Analla**  
**EA Services**

*P. O. Box 1034*  
*Gallup, New Mexico 87305*

*Phone (505) 905-3943*

*Fax (505) 905-3943*

April 8, 2014

Ms. Katherine Gallegos  
Transmission and Distribution Services, LLC  
8909B Adams Street NE  
Albuquerque, New Mexico, 87113

Re: Amended Environmental Assessment for the Continental Divide Electric Cooperative, Inc. Marie Antonio CDEC Power Line Extension Project - CDEC WO# 50300- Navajo Region, Eastern Navajo Agency, Navajo Nation, County of McKinley, New Mexico

EAS-1311

Dear Ms. Gallegos:

Enclosed are three copies of page 1 of the environmental assessment (EA) for the Continental Divide Electric Cooperative, Inc. (CDEC) Marie Antonio CDEC Power Line Extension Project - CDEC WO # 50300- Navajo Region, Eastern Navajo Agency, Navajo Nation, County of McKinley, New Mexico..

This page has been amended from the project length of 5,376 feet to 5,376.03 feet. The document has been submitted to the Navajo Region Bureau of Indian Affairs NEPA Coordinator for a Finding of No Significant Impact (FONSI). Upon receipt of the FONSI from the BIA, I will forward three copies for your use.

Thank you for the opportunity to provide you with my services.

  
J. R. Analla

Enclosures

AN  
ENVIRONMENTAL ASSESSMENT  
for  
Marie Antonio CDEC 14.4/24.9 kV 1Ø Power Line Extension Project  
CDEC WO# 50300

Continental Divide Electric Cooperative, Inc.  
P. O. Box 1087  
Grants, New Mexico 87020

Department of the Interior  
Bureau of Indian Affairs  
Navajo Region  
Eastern Navajo Agency

## **I. Description of the Proposed Action**

Execution and approvals of right-of-way agreements by the Bureau of Indian Affairs (BIA), consistent with the prudent management of lands and resources, are federal actions subject to an environmental assessment as mandated by the *National Environmental Policy Act of 1969, as Amended, (NEPA)*. BIA policies and procedures for NEPA compliance are defined in *40 CFR Parts 1500-1508, Department of the Interior (DOI), Departmental Manual 516 DM, 59 IAM 3, Compliance Manual*.

The BIA approval of a right-of-way for an electrical power line extension project for Continental Divide Electric Cooperative, Inc. (CDEC) in the Becenti Chapter (BC) is a federal action requiring an environmental assessment (EA) as mandated by NEPA. The total proposed right-of-way is 20 feet in width, 5,376.03 feet (1.018 mi.) in length, encompassing 2.47± acres. 1,764.18 feet, encompassing 0.81± acres are on Navajo Tribal Trust land. 2,745.530 feet, encompassing 1.26± acres are on Navajo Tribal Fee land. 866.32 feet, encompassing 0.40± acres are on Indian Allotment 279701. Approval of the requested right-of-way for the Marie Antonio Power Line Extension (MAPLE) will allow CDEC the right of ingress and egress to construct, operate, maintain, repair, replace and remove, poles, wires, cables, conductors, markers and other necessary fixtures and appurtenances as may be required to provide 1Ø, 14.4/24.9 kV electrical service to homes in the area in BC.

This environmental assessment will identify and assess potential impacts to the human environment which may result from the construction, operation and maintenance of the electrical power line by CDEC, should the proposed MAPLE right-of-way be approved by the BIA.

### **A. Project Description**

The proposed project entails construction of a single-pole, overhead 1Ø, 14.4/24.9 kV electrical power line. Construction will consist of placing class 3 and class 5 power poles approximately 350 feet apart. Poles will vary in height from 35 feet to 40 feet. Poles subject to unequal stresses, such as poles set at angle points (points where the alignment makes acute changes in direction) will require guy wires. Guy wires will not be required for every pole. A truck-mounted auger will be used to excavate holes approximately 14 inches in diameter and from five to six feet in depth. Similar holes will be augured for anchors where required. It is estimated that each 14-inch hole will disturb approximately 1.1 square feet of ground surface at each pole location. The power line project will require approximately 20 poles and 3 anchors, resulting in approximately 25 square feet of surface disturbance for the entire 1.018 mile project. No significant surface disturbance or clearance of vegetation will be required for the power line construction. Upon completion of the pole setting operation, the conductor (wire) will be reeled from truck mounted cable spools and strung on the poles. Some vegetation may be impacted from truck and trailer traffic required for hauling poles; and stringing the wire conductor.

Once the power line is completed future CDEC traffic along the power line will not be required except in the case of emergencies resulting from fallen poles or broken conductors. These cases will be limited to the specific location of the problem and not require driving the full extent of the power line alignment.

It will not be necessary to cut trees or clear brush for this project. Access road construction road will not be required. Only rubber-tired equipment will be used for power line construction. All project equipment and personnel shall remain in the project area ROW. The best available construction practices will be used to limit impacts to land, water (surface and ground), and biological resources. No surface clearance is anticipated; however should significant disturbance occur, either inadvertently or as a result of unanticipated construction requirements the areas will be re-contoured and re-seeded as directed by the BIA Eastern Navajo Branch of Natural Resources. At the completion of construction, CDEC will restore the lands as nearly possible to their original condition, to the extent that they are compatible with the purpose for which the right-of-way is granted. Upon revocation or termination of the right-of-way, CDEC shall, so far as is reasonably possible, restore the land to its original condition.

Design and construction shall be in accordance with the *Avian Power Line Committee's Suggested Practices for Raptor Protection on Power Lines; The State of the Art 2006 (Edison Electric Institute, APLIC and the California Energy Commission, Washington D. C. and Sacramento, CA)*. All construction and installation shall be accomplished in a thorough and workmanlike manner. All applicable sections of the latest revision of the *National Electrical Safety Code* and *National Electrical Code* shall be followed, except where local regulations are more stringent, in which case local regulations shall prevail. Aerial drop wires of the parallel type shall be installed in accordance with *REA Standards for Station Installations, PC-5A*. All clearances shall comply with the applicable requirements of the *National Electrical Safety Code* and *National Electrical Code* or local laws or ordinances whichever are most stringent.

All construction debris shall be removed and disposed of in compliance with the *Navajo Nation Solid Waste Code, 4 NNC, Chap. 1, Sect. 101*. Solid wastes will be hauled to the nearest solid waste landfill. Disposal of construction debris or burning of debris will not be allowed on NTT lands. The proposed project construction activities will not generate or require the use of hazardous or toxic materials. Should unforeseen circumstances result in the use or generation of such materials, they shall be handled and disposed of in compliance with all local, state and federal regulations. Employees shall be instructed regarding proper disposal of solid waste materials.

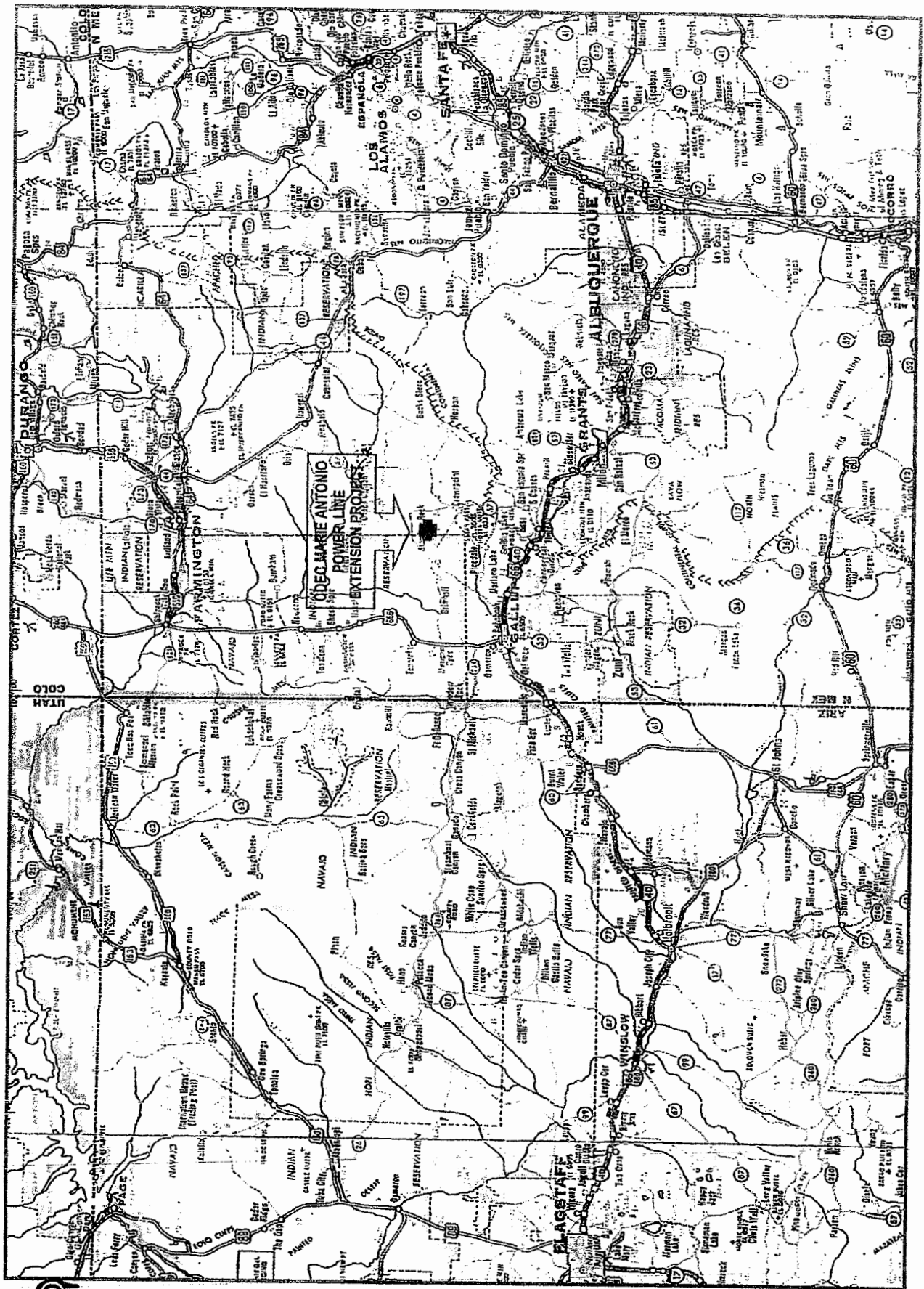
### ***B. Purpose and Need for Action***

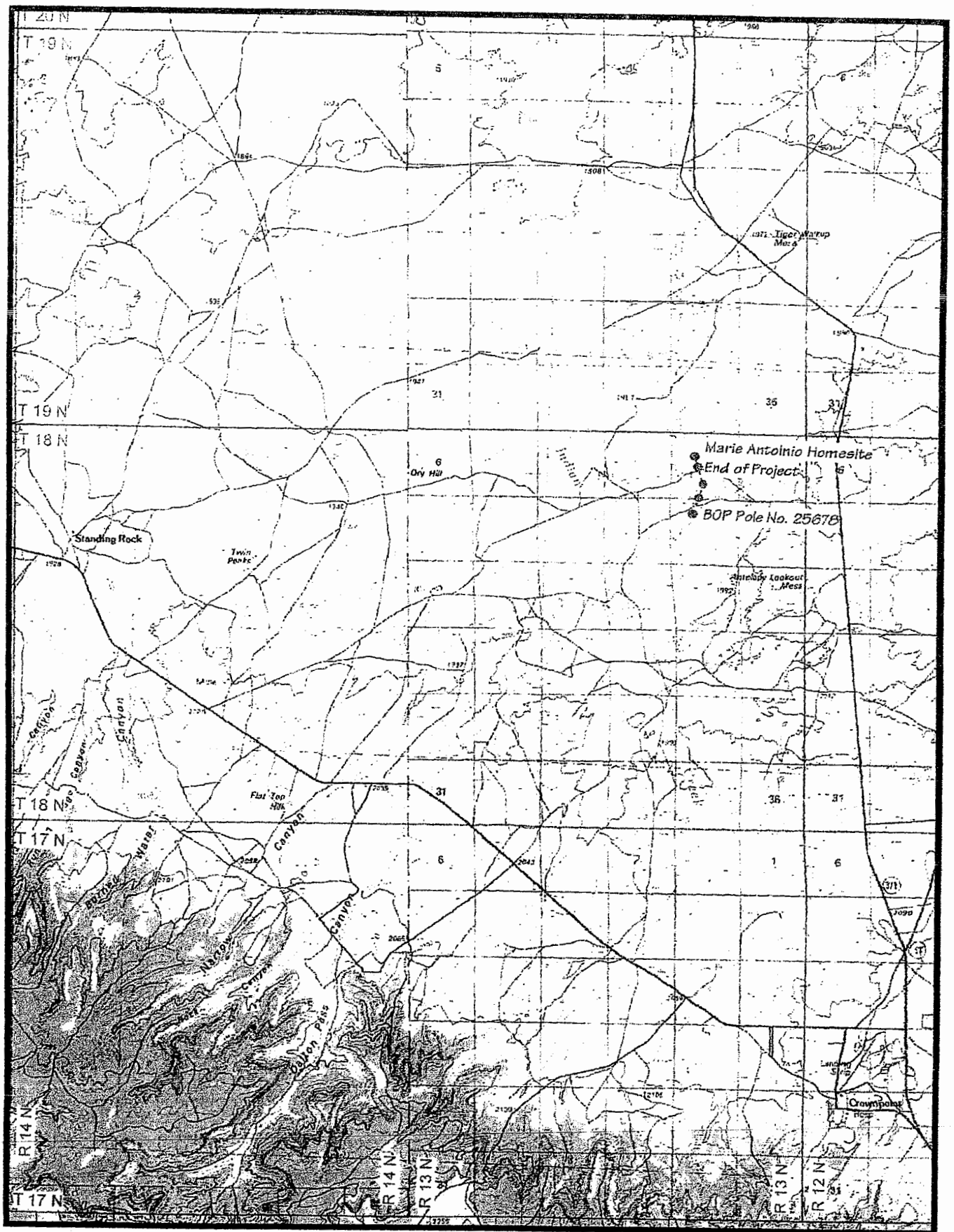
The proposed MAPLE project will provide electrical service to the Marie Antonio homesite. The electrical service line will allow the subscriber enjoy the benefits electricity in their home. The availability of electricity will mean less frequent trips to trading centers for perishable foods. Refrigeration will allow for greater quantities of perishables to be purchased and kept for greater periods of time. Privately owned washing machine and dryer will not only provide a convenience to the family, but will eliminate the need for trips to laundromats. Television, radio sets, air conditioners and other products contributing to the comfort and entertainment of the family will be possible. Everyday household tasks, jobs and chores will be eased by the use of electric appliances and tools. The proposed undertaking will contribute significantly to the quality of life and enhance the social and economic needs of the family to be served.

### ***C. Location***

The MAPLE is found on *Antelope Lookout Mesa Quadrangle, New Mexico -7.5 Minute Series (Topographic)*; located in *Sections 11, 12, T 18 N, R 13 W NMPM*. Maps showing a more exact location and site photographs are shown in Figures 1-5.



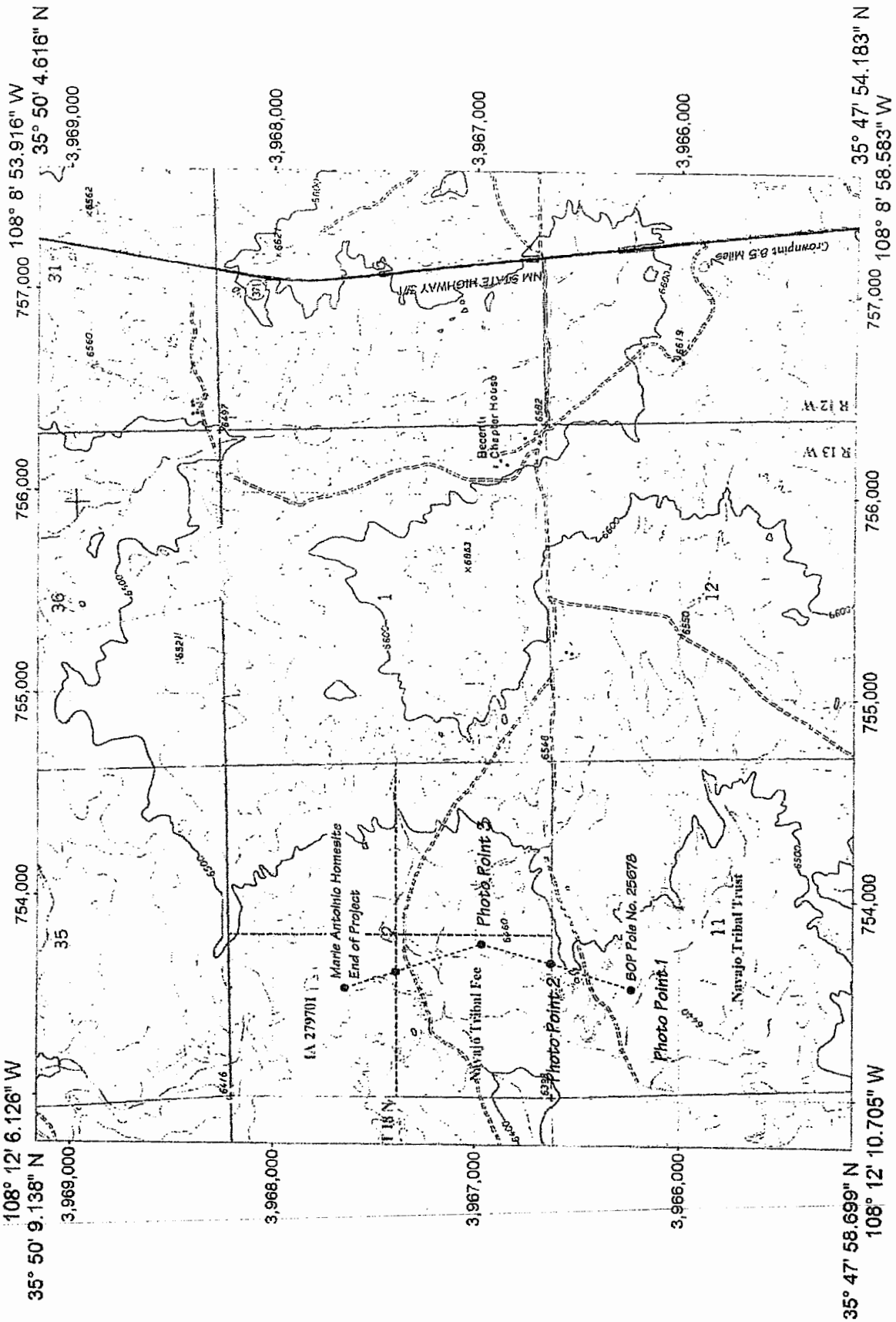




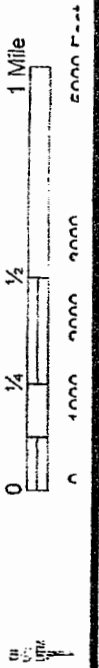
**Figure Sheet 2**  
**CDEC Marie Antonio Power Line Extension Project**  
**Transmission & Distribution Services**



# CDEC Marie Antonio Power Line Extension Project



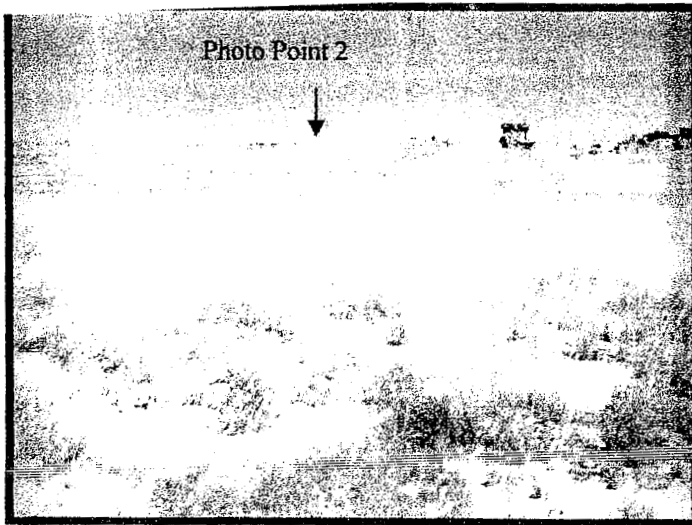
ANTELOPE LOOKOUT MESA QUADRANGLE  
NEW MEXICO - MC KINLEY CO.  
7.5 MINUTE SERIES (TOPOGRAPHIC)



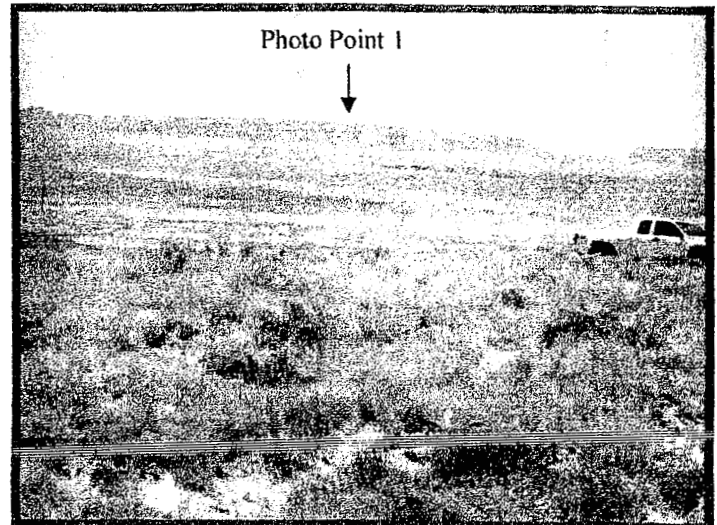
**Figure Sheet 3**  
**CDEC Marie Antonio Power Line Extension Project**  
**Transmission & Distribution Services**



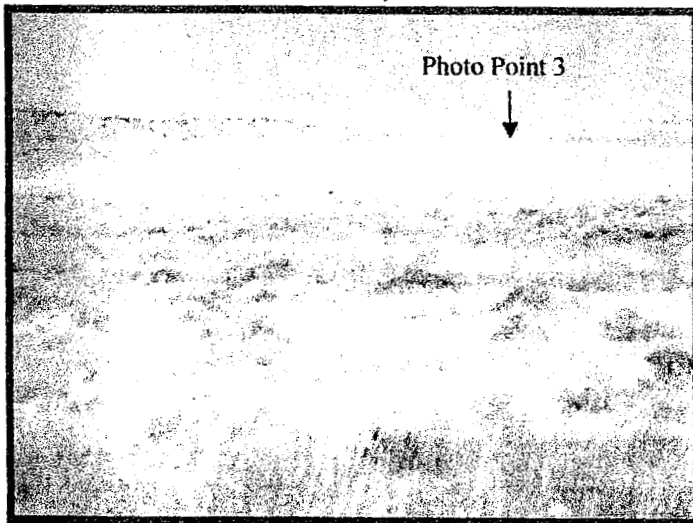




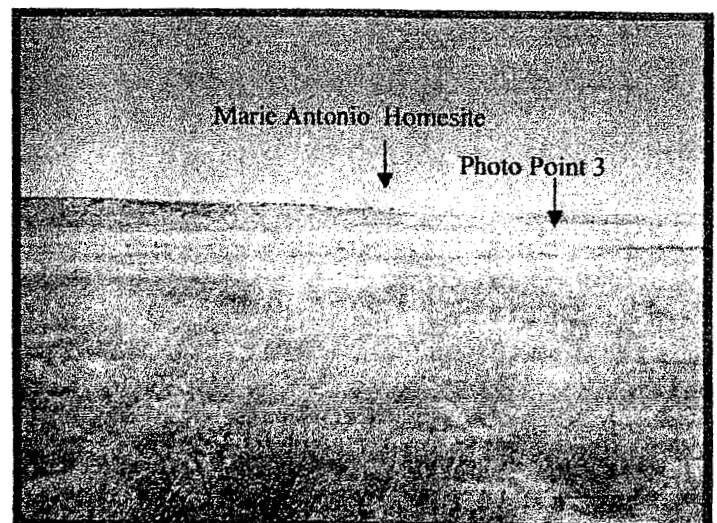
Looking NE from Photo Point 1 along power line alignment from BOP (Pole 2567B) toward Photo Point 2



Looking back along power line alignment from Photo Point 2 toward BOP



Looking ahead along power line alignment from Photo Point 2 toward Photo Point 3 (angle point)



Looking ahead along power line alignment from Photo Point 3 toward EOP (Marie Antonio Homesite)



Looking back along power line alignment from EOP (Marie Antonio Homesite) toward Photo Point 3



Marie Antonio Homesite



## Figure Sheet 5

CDEC Marie Antonio Power Line Extension Project  
Transmission & Distribution Services





## II. Alternatives

### ***A. Preferred Alternative - Proposed Approval of a Right-of-way for the Marie Antonio Power Line Extension Project***

The preferred alternative is the approval of the proposed right-of-way for the construction, operation and maintenance of a 1Φ, 14.4/24.9 kV power line extension in the BC as described in *Section I. Description of the Proposed Action, A. Project Description* of this document.

### ***B. Reasonable Alternatives***

#### **1. No Action Alternative**

The "No Action" alternative, will deny CDEC the requested power line right-of-way. The proposed electric line extension line will not be constructed. This alternative is will have a negative impact on the quality of life of the Marie Antonio family. Adverse impacts which will result from the "No Action" alternative are unacceptable considering that they can be mitigated by the "Preferred Alternative".

#### **2. Alternate Alignments**

The homesite to be serviced by the proposed project are located on Navajo Indian Allotted, Navajo Nation Tribal Trust and Navajo Tribal Fee lands. There are no alternative alignments, which will provide electrical service to the Marie Antonio homesite. The "preferred alternative" alignment is the most direct and will require the least amount of time and material to construct. The "preferred alternative" alignment will not require construction of access roads for the construction and maintenance of the proposed power line. There are no other feasible alignments.

#### **3. Alternatives Beyond BIA Authority**

The family to be served is on Navajo Indian Allotted Land. No access is available without entering Navajo Tribal Trust Lands or Navajo Indian Allotted Land. No alternatives "Beyond BIA Authority" are available.

##### ***a. Solar Energy***

Direct conversion of solar radiation to electricity can be accomplished on a small scale. However, solar-power systems, as a primary source of providing fully adequate electrical service has not achieved great success because of the irregularity of operations and excessive cost. In remote areas where accesses to major distribution systems are unavailable, solar energy systems may be considered as a viable alternative.

##### ***b. Wind Energy***

Generation of electricity by wind has long been used in remote areas where no other means of electrical power is available. However, this method requires expensive and voluminous equipment and cannot be considered an economically feasible means of providing power in areas where major electrical distribution systems are in place. A major distribution system is available in the immediate area. Wind generated electricity is not considered a viable alternative. Environmental impacts related to this alternative are considered insignificant, approval or concurrence of this alternative does not require a "federal action" and therefore are not addressed in this document.

##### ***c. Portable Gas Generators***

Small portable gas generators are available and presently used by some families. Typical output of these generators varies, usually from 2,500 watts to 10,000 watts. The smaller generator runs for about one hour on one gallon of gas. Larger generators will use 2 to 3 gallons of gas per hour and while they may provide sufficient wattage for home use, they are infeasible because of the cost. Small generators provide electricity for the basic needs such as lights, radios and TVs. However, because of their limited fuel capacity and cost to purchase and operate, these generators are not considered feasible for continuous operation. These generators are generally noisy. This alternative is not considered feasible in areas where accesses to major distribution systems are available. This alternative does not require a "federal action". Environmental impacts related to this alternative are considered insignificant, and therefore are not addressed.



### III. Description of the Affected Environment

#### A. Land Resources

##### 1. Topography

The topography in the area ranges from gently sloping to undulating on mesa tops to strongly sloping and moderately steep on the intermingled ridges and rolling uplands. The alignment extends south to north over a low ridge, across a low depression and upward to the homesite with no significant breaks in the topography. The MAPLE project begins at an elevation of approximately 6,440 feet and ends at an elevation of approximately 6,480 feet.

##### 2. Soils

The MAPLE project is located on lands that have been the subject of a soil survey conducted by the *United States Department of Agriculture, Soil Conservation Service in cooperation with the United States Department of the Interior, Bureau of Land Management, Bureau of Indian Affairs and the New Mexico Agriculture Station.*

Soils in the project area have been determined to be of the Norkiki-Kimnoli complex, Razito-Shiprock complex and Fajada-Huerfano-Benally complex.

Norkiki soil is well drained and found on dipslopes on cuestras and summits on mesas, ridges and hills. Parent material is eolian material and slope alluvium derived from sandstone and shale. Permeability of Norkiki soil is moderate. Available water capacity is moderate. Runoff is medium. Soils in the Norkiki series are classified as fine-loamy, mixed, active, mesic Typic Haplargids.

Kimnoli soil is well drained and found on dipslopes on cuestras and summits on mesas, ridges and hills. Parent material is eolian material and slope alluvium derived from sandstone and shale. Permeability of Norkiki soil is moderate. Available water capacity is very low. Runoff is high. Soils in the Kimnoli series are classified as loamy, mixed, active, mesic Lithic Haplargids.

Razito soil is excessively drained and found on dunes on valley sides, mesas and cuestras. Parent material is eolian material derived from sandstone. Permeability of Razito soil is rapid. Available water capacity is low. Runoff is negligible. Soils in the Razito series are classified as mixed, mesic Typic Torripsamments.

Shiprock soil is deep and well drained, on mesas and plateaus. It formed in alluvial and eolian material derived dominantly from sandstone and shale. Permeability of Shiprock soil is moderately rapid. Available water capacity is moderate. Effective rooting depth is 60 inches or more. Runoff is slow and the hazard of water erosion is slight. The hazard of soil blowing is very severe. The soils are classified as Typic Haplargids, fine-loamy, mixed, mesic.

Fajada soil is well drained, Erosional terraces on dipslopes on cuestras and valley floors. Parent material is alluvial material derived from sandstone and shale. Permeability of Fajada soil is slow. Available water capacity is very low. Runoff is high. Soils in the Fajada series are classified as fine-loamy, mixed, superactive, mesic Typic Natragids.

Huerfano soil is well drained, Erosional terraces on dipslopes on cuestras and valley floors. Parent material is alluvial material derived from sandstone and shale. Permeability of Huerfano soil is slow. Available water capacity is very low. Runoff is high. Soils in the Huerfano series are classified as fine-loamy, mixed, superactive, mesic Typic Natragids.

Benally soil is well drained, erosional steam terraces on valley floors. Parent material is stream alluvium derived from sandstone and shale. Permeability of Benally soil is moderately slow. Available water capacity is low. Runoff is medium. Soils in the Benally series are classified as fine-loamy, mixed, superactive, mesic Typic Natragids.

Soils are not listed as hydric soils in *AD-A176734, Corps of Engineers Wetlands Delineation Manual, Jan. 87.*

### **3. Geological Setting and Mineral Resources**

#### **a. Geology**

The MAPLE lies within the San Juan Basin, which is in the Navajo and Datil physiographic sections of the Colorado Plateaus Province. Geologic deposits within the basin range from Cambrian (600 million years old) to Recent age and are as much as 15,000 feet thick. In the project area some of the Precambrian granite rocks are exposed which may be well over 600 million years old. The San Juan Basin is an asymmetric structural feature with a northwest trending axis. The Hogback Monocline and the San Juan Uplift bound the basin on the north. The Nacimientito Uplift, the Brazos Uplift and the Jemez Mountains Caldera form the rim on the east. The Zuni Uplift and Chaco Slope form the southern margin of the basin; the Defiance Uplift and Four Corners Platform complete the basin rim in the north and west. MAPLE is located on the Chaco Slope. The Chaco Slope lies between the Zuni Uplift and the Chaco River and is bounded on the east by the Mount Taylor volcanic field and on the west by the Chuska Valley. Topography is developed on sandstones and shales, which have been subjected to considerable erosion to form mesas, cuestas, small rock terraces and numerous incised dry washes with sandy bottoms. Geology of this area is mainly characterized by large exposures of the Menefee Shale bordered by other members of the Mesa Verde group on the north and the south. The resistant, cliff-forming Hosta Tongue and Point Lookout Sandstone form the high relief areas on the edge of the Zuni Uplift between Crownpoint and Coyote Canyon.

#### **b. Mineral Resources**

Extensive uranium deposits are found throughout the area. However, there are no mineral resources on or in the vicinity of the MAPLE project.

### **4. Paleontology**

Paleontology is the science that deals with the remains of animals and plants found buried in sedimentary rocks. These rocks formed from particles of older rocks that have broken apart by water or wind. The gravel, sand and mud settled to the bottom of rivers lakes and oceans. These sedimentary particles buried living and dead animals and plants at the lake and sea bottoms. With the passage of time and accumulation of more particles, and with chemical changes, the sediments at the bottom of these deposits became rock. Gravel became the rock referred to as a conglomerate, sand became sandstone, mud became mudstone or shale and the plant and animals became fossils. For convenience, it is now customary to use the term only for the study of fossil and animals and to deal with plants under the head of paleobotany. In essence, however, the two form one science.

No fossils or formations containing fossils have been identified on or within the proposed MAPLE project area of impact.

### **B. Water Resources**

#### **1. Surface Water**

Most discharge in local washes and arroyos occurs during the spring snowmelt and occasional intense summer thundershowers. As a result flow is erratic and fluctuates widely both seasonally and annually. Torrential thunderstorms can produce flood stage flows within minutes.

The MAPLE project does not cross any significant drainages.

#### **a. Floodplain Management [24 CFR 55, Executive Order 11988]**

The MAPLE project lies in "Indian Country" where flood hazard studies conducted by counties and other entities for real estate and insurance purposes have not been conducted. There is no evidence that any portion of the MAPLE alignment has ever been inundated or impacted by flooding.

#### **b. Wild and Scenic River Act [Sections 7(b) and (c)]**

There are four designated Wild and Scenic Rivers as set forth in 16 U.S.C. Section 1271 in the State of New Mexico and are listed in *Appendix A*. The Wild and Scenic Rivers in New Mexico are the East Fork of the Jemez, portions of the Pecos, Rio Chama and Rio Grande; none are located in the Becenti Chapter.

### ***c. Wetland Protection [Executive Order 11990]***

Wetlands are defined as areas that are inundated or saturated by surface or groundwater (hydrology) at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation (hydrophytes) typically adapted for life in saturated soil conditions (hydric soils). Wetlands generally include swamps, marshes, bogs and similar areas. Further, jurisdictional wetlands; those that are regulated by the U. S. Army Corps of Engineers (COE) under *Section 404*, must exhibit all three characteristics: hydrology, hydrophytes and hydric soils (*US ACOE 1987*). The U. S. Fish and Wildlife Service (USF&WS) defines wetlands as lands that are transitional between terrestrial and aquatic systems where the water table is at or near the surface or the land is covered by shallow water, and that have one or more of the following attributes:

- At least periodically, the land supports predominantly hydrophytes.
- The substrate is predominantly undrained hydric soil.
- The substrate non-soil and is saturated during the growing season of each year (Cowardin et al. 1979).

Soils at the MAPLE project are not hydric soils as defined in *AD-A176734, Corps of Engineers Wetlands Delineation Manual, Jan. 87*. No attributes of wetlands are present on the MAPLE alignment.

### **2. Ground Water**

Regionally, stream valley alluviums may provide a various quantities of water. Well yields from this source vary greatly in volume and quality. Generally, the quantity and quality of the water varies significantly depending on the alluvial material and the substrata water level as it rises and lowers depending on precipitation and runoff. Most of this water is primarily suitable for livestock use, and only marginally suitable for human consumption.

Aquifers producing sufficient quantities of potable water for domestic use require wells from 200 to over 500 feet in depth. Layers of bedrock and shale lie between the surface and aquifers producing viable sources of potable water. Potable water for BC is provided by Navajo Tribal Utilities Authority (NTUA).

### ***a. Sole Source Aquifers [40 CFR 149]***

The US EPA Region IV is the agency responsible for maintaining the sole source aquifer database for the State of New Mexico. The five Sole Source Aquifer designations in EPA Region VI are shown in *Appendix B*. There are no designated sole source aquifers within the State of New Mexico or the Navajo Nation. No designated sole source aquifers are in the Navajo Nation.

## ***C. Air Resources (Clean Air Act [Sections 176 (c), (d) and 40 CFR 6, 51, 93])***

### **1. Quality**

Air quality is affected by pollutants, which include almost any composition of matter capable of being airborne. It is usual to consider as pollutants only those substances added in sufficient concentrations to produce measurable effects. These effects include visibility reduction, damage to materials such as structural metals, paint and fabrics, damage to vegetation, and physiological damage to man and animals.

The New Mexico Air Quality Bureau no longer maintains ambient air quality monitors in areas where the air quality is generally good as stated in *Appendix C*. Because of the absence of air quality problems; no air monitoring stations are located in the BC. No published studies for air quality have been conducted in the BC. However, ambient air quality may be regarded as good to excellent, that is, near pristine. Primary pollution in the vicinity of the proposed project is wind blown dust from loose topsoil common during times of high winds and dust from vehicular traffic along unimproved roads in the area. The designated nonattainment areas (an area that exceeds EPA air quality standards for pollutants) in Region VI are shown in *Appendix D*. The proposed MAPLE project is not within a designated nonattainment area.

### **2. Visibility**

No sources of air pollution which would affect visibility are located in the vicinity of the MAPLE project. Primary pollution in the area, which may affect visibility, is wind blown dust from loose topsoil common during times of high winds and dust from vehicular traffic along unimproved roads in the area. Visibility in the area may be regarded as very good to excellent.

### 3. Climate/Meteorology

Due to the latitude and elevation of the area, precipitation occurs as snow in the winter, rain in the summer and both in the fall and spring. Winter precipitation generally occurs from air masses that originate in the extratropical Pacific or Canada. Summer precipitation usually occurs due to localized thunderstorm activity from air masses that primarily originate in the Gulf of Mexico. Precipitation also occurs from air masses that originate off the west coast of Mexico. Winds at higher altitudes generally move from west to east, while surface winds are influenced somewhat by the local topography, solar insolation, and the proximity of high and low pressure areas. Prevailing winds in the project area are from southwest to northeast.

The Western Regional Climate Center data shows that the average annual maximum temperature in the Crownpoint area is 63.8° F, with an average high of 84.7° F in July and a low of 40.8° F in January. The average annual minimum temperature is 38.1° F, with an average high of 58.8° F in July and a low of 18.9° F in January. The average annual total precipitation is 10.73 inches with a high average rainfall of 2.18 inches in July and a low of 0.46 inches in November. The average annual snowfall is 19.2 inches with a high average of 5.7 inches in February. The average minimum snowfall of 0.1 inches is recorded in May, with no recorded snowfall from June thru September.

### D. Biotic Resources

#### 1. Description of Ecosystems and Biological Communities

On September 26, 2013, a visit to the MAPLE project was conducted by EAS to become familiar with the project area and the physical, biotic and hydrospheric environments. The MAPLE project is designated as an *AREA 3. LOW SENSITIVITY WILDLIFE RESOURCES* as defined in the *NN Biological Resources Land Clearance Policies and Procedures (Appendix E)*. Habitat may be best described as a Snakeweed Grassland Habitat.

#### 2. Wildlife

##### a. Terrestrial

Faunal diversities and densities tend to be low, but may include desert cottontails, deer mice, valley pocket gophers, whitetail prairie dogs and Ord's kangaroo rats. Reptiles include lesser earless lizards, plateau whiptails and short-horned lizards. Characteristics breeding birds include scaled quails, mourning doves, common nighthawks, common flickers, western kingbirds, Say's phoebes, horned larks, common ravens, loggerhead shrikes, starlings, house sparrows, Brewer's blackbirds, brown towhees, lark sparrows, chipping sparrows, grey-headed juncos, vesper sparrows, American goldfinches, American kestrels.

##### b. Riparian/Aquatic

Habitats for riparian or aquatic species is not found on or in the area of the MAPLE alignment.

##### c. Threatened and Endangered Species, Endangered Species Act [50 CFR 402]

The Navajo Nation Natural Heritage Program (NNNHP), Navajo Fish and Wildlife Department (NFWD) was consulted regarding the effect of the proposed undertaking on federally listed threatened or endangered species. On November 1, 2013 the NFWD identified the following federally listed threatened or endangered species that have potential to occur on the *Antelope Lookout Mesa Quadrangle, New Mexico Quadrangle (Appendix E)*.

Black-footed ferret (*Mustela nigripes*) NESL group 2; USESA endangered

The Black-footed ferret is a weasel-like mammal that has yellow-buff coloration with black feet, tail tip and eye-mask; a blunt, light colored nose. Body length 15 to 18 inches, tail length 5 to 6 inches. Habitat is grassland plains and surrounding mountain basins to 10,500 feet in elevation. Usually found in conjunction with prairie dogs, which are their primary food source; and provide abandoned burrows for habitat.

##### d. Species of Concern

The NNNHP, NFWD have been consulted regarding the effect of the proposed undertaking on other species of concern. The NFWD have identified the following species of concern with potential to occur on the *Antelope Lookout Mesa Quadrangle, New Mexico Quadrangle (Appendix E)*.

Ferruginous hawk (*Buteo regalis*) NESL group 3; USESA category 2, candidate; MBTA

A large hawk of the plains. Rufous above and whitish below, with whitish tail. Head often quite white. A good mark in typical adults overhead is a dark V formed by dark rusty feathers on the legs. In flight, shows a light patch on upper wing near tip. Birds seem to key in on wide open grasslands and prairies. Nests of sticks, on cliffs or trees.

### **3. Vegetation**

#### ***a. Terrestrial***

Potential plant species in the MAPLE project area include Indian ricegrass, galleta, Bigelow's sagebrush, New Mexico feathergrass, alkali sacaton, blue grama, Mormon tea, rabbitbrush, black grama, fourwing saltbush, shadscale saltbush, narrowleaf yucca, sand muhly, needleandthread, spike dropseed, giant dropseed, and sand dropseed.

#### ***b. Riparian/Aquatic***

Habitats for riparian or aquatic species are not found on the MAPLE alignment.

#### ***c. Threatened and Endangered Species, Endangered Species Act [50 CFR 402]***

The Navajo Nation Natural Heritage Program (NNNHP), Navajo Fish and Wildlife Department (NFWD) was consulted regarding the effect of the proposed undertaking on federally listed threatened or endangered species. On November 1, 2013 the NFWD responded and no federally listed threatened or endangered species were identified to have potential to occur on the *Antelope Lookout Mesa Quadrangle, New Mexico Quadrangle (Appendix E)*.

#### ***d. Species of Concern***

The NNNHP, NFWD were consulted regarding the effect of the proposed undertaking on other species of concern. The NFWD recommended that the potential for Parish alkali grass (*Puccinellia Parishii*) be evaluated if wetland conditions exist that contain white alkaline crusts. (*Appendix E*).

Parish alkali grass (*Puccinellia Parishii*) NESL group2

Habitat is alkaline springs, seeps and seasonally wet areas that occur at the heads of drainages or gentle slopes at 2,600-7,200 feet. The species requires continuously damp soils during late winter to spring growing period. Requires wet alkaline soils; activities that divert or dry up springs or seeps will destroy its habitat. It can persist at springs that have been severely impacted by livestock grazing and trampling.

### ***E. Cultural Resources, Historic Preservation [36 CFR Part 800]***

The MAPLE project was inventoried by the Navajo Nation Archaeology Department (NNAD). Prior to fieldwork a records check using the Navajo Nation Historic Preservation Department (NNHPD) files in Window Rock, Arizona was conducted to identify previous projects and recorded sites in the area of the MAPLE project. A Class III pedestrian survey was conducted by walking a parallel transects spaced approximately 15m apart, in a 100 foot corridor, for the entire length of the MAPLE alignment.

A complete description of this work and results are found in the archaeological report titled *A Cultural Resources Inventory of the Marie Antonio Powerline Extension, Becenti Chapter, McKinley County, New Mexico (DCD1-13-006), July 2013*; attached as *Appendix F*. A *Cultural Resource Compliance Form (HPD-13-535)* was issued for this undertaking on August 26, 2013 with the determination that "No historic properties affected" (*Appendix G*).

#### **1. Traditional Cultural, Historic and Religious Properties**

No traditional, cultural, historic or religious properties have been identified within the MAPLE project alignment.

#### **2. Archaeological Resources**

One In-site use (IUS), consisting of a frame house (1990-93) with a trailer and bathroom addition was identified in the inventory. An outhouse is also located the site. No archaeological resources were discovered.



## ***F. Socioeconomics***

### **1. Employment**

Unemployment on the Navajo Reservation is high. Job opportunities in the BC are limited due to its location and population. Major employers within the area are generally located in Crownpoint, 8 miles south, and include the Navajo Nation, Indian Health Service, Bureau of Indian Affairs, Navajo Housing Authority, Gallup-McKinley County School System, Crownpoint Institute of Technology and the numerous commercial businesses and services located there.

### **2. Demographics**

The Navajo Nation encompasses 16.2 million acres in northwest New Mexico, northeast Arizona and southeast Utah. The 2000 census set the Navajo Nation resident population at a total of 180,462 persons, 165,673 being Navajo. The proposed project is located in the Becenti Chapter, Eastern Navajo Agency. The 2000 census of the Navajo Nation set the population of the BC at 506.

### **3. Lifestyles, Cultural Values**

From the time the Navajo Reservation was established until the early 20th century, Navajo social and political organization were based on the extended family, the clan, and related clans, with informal local leaders or headmen. The chapter system, now a strong element in social and political life, was introduced as a bureaucratic substitute for the headman system in the late 1920's. The Chapter, District and Agency system has developed from the basis of the BIA and Navajo Tribal political system.

The Navajo of today is subject to a fluidity and change that appears to characterize Navajo culture. There may not be, in fact, a single Navajo culture; rather a continuum from most traditional to most "modern" (that is, most like Anglo culture). The sources of change within the Navajo society are education, proximity to the Anglo society, political organization, economic relationships and other factors.

In American culture, one is accustomed to thinking of certain activities as religious, or economic or political; in Navajo society, these divisions do not necessarily exist nor are they perceived. For Navajos, man, nature, and supernatural forces are inextricably interwoven, and everyday acts are infused with the concept of the supernatural. Animals, plants, minerals, mountains, and places frequented daily; can all be endowed with power so that spiritual and supernatural forces surround the Navajo wherever he goes and in whatever he does. Navajos are influenced by a worldview, which anchors them within a rich cultural and religious tradition. Despite changes in Navajo society, traditional practices are still strong. Christian and the Native American Church preach primary responsibility to one's nuclear family and only secondary responsibility to other kin. Many Navajos, who subscribe to a belief in these non-traditional religions, are still strongly bound by tradition to their kinship and community groups through Navajo religious practices. Most traditional families have an area marked by a bush or plant where family members leave offerings of used material and paraphernalia from sings or ceremonies. Only individual families, medicine men or singers may know areas. Such areas are numerous and can only be identified by inquiry in each community. The tenuous subsistence of the marginal lands that make up lands within the Navajo Nation dictates a mutual dependence for Navajo survival and it is the clan group, which serves to promote economic cooperation. Because a nuclear family could scarcely survive without reciprocal relationships, the clan system is continually reinforced. Withdrawal of group or clan support is an economic, as well as, a psychological threat.

### **4. Community Infrastructure**

A President, Vice-President and a unicameral council made up of delegates from the chapters throughout the reservation, governs the Navajo Nation. Local governments consist of Chapter Presidents and other representatives, with day-to-day administrative duties conducted by Chapter Coordinators.

Educational facilities for BC are Navajo Community College, Crownpoint Institute of Technology, Crownpoint elementary, mid and high schools, the BIA community school, Crownpoint Christian School and Pre-schools Units I, II, & III, located in Crownpoint.

Social services available for the BC include Department of Head Start, Community Health Representative, Women, Infants and Children, Agency of Community Services, Senior Citizens Center, Elderly Group Home, Department of Employment and Training, Division of Services, Emergency Medical Technicians, Navajo Housing Services and Navajo Tribal Enrollment Services.

Basha's Supermarket, two restaurants three gasoline stations, three convenience stores, two laundromats and a variety of other small business such as feed stores, video shops and car washes in Crownpoint serve BC. The major trade center is Gallup, New Mexico, 70 miles southwest.

The BIA, County of McKinley and the State of New Mexico provide road construction and maintenance. Utilities available in the area are provided by Bureau of Indian Affairs, Navajo Tribal Utilities Authority, Continental Divide Electric Cooperative, Inc., and Citizens Telecom (Navajo Communications).

## ***G. Resource and Land Use Patterns***

### **1. Agriculture, Farmland Protection Policy Act [7 CFR 658]**

Agriculture is generally practiced on a limited basis throughout the Navajo Nation. Dry land farming of small farm plots is the most prevalent method due to the aridity of the southwest. Due to the quality of the soils and aridity of the area, there is no significant farming activity in the BC.

Grazing by sheep, goats, cattle and horses is the primary use of the land by local inhabitants. Rangeland may be classified by its carrying capacity in sheep units; that is, the amount of land needed to graze one sheep for one year (one cow requires four sheep units; one horse, five sheep units). According to studies conducted in the area, the best grazing areas would require 20 to 30 acres per sheep unit. In poorer grazing areas, as many as 500 acres would be required per sheep unit. The area may be considered fair to poor. There are no prime or unique farmlands within or adjacent to the MAPLE area.

### **2. Residential Land Use**

In general, housing conditions range from good to excellent in the BC. Many of the dwellings in the area have been built by their owners. Mobile homes are a popular source of improved housing. However, many of the mobile homes lack water and sewer and are dependent on outhouses and hauled water. This situation is constantly improving as Indian Health Service projects gradually expand water systems on the reservation allowing families to enjoy water, indoor plumbing utilizing septic tanks and leach fields for sanitary systems. 276 houses were reported in the BC in the 2000 census; of this number 103 were found vacant, 20 mobile homes are located in the Chapter. 55 homes lack water and sewer and are dependent on outhouses and hauled water. BC has no definite town limits or zoning restrictions specifying types of construction or specific areas for commercial, industrial or residential development. NHA housing projects in the area are laid out in the conventional urban system of homes located along streets and alleys.

In the rural areas of the chapter, the populations of Navajo families reside in a rural form. That is in the manner found in farming and ranching communities where the families reside in "open compounds" or areas where one or more homes are located and surrounded by acres of farmland or grazing areas. Often several families, composed of the parents, and one or more sons and/or daughters, live at the same location.

### **3. Waste Material**

#### ***a. Solid Waste***

No local landfill is available, solid waste is hauled to transfer stations and disposed of in a manner and at locations in conformance with applicable federal, state and Navajo Tribal laws and regulations.

#### ***b. Hazardous Waste***

A field trip to the MAPLE project was conducted on September 26, 2013. There are no hazardous or toxic waste materials in the MAPLE project area.

## **H. Other Values**

### **1. Sound and Noise, Noise and Abatement Control [24 CFR 51B]**

In acoustics, noise is defined as any undesired sound. Usually, noise is a mixture of many tones combined in a non-musical manner. The measurement of any sound stimulus is commonly made with a sound-level meter and a frequency analyzer. The results of a measurement are given in decibels (db).

db Level	Example
30	Quiet library, soft whispers
40	Living room, refrigerator, bedroom away from traffic
50	Light traffic, normal conversation, quiet office
60	Air conditioner at 20 feet, sewing machine
70	Vacuum cleaner, hair dryer, noisy restaurant
80	Average city traffic, garbage disposals, alarm clock at two feet
<b>THE FOLLOWING NOISE LEVELS MAY BE DANGEROUS UNDER CONSTANT EXPOSURE</b>	
90	Motorcycle, truck traffic, lawn mower
100	Garbage truck, chain saw, pneumatic drill
120	Rock band concert in front of speakers, thunderclap
140	Gunshot blast, jet plane
180	Rocket launching pad

The ambient noise levels in the BC ranges between 0-db (soft whisper) and 50-db from light traffic. Due to the location and topography, the area along the MAPLE project will not be subject to noise levels higher than an occasional 50-db level.

### **2. Public Health and Safety**

The Crownpoint Indian Hospital, Crownpoint, New Mexico, Gallup Indian Medical Center and Rehoboth McKinley Christian Hospital, Gallup, New Mexico provides medical services in the BC area. Outpatient services are available at a clinic in Thoreau, New Mexico.

The McKinley County Sheriff's Department, New Mexico State Police and Navajo Police, Crownpoint District, provide public safety services. Fire suppression is provided by the BIA volunteer fire department.

### **3. Visual Setting**

The visual resources of an area are closely linked to peoples' concern for that area. Because of the importance of the visual senses, aesthetics are closely related to other human-interest values. Public enjoyments of recreational, historical and cultural resources are enhanced by aesthetic quality.

There are no unique features, vegetative patterns or sensitive areas, which would make the area where the MAPLE project is in an area of unique visual resources.

### **4. Explosive and Flammable Operations [24 CFR 518]**

A field trip to the MAPLE project area was conducted on September 26, 2013. The site was found to be clear of dumps, landfills, industrial sites or other facilities or locations that contain hazardous wastes. The site is free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances.

### **5. Airport Clear Zones and Accident Potential Zones [24 CFR 51D]**

There are no airports or landing strips in the vicinity of the MAPLE project. Aircraft do not land or take off over the MAPLE project.

## **IV. Environmental Consequences of the Proposed Action and Measures for Mitigation**

### **A. Land Resources**

#### **1. Topography**

The MAPLE project alignment topography may be considered as rolling with no significant breaks. No modification of the topography will be required.

#### **2. Soils.**

Construction of; and operations at the MAPLE project will not require or generate and pollutants or materials which would effect the soils on the plant site; plant development and operations will not effect soils.

#### **3. Geological Setting and Mineral Resources**

##### **a. Geology**

The MAPLE project development and maintenance will have no effect on the geological setting.

##### **b. Mineral Resources**

The MAPLE project development and maintenance will have no effect on mineral resources.

#### **4. Paleontology**

The MAPLE project development and maintenance will have no effect on paleontology.

### **B. Water Resources**

#### **1. Surface Water**

No defined drainages will be blocked, impounded or diverted because of MAPLE project development or operations. The MAPLE project will not require the deposit or removal of material in streams of the United States. Measures to assure surface runoff will be managed so water erosion and pollution do not occur. Runoff from the MAPLE project will contain no toxic or hazardous materials.

Surface water will not be adversely affected by the MAPLE project development and maintenance.

##### **a. Floodplain Management [24 CFR 55, Executive Order 11988]**

The MAPLE project is not located in a 100-year frequency flood plain. The MAPLE project is not subject to flooding.

##### **b. Wild and Scenic River Act [Sections 7(b) and (c)]**

The MAPLE project development and maintenance will not impact wild and scenic rivers.

##### **c. Wetland Protection [Executive Order 11990]**

The MAPLE project development and maintenance will not have an adverse effect on wetlands.

#### **2. Ground Water**

The MAPLE project development and maintenance will have no effect on the ground water.

##### **a. Sole Source Aquifers [40 CFR 149]**

The MAPLE project development and maintenance will have no effect on sole source aquifers.

### **C. Air Resources (Clean Air Act [Sections 176 (c), (d) and 40 CFR 6, 51, 93])**

#### **1. Quality**

MAPLE project development and maintenance will not generate or release pollutants which will result in visibility reduction, damage to materials such as structural metals, paint and fabrics, damage to vegetation, and physiological damage to man and animals.

The MAPLE project development and maintenance will not have an effect on the air quality.

## **2. Visibility**

The MAPLE project development and maintenance will have no effect on visibility.

## **3. Climate/Meteorology**

The MAPLE project will have no effect on the climate or meteorology.

### **D. Biotic Resources**

#### **1. Description of Ecosystem and Biological Communities**

No significant impacts are to occur to the existing ecosystem or biological communities from the MAPLE project.

#### **2. Wildlife**

##### **a. Terrestrial**

Wildlife will not be adversely impacted by the MAPLE project.

##### **b. Riparian/Aquatic**

Riparian or aquatic species will not be adversely impacted by the MAPLE project.

##### **c. Threatened and Endangered Species**

Prairie dog colonies were not found on the MAPLE alignment. The Black-footed ferret (*Mustela nigripes*) will not be impacted by the MAPLE project.

##### **d. Other Species of Concern**

The NFWF have identified the Ferruginous hawk (*Buteo regalis*) with potential to occur on the *Antelope Lookout Mesa Quadrangle, New Mexico Quadrangle (Appendix E)*.

No cliffs or trees for nesting are found in the immediate area of the MAPLE. The Ferruginous hawk may frequent and forage in the area. The nature of the project and area of impact will not reduce the forage area of the hawk. The design and construction of the MAPLE shall be in accordance with the *Avian Power Line Committee's Suggested Practices for Raptor Protection on Power Lines; The State of the Art 2006 (Edison Electric Institute, APLIC and the California Energy Commission, Washington D. C. and Sacramento, CA)*. It is not expected that MAPLE project development and maintenance will have an adverse effect on this species.

#### **3. Vegetation**

##### **a. Terrestrial**

No ground clearing will be required for the MAPLE project development. Vegetation will not be affected. No adverse impacts to vegetation will occur.

##### **b. Riparian/Aquatic**

The MAPLE project development and maintenance will have no effect on riparian or aquatic species or habitat in BC or the Navajo Nation.

##### **c. Threatened and Endangered Species**

The NFWF have recommended the habitat for Parish alkali grass (*Puccinellia Parishii*) be evaluated. Springs or seeps with white alkaline crusts were not observed on the MAPLE project alignment.

The MAPLE project development and maintenance will have no effect on this species.

#### **4. Biological Resources Compliance**

The project site is within a Cumulative Raptor Sensitive Area (RSA). All proposed power lines shall be constructed with a raptor-safe power pole design as per *Raptor Electrocution Prevention Regulations (REPR)*. *Biological Resources Compliance Form, NFWF Review No. 13JRAE-08* was issued on December 11, 2013 with the stipulation "Power line construction will avoid the Migratory Bird breeding season of 01 MAR – 15 AUG or surveys will precede construction activity and disturbance of vegetation.

## ***E. Cultural and Archaeological Resources***

The MAPLE project was inventoried by the Navajo Nation Archaeology Department (NNAD). A complete description of this work and results are found in the archaeological report titled *A Cultural Resources Inventory of the Marie Antonio Powerline Extension, Becenti Chapter, McKinley County, New Mexico (DCD1-13-006), July 2013 (Appendix F)*. *Cultural Resource Compliance Form (HPD-13-535) (Appendix G)* was issued for this undertaking on August 26, 2013

### **1. Traditional Cultural, Historic and Religious Properties**

No traditional, cultural, historic or religious properties have been identified within the MAPLE project alignment.

### **2. Archaeological Resources**

One In-site use (IUS) was identified in the inventory. The IUS does not meet the 50-year guideline for inclusion on the nation Register of Historic Places (NRHP). No archaeological resources were discovered.

A determination of "no historic properties affected" has been recommended with no stipulations.

In the event of the discovery of any previously unidentified or incorrectly identified cultural resources; including but not limited to archaeological deposits, human remains, or locations reportedly associated with the Native American religious/traditional beliefs or practices; the NNHPD will be notified.

## ***F. Socioeconomics***

### **1. Employment**

The MAPLE project will have no effect on employment in the project area.

### **2. Demographics**

The MAPLE project will not affect demographics of the BC.

### **3. Lifestyles, Cultural Values**

The MAPLE project development and maintenance will have a positive effect on the lifestyles of the family in the BC to be served by the MAPLE.

### **4. Community Infrastructure**

The MAPLE project development and maintenance will have a direct effect on the BC community infrastructure by providing electricity to an area not presently served.

## ***G. Resource and Land Use Patterns***

### **1. Agriculture, Farmland Protection Policy Act [7 CFR 658]**

The MAPLE project development and maintenance will have no effect on agriculture in the Prewitt/Baca area.

### **2. Residential Land Use**

The MAPLE project development and maintenance have no effect on residential land use.

### **4. Waste Material**

#### ***a. Solid Waste***

Solid wastes generated at MAPLE project development will be collected and disposed of in conformance with applicable federal and Navajo Nation laws and regulations.

#### ***b. Hazardous Waste***

Hazardous or toxic materials will not be used or generated by the MAPLE project development.

## ***H. Other Values***

### **1. Sound and Noise**

The MAPLE project development and maintenance will have no effect on ambient noise.

### **2. Public Health and Safety**

The MAPLE project development and maintenance will not have an effect on public health and safety in the BC area.

### **3. Visual Setting**

There are no unique features, vegetative patterns or sensitive areas, which make MAPLE area a unique visual resource. There are no designated or unique observation points in the area. The MAPLE project development and maintenance will not have an adverse effect on the visual setting or visual resources in the BC area.

### **4. Explosive and Flammable Operations [24 CFR 518]**

No explosive or flammable operations will result from the development of the MAPLE project.

### **5. Airport Clear Zones and Accident Potential Zones [24 CFR 51D]**

Aircraft do not land or take off over the MAPLE project.

## **V. Compliance with Executive and Secretarial Orders**

### **6. Environmental Justice**

The proposed action will have positive social and economic impacts on the BC minority population. The right-of-way approval for CDED is considered as an action, which is in conformance with the intent of *Executive Order 12898 of February 11, 1994, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*.

### **7. Indian Trust Resources**

This environmental assessment has been prepared to assess the impacts from the approval of the MAPLE project to the Navajo Indian environment and trust resources. This action is conducted in compliance with *Secretarial Order 3175, Departmental Responsibilities for Indian Trust Resources*.



## VI. Conclusions Regarding Significance

- The MAPLE project development and maintenance will not have an adverse impact on land resources.
- The MAPLE project development and maintenance will not have an effect on water resources.
- The MAPLE project development and maintenance will not have an effect on wetlands.
- The MAPLE project development and maintenance will not have an effect on air resources.
- The MAPLE project development and maintenance will not have a significant effect on biotic resources.
- The MAPLE project development and maintenance will not have an adverse effect on any federally listed species or adversely affect any tribally listed species; or other species of concern.
- The approval of the MAPLE project development will have no effect on archaeological resources in the project area.
- Traditional cultural, historic, or religious properties will not be affected by the MAPLE project development and maintenance.
- The MAPLE project development and maintenance will have no effect on employment on the Navajo Nation.
- The MAPLE project development and maintenance will have a positive effect on the lifestyle of a family in the BC.
- The MAPLE project development and maintenance will not have an effect on agriculture.
- The MAPLE project development and maintenance will not have an effect on residential land use in the BC.
- The MAPLE project development and maintenance will not have an adverse effect on ambient sound and noise levels in Prewitt/Baca and surrounding area.
- The MAPLE project development and maintenance will not have an effect on public health and safety.
- The MAPLE project development will not have an adverse effect on the visual setting or visual resources in the BC.
- The MAPLE project development and maintenance may be considered as an action which is in conformance with the intent of *Executive Order 12898 of February 11, 1994, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*.
- This environmental assessment has been prepared to assess the impacts to the Navajo Indian environment and trust resources that may result from the approval of the MAPLE project development and maintenance. This action is conducted in compliance with *Secretarial Order 3175, Departmental Responsibilities for Indian Trust Resources*.

## **VII. Consultation and Coordination**

### ***A. Persons or agencies involved in the proposed action***

Consultation with the Navajo Nation Fish and Wildlife Program, Biological Survey Services Program, Window Rock, Arizona and the Navajo Nation Historic Preservation Department has been conducted to assure mandated protection of natural and cultural resources.

Alan S. Downer, Navajo Nation Historic Preservation Officer  
Harrilene Yazzie, NEPA Coordinator U. S. DOI, BIA, Navajo Region  
Eastern Navajo Agency, Branch of Real Estate Services U. S. DOI, BIA Navajo Region

### ***B. Persons or agencies providing information***

Katherine Gallegos, PLS, Transmission and Distribution Services, LLC  
Navajo Nation Archaeology Department, Window Rock, Arizona  
The Navajo Nation, Natural Heritage Program, Navajo Fish and Wildlife Department

### ***C. References***

- \_\_\_\_\_ 2013. A Cultural Resources Inventory of the Marie Antonio Powerline Extension, Becenti Chapter, McKinley County, New Mexico (DCD1-13-006), July 8, 2013
- \_\_\_\_\_ 2013. Correspondence, NAVAJO ENDANGERED SPECIES LIST (NESL) INFORMATION FOR: CDEC Marie Antonio Power Line Extension Project, Becenti Chapter, McKinley County, NM, Navajo Nation Natural Heritage Program, Department of Fish and Wildlife 01 November 2013
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- \_\_\_\_\_ 2012. Western Regional Climate Center, Crownpoint, New Mexico (292219), Period of Record Monthly Climate Summary, Period of Record: 7/1/1914 to 11/13/1969
- \_\_\_\_\_ 2005. Western Wild and Scenic Rivers, New Mexico
- \_\_\_\_\_ 2005. Designated Sole Source Aquifers, EPA Region VI
- \_\_\_\_\_ 2005. Designated Nonattainment Areas, EPA Region VI.

# **VIII. Document Preparer**

Jim R. Analla, Consultant  
Environmental Assessment Services  
P. O. Box 1034  
Gallup, New Mexico 87305  
(505) 905-3943

# Appendix

**Wild and Scenic Rivers**  
**[www.nps.gov/rivers/wildriverslist.html](http://www.nps.gov/rivers/wildriverslist.html)**



# Wild & Scenic Rivers By State

"... the time has also come to identify and preserve free-flowing stretches of our great rivers before growth and development make the beauty of the unspoiled waterway a memory."  
- President Lyndon Johnson

Designated WSRs  
River Information  
Rivers & Trails  
WSR Council  
Publications  
Study Rivers  
About WSRs  
Guidelines  
Site Index  
Agencies  
WSR Act  
NRI

Questions?

- |   |   |   |
|---|---|---|
| • <a href="#">Alabama</a>                 | • <a href="#">Kentucky</a>              | • <a href="#">New Jersey / Pennsylvania</a> |
| • <a href="#">Alaska</a>                  | • <a href="#">Louisiana</a>             | • <a href="#">New Mexico</a>                |
| • <a href="#">Arizona</a>                 | • <a href="#">Maine</a>                 | • <a href="#">New York / Pennsylvania</a>   |
| • <a href="#">Arkansas</a>                | • <a href="#">Massachusetts</a>         | • <a href="#">North Carolina</a>            |
| • <a href="#">California</a>              | • <a href="#">Michigan</a>              | • <a href="#">Ohio</a>                      |
| • <a href="#">Colorado</a>                | • <a href="#">Minnesota / Wisconsin</a> | • <a href="#">Oregon</a>                    |
| • <a href="#">Connecticut</a>             | • <a href="#">Mississippi</a>           | • <a href="#">Pennsylvania</a>              |
| • <a href="#">Delaware / Pennsylvania</a> | • <a href="#">Missouri</a>              | • <a href="#">Tennessee</a>                 |
| • <a href="#">Florida</a>                 | • <a href="#">Montana</a>               | • <a href="#">Texas</a>                     |
| • <a href="#">Georgia / Carolinas</a>     | • <a href="#">Nebraska</a>              | • <a href="#">Washington</a>                |
| • <a href="#">Idaho</a>                   | • <a href="#">Nebraska / S Dakota</a>   | • <a href="#">West Virginia</a>             |
| • <a href="#">Idaho / Oregon</a>          | • <a href="#">New Hampshire</a>         | • <a href="#">Wisconsin</a>                 |
| • <a href="#">Illinois</a>                | • <a href="#">New Jersey</a>            | • <a href="#">Wyoming</a>                   |

## Managing Agencies

- [ACOE = Army Corps of Engineers](#)
- [BLM = Bureau of Land Management -- BLM Rivers](#)
- [NPS = National Park Service](#)
- [USFS = U.S. Forest Service](#)
- [USFWS = U.S. Fish & Wildlife Service](#)
- [Various states](#)

Multiple listings of some rivers indicate more than one segment of the river is designated. Some rivers also have tributaries designated.

## Arizona

- [Verde, USFS](#)

## New Mexico

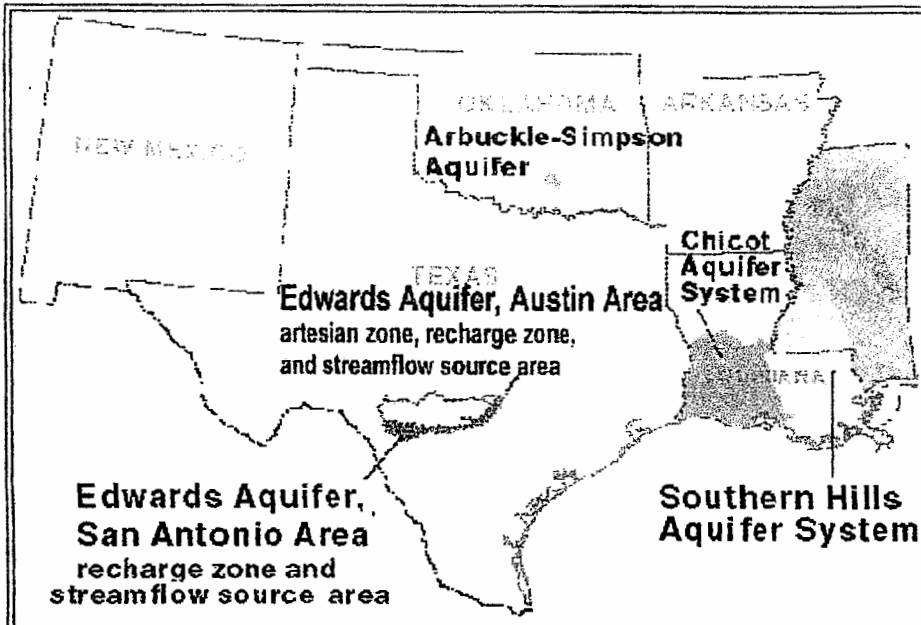
- [Jemez \(East Fork\), USFS](#)
- [Pecos, USFS](#)
- [Rio Chama, BLM/USFS -- Boating the Rio Chama](#)
- [Rio Grande, BLM/USFS -- Boating the Rio Grande](#)

# Appendix

**Designated Sole Source Aquifers  
in EPA Region VI  
[www.epa.gov/safewater/swp/ssa/reg6.html](http://www.epa.gov/safewater/swp/ssa/reg6.html)**

# DESIGNATED SOLE SOURCE AQUIFERS IN EPA REGION VI

**Arkansas, Louisiana, New Mexico, Oklahoma, Texas**



Claybourne Chesney  
Source Water Protection Branch (6WQ-S)  
US EPA Region 6  
1445 Ross Avenue  
Dallas, TX 75202-2733  
phone: (214)665-7128  
email: chesney.claybourne@epa.gov

***The 5 Sole Source Aquifer designations in Region VI are listed below. Visit EPA Region 6 for SSA maps and details on each aquifer.***

**DESIGNATED SOLE SOURCE AQUIFIERS IN REGION 6:**

State	Sole Source Aquifer Name	Federal Reg. Cit.	Public. Date	IS map
LA	Chicot Aquifer System	53 FR 20893	06/07/88	yes
*LA/MS	Southern Hills Aquifer System	53 FR 25538	07/07/88	yes
OK	Arbuckle-Simpson Aquifer, South Central Oklahoma	54 FR 39230	09/25/89	yes
TX	Edwards Aquifer, San Antonio Area	40 FR 58344	12/16/75	yes
TX	Edwards Aquifer, Austin Area	53 FR 20897	06/07/88	yes



# Appendix

**Correspondence,  
New Mexico Air Quality Bureau  
August 1, 2005**



**BILL RICHARDSON**  
Governor

*State of New Mexico*  
**ENVIRONMENT DEPARTMENT**

**Air Quality Bureau**  
2048 Galisteo St.  
Santa Fe, NM 87505  
Phone (505) 827-1494  
Fax (505) 827-1523  
[www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)



**RON CURRY**  
Secretary

**DERRITH WATCHMAN-MOORE**  
Deputy Secretary

August 1, 2005

Mr. Jim Analla  
PO Box 1034  
Gallup, NM 87305

Dear Mr. Analla:

In response to your question about the New Mexico Environment Department (NMED) air monitoring network, I can give you the following information. Generally, our ambient air monitors are set up at sites in New Mexico that are near known sources of air pollution or have a high population concentration. Usually, when NMED has no monitors in a particular area, it is because air quality is generally good. There are many counties in New Mexico where there is no air monitoring because of the absence of air quality problems.

In the absence of air monitors, such areas are generally described as "unclassified" for attainment status, and are treated as though they are in attainment of all national and state ambient air quality standards. I hope this information will be useful to you in preparing your air quality assessments.

Sincerely,

Josephine Ball  
Quality Assurance Manager  
New Mexico Air Quality Bureau

# Appendix

## **Air State Implementation Plans EPA Region VI: South Central**

## Air State Implementation Plans

Section 110 of the Clean Air Act (Act) or (CAA) requires states to submit plans to EPA which provide for implementation, maintenance, and enforcement of the primary and secondary national ambient air quality standards for the criteria pollutants regulated under Title I of the Act (i.e., ozone, carbon monoxide, particulate matter less than or equal to 10 microns (PM-10), sulfur dioxide, nitrogen dioxide, and lead).

Each plan submitted must undergo reasonable notice and public hearing and include enforceable emission limitations and other control measures, schedules and timetables for compliance. The EPA approved SIP regulations are available for each State.

The following are the designated nonattainment areas in Region 6 subject to the section 110 nonattainment planning requirements (as of 9/5/12):

AREA	POLLUTANT	CLASSIFICATION
Houston-Galveston-Brazoria, Tx	8-Hour Ozone (1997 standard)	Severe
Houston-Galveston-Brazoria, Tx	8-Hour Ozone (2008 standard)	Marginal
Beaumont-Port Arthur, Tx	8-Hour Ozone (2008 standard)	N/A
Dallas-Ft. Worth, Tx	8-Hour Ozone (1997 standard)	Serious
Dallas-Ft. Worth, Tx	8-Hour Ozone (2008 standard)	Moderate
Baton Rouge, La	8-Hour Ozone (2008 standard)	Marginal
Anthony, NM	PM-10	N/A
El Paso, Tx	PM-10	N/A

# Appendix

## Correspondence

### **NAVAJO ENDANGERED SPECIES LIST (NESL) INFORMATION FOR: CDEC Marie Antonio Power Line Extension Project**

**Becenti Chapter, McKinley County**

**NM**

**Nation Natural Heritage Program, Department of Fish and Wildlife  
25 September 2013**

**NN Biological Resource Land Clearance Policies and Procedures**

**Biological Resources Compliance Form NNDF&WL  
Review No. 13JRAE-08**

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NAVAJO NATION  
Department of Fish & Wildlife  
Navajo Natural Heritage Program  
P.O. Box 1480  
Window Rock, AZ 86515



Phone: 928.871.6472 • Fax: 928.871.7603 • <http://nnhp.nndfw.org>

Ben Shelly, President

Rex Lee Jim, Vice President

01 November 2013

File#13JRAE-08

Jim R. Analla  
J.R. Analla EA Services  
P.O. Box 1034  
Gallup, NM 87305

NAVAJO ENDANGERED SPECIES LIST (NESL) INFORMATION FOR:

PROJECT: CDEC MARIE ANTONIO POWER LINE EXTENSION PROJECT  
LEGAL DESCRIPTION SECTIONS 2 & 11, T18N, R13W, NMPM  
BECENTI CHAPTER, MCKINLEY COUNTY, NM

Mr. Analla:

The following information on species of concern<sup>1</sup> is provided in response to your 02 October 2013 request concerning the subject project, which consists of the proposed power line right-of-way for service to the Marie Antonio homesite located in legal description Sections 2 & 11, T18N, R13W, NMPM, Becenti Chapter, McKinley County, NM.

All or parts of this project currently are within areas protected by the Raptor Electrocution Prevention Regulations; consult with NNDFW Zoologist and/or EA Reviewer for more information and recommendations.

Although the Navajo Fish and Wildlife Department (NFWD) has no record of species of concern occurring on or near the project site(s) at this time, the potential for certain species of concern to occur needs to be evaluated.

Species of concern with potential to occur on the 7.5-minute *Antelope Lookout Mesa, NM* quadrangle(s) containing the project boundaries include the following. Potential is based primarily on quadrangle-wide coarse habitat characteristics and species range information. Your project biologist should determine habitat suitability at the project site(s).

---

<sup>1</sup>"Species of concern" include protected, candidate, and other rare or otherwise sensitive species, including certain native species and species of economic or cultural significance. For each species, the following tribal and federal statuses are indicated: Navajo Endangered Species List (NESL), federal Endangered Species Act (ESA), Migratory Bird Treaty Act (MBTA), and Eagle Protection Act (EPA). No legal protection is afforded species with only ESA candidate or NESL group 4 status; please be aware of these species during surveys and inform the NFWD of observations. Documentation that these species are more numerous or widespread than currently known, and addressing these species in project planning and management is important for conservation and may contribute to ensuring they will not be uplisted in the future. Species without ESA or NESL legal protection (e.g., NESL group 4 species) are only included in responses on a regular basis and may not be included in this response. Please refer to the NESL for a list of group 4 species; contact me if you need a copy.

	SCIENTIFIC NAME	COMMON NAME	NESL STATUS	FEDERAL STATUS AND/OR *MBTA
1.	<i>Buteo regalis</i>	Ferruginous Hawk	G3	MBTA

\*MBTA = Migratory Bird Treaty Act

### AREA 3 of The Biological Resource Land Clearance Policies & Procedures

Area 3-Low Sensitivity Wildlife Resources: This area has a low, fragmented concentration of species of concern. Species in this area may be locally abundant on 'islands' of habitat, but islands are relatively small, limited in number and well spaced across the landscape. (For detailed information regarding "Area 3" please refer to our website at [nndfw.org](http://nndfw.org)).

Potential for the black-footed ferret should be evaluated if prairie-dog towns of sufficient size (per NFWD guidelines) occur in the project area.

Potential for Puccinellia parishii should be evaluated if wetland conditions exist that contain white alkaline crusts.

Biological surveys need to be conducted during the appropriate season to ensure they are complete and accurate please refer to NN Species Accounts.<sup>4</sup> Further questions pertaining to surveys should be referred to Species Account. Surveyors on the Navajo Nation must be permitted by the Director, NFWD. Contact Jeff Cole at (928) 871-6595 for permitting procedures. Questions pertaining to surveys should be directed to the NFWD Zoologist (Chad Smith) for animals at 871-7070 and Botanist (Andrea Hazelton) for plants at (928) 523-3221. Questions regarding biological evaluations should be directed to Pamela Kyselka (Acting Environmental Reviewer) at 871-7065.

The powerline(s) should be designed according to the Avian Power Line Interaction Committee's 'Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006' (Edison Electric Institute, APLIC, and the California Energy Commission. Washington, D.C. and Sacramento, CA).

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

Potential impacts to wetlands should also be evaluated. The U.S. Fish & Wildlife Service's National Wetlands Inventory (NWI) maps should be examined to determine whether areas classified as wetlands are located close enough to the project site(s) to be impacted. In cases where the maps are inconclusive (e.g., due to their small scale), field surveys must be completed. For field surveys, wetlands identification and delineation methodology contained in the 'Corps of Engineers Wetlands Delineation Manual' (Technical Report Y-87-1) should be used. When wetlands are present, potential impacts must be addressed in an environmental assessment and the Army Corps of Engineers, Phoenix office, must be contacted. NWI maps are available for examination at the NFWD's Natural Heritage Program (NHP) office, or may be purchased

<sup>4</sup>Available free of charge on our website at <http://nnhp.navajofishandwildlife.org/>



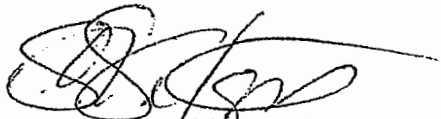
through the U.S. Geological Survey (order forms are available through the NHP). The NHP has complete coverage of the Navajo Nation, excluding Utah, at 1:100,000 scale; and coverage at 1:24,000 scale in the southwestern portion of the Navajo Nation.

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

For a list of sensitive species on the Navajo Nation in addition to the species listed on the Navajo Endangered Species List (NESL) please refer to our website at [www.nndfw.org](http://www.nndfw.org).

An invoice for this information is attached.

If you have any questions I may be reached at (928) 871-6472.



Sonja Detsoi, Wildlife Tech.

Natural Heritage Program

Department of Fish and Wildlife

xc: file/chrono

## Biological Resource Land Clearance Policies and Procedures

### INTRODUCTION

The Resources Committee of the Navajo Nation Council is the legislative oversight of the Division of Natural Resources that includes the Navajo Nation Department of Fish & Wildlife (NNDFW). It has the responsibility and authority to adopt policies, procedures and regulations that protect the biological resources of the Navajo Nation. The Resources Committee, by Resolution No. RCMA-34-03 dated March 13, 2003, approved the Biological Resource Land Clearance (BRLC) Policies and Procedures prepared by the NNDFW to assist the Navajo Nation government and chapters ensure compliance with federal and Navajo laws which protect fish, wildlife species, both plants and animals, and their habitat, resulting in expedited land use approvals.

The NNDFW is established, "to conserve, protect, enhance and restore the Navajo Nation's fish, wildlife, plants and their habitat, through aggressive management programs for the spiritual, cultural and material benefit of present and future generations of the Navajo Nation". After years of research and study, the NNDFW has identified and mapped wildlife habitat and sensitive areas that cover the entire Navajo Nation. The maps are attached, hereto, as attachment "A", and are incorporated herein by reference. The BRLC Policies and Procedures identify wildlife/habitat sensitive areas that will assist the Navajo Nation government and chapters expedite the land clearance process for land withdrawals, rights-of-ways, leases, subleases, assignments, land use permits and other similar land uses.

The BRLC Policies and Procedures will help direct development to areas where impacts to wildlife and/or their habitat will be less significant. This should increase certainty in planning and implementation of projects, while ensuring the perpetuation of wildlife resources for present and future generations. The entire Navajo Nation has been divided into six types of wildlife areas. These areas provide the framework for planning specific development projects, but site-specific planning to address wildlife resources will still be necessary, in most cases. This BRLC Policies and Procedures explain what restrictions apply in each area and describes the process for the planning and approval of projects with respect to wildlife resources.

#### The following is a brief summary of six (6) wildlife areas identified in attachment "A":

1. Highly Sensitive Area – recommended little or no development.
2. Moderately Sensitive Area – moderate restrictions on development.
3. Low Sensitive Area – least restrictions on development.
4. Community Development – areas in and around towns, and with only a few exceptions, there are no biological resources that need to be taken into consideration in planning. However, this is not meant to keep chapters from taking the initiative to develop areas such as parks or nature trails to enhance the quality of life for those communities.
5. Biological Preserve – area is off limits to development except development that is compatible with the purpose of this area.
6. Recreational – area is off limits to development except development that is compatible with the purpose of this area.

Preparation of a Biological Evaluation (BE) is required for development in any area, except in Area 3 and 4 for individual homesites and related utilities. The BE:

- Is documentation of impacts that a proposed project may have on biological resources.
- Must consider direct, indirect, short-term, long-term and cumulative impacts and impacts from actions that are dependent on, or are clearly related to the proposed development.
- Must have Department concurrence that the evaluation of impacts to wildlife resources is accurate.
- Contains accurate information about the location of the development, including but not limited to a legal description, distance to landmark, and a map (7.5' USGS topographic quadrangle).

For information about the contents of a BE, contact NNDFW. Additionally, the Department possesses additional information on wildlife, including biology, distribution, occurrence records, avoidance measures, management recommendations and wildlife law. Project sponsors, including chapter officials, or those working on behalf of a chapter on land-use planning, are encouraged to contact the Department for this information.

Federal laws for environmental planning and protection apply to all areas when the Federal government is involved in funding, carrying out, or authorizing, in whole or in part, proposed development. These laws include the National Environmental Policy Act, Endangered Species Act, Eagle Protection Act and Migratory Bird Treaty Act. The wildlife areas identified herein do not supersede or replace Federal law, but can be an important tool in addressing the requirements of these laws. Federal actions that may affect federally listed species will require consultation with the U.S. Fish and Wildlife Service.

The following is a more detailed description of the six (6) wildlife areas, identified in attachment "A", which provides an explanation of the applicable restrictions on development, and describes the process for the planning and approval of projects

Biological Resource Land Clearance Policies and Procedures  
with respect to wildlife resources.

### **AREA 1: HIGHLY SENSITIVE WILDLIFE RESOURCES**

This area contains the best habitat for endangered and rare plant, animal and game species, and the highest concentration of these species on the Navajo Nation. The purpose of this area is to protect these valuable and sensitive biological resources to the maximum extent practical.

The general rule for this area is no development. Restricted development is allowable only if the following criteria are met. All development requires the preparation of a BE. An acceptable BE must fully consider alternatives to the proposed development, and provide a compelling reason to develop in this area.

#### **Criteria for Allowable Development:**

- A. Residential/business development is allowed within Area 1 if it is:
  - 1. Not within or close enough to the habitat to cause significant impacts
  - 2. Located on the perimeter of the area
    - a) If not on the perimeter, there must be no reasonable alternatives
  - 3. Located within 1/8 mile of similar development
- B. Other types of development are allowed in Area 1 if:
  - 1. It is not within or close enough to habitat to cause significant impacts
  - 2. There are no reasonable alternatives outside the area

#### **Process for planning and approval of development:**

- A. Project Sponsor requests information on rare and endangered species, specific to the proposed development, from the Navajo Natural Heritage Program
- B. Project Sponsor meets with the Department to explore alternatives for development
- C. Project Sponsor, or their consultant, prepares a BE for the proposed development
- D. Department reviews the BE to determine if impacts to wildlife resources are accurately assessed, impacts that can not be avoided are reasonably mitigated, and that no other reasonable alternatives exist
- E. Department issues a letter, to the Project Sponsor, either concurring or not concurring with the BE based on the review
- F. The Department letter must be part of any project approval application package

### **2. AREA 2: MODERATELY SENSITIVE WILDLIFE RESOURCES**

This area has a high concentration of rare, endangered, sensitive and game species occurrences or has a high potential for these species to occur throughout the landscape. The purpose of this area is to minimize impacts on these species and their habitats within Area 2, and to ensure the habitats in Area 1 do not become fragmented.

The rule for this area is that all development be placed to avoid species and their habitat. Avoidance needs to include an adequate buffer to address long-term and cumulative impacts. The buffer distance will depend on the species and the situation, and may be up to one mile. All development requires the preparation of a BE.

#### **Criteria for allowable development:**

- A. Must not be within or close enough to habitat to cause significant impacts

#### **Process for planning and approval of development:**

- A. Project Sponsor requests information on rare and endangered species, specific to the proposed development, from the Navajo Natural Heritage Program
- B. Project Sponsor, or their consultant, prepares a BE for the proposed development
- C. Department reviews the BE to determine if impacts to wildlife resources are accurately assessed, impacts that can not be avoided are reasonably mitigated, and that no other reasonable alternatives exist
- D. Department issues a letter, to the Project Sponsor, either concurring or not concurring with the BE based on the review
- E. The Department letter must be part of any project approval application package

### **3. AREA 3: LOW SENSITIVITY WILDLIFE RESOURCES**

This area has a low, fragmented concentration of species of concern. Species in this area may be locally abundant on

#### Biological Resource Land Clearance Policies and Procedures

'islands' of habitat, but islands are relatively small, limited in number and well spaced across the landscape.

Small-scale development to serve the private needs of individuals, such as homesites and service lines for utilities, can proceed without the development of a BE. However, documentation of the development shall be submitted to the NNDFW for its files.

All other development requires preparation of a BE. Any proposed development in this area does not preclude the need to meet the requirements of Federal law, as applicable.

##### Process for planning and approval of development:

- A. For individual homesites and related utilities
  - 1. Submit homesite documentation to NNDFW, including:
    - a) Location plotted on a 7.5' USGS topographic quadrangle map or reasonable facsimile
    - b) Brief description of project, including acreage
- B. For all other development
  - 1. Project Sponsor requests information on rare and endangered species, specific to the proposed development, from the Navajo Natural Heritage Program
  - 2. Project Sponsor, or their consultant, prepares a BE for the proposed development
  - 3. Department reviews the BE to determine if impacts to wildlife resources are accurately assessed, impacts that cannot be avoided are reasonably mitigated, and that no other reasonable alternatives exist
  - 4. Department issues a letter, to the Project Sponsor, either concurring or not concurring with the BE based on the review
  - 5. The Department letter must be part of any project approval application package

#### **4. AREA 4: COMMUNITY DEVELOPMENT**

The Department has determined that areas around certain communities do not support the habitat for species of concern and therefore development can proceed without further biological evaluation. This applies to all development except that which may have significant impacts outside the community. An example of this is industrial development that may impact air or water quality. For certain communities, there are exceptions where one or two species have the potential to occur. For these exceptions, the biological evaluation need only address that one or two species, and be submitted to the Department for approval.

Small-scale development to serve the private needs of individuals, such as homesites and service lines for utilities, can proceed without the development of a BE. However, documentation of the development shall be submitted to the NNDFW for its files.

##### Process for planning and approval of development:

- A. For individual homesites and related utilities
  - 1. Submit homesite documentation to Department, including:
    - a) Location plotted on a 7.5' USGS topographic quadrangle map or reasonable facsimile
    - b) Brief description of project, including acreage
- B. For all other development
  - 1. Project Sponsor requests information on rare and endangered species, specific to the proposed development, from the Navajo Natural Heritage Program
  - 2. For responses that do not list any wildlife resources the process is complete
  - 3. For responses that list wildlife resources
    - a) Project Sponsor, or their consultant, prepares a BE for the proposed development
    - b) Department reviews the BE to determine if impacts to wildlife resources are accurately assessed, impacts that cannot be avoided are reasonably mitigated, and that no other reasonable alternatives exist
    - c) Department issues a letter, to the Project Sponsor, either concurring or not concurring with the BE based on the review
    - d) The Department letter must be part of any project approval application package

#### **5. AREA 5: BIOLOGICAL PRESERVE**

These areas contain excellent, or potentially excellent, wildlife habitat and are recommended by the Department for protection from most human-related activities, and in some cases are recommended for enhancement. Only a few of these areas have been developed, to date. Future areas will be identified for each chapter on a case-by-case basis. A variety of

#### Biological Resource Land Clearance Policies and Procedures

protection and enhancement techniques are available, and the Department is interested in working with the chapter and land-user to protect/enhance these habitats by providing technical assistance, and possibly materials and labor. The Department is interested in receiving proposals from chapters and land-users for these types of areas. Ultimately, the Department maintains the authority for designating and managing biological preserves. However, the Department may delegate certain management responsibilities to the local level, under Department oversight. Any development within this area must be compatible with the purpose of the management plan for the area.

##### Process for planning and approval of development:

- A. Project Sponsor requests information from the Department on the purpose of the area, and the management plan, if available
- B. Project Sponsor meets with the Department to explore alternatives for development
- C. Project Sponsor, or their consultant, prepares a BE for the proposed development
- D. Department reviews the BE to determine if the proposed project is compatible with the purpose of the area, impacts to wildlife resources are accurately assessed, impacts that cannot be avoided are reasonably mitigated, and that no other reasonable alternatives exist
- E. Department issues a letter, to the Project Sponsor, either concurring or not concurring with the BE based on the review
- F. The Department letter must be part of any project approval application package

#### **6. AREA 6: RECREATIONAL**

These areas are used for recreation that involves wildlife, or have potential for development for this purpose. Recreation can involve consumptive and/or non-consumptive uses of wildlife resources, and is often a part of a broader outdoor experience. Examples include fishing lakes, camping and picnic areas and hiking trails. Several areas have been identified as Recreation Areas. Future areas will be identified for each chapter on a case-by-case basis. A variety of management techniques are available, and the Department is interested in working with the chapter and land-user to develop and/or manage these areas. The Department is also interested in receiving proposals from chapters and land-users for these types of areas. Ultimately, the Department maintains the authority for designating and managing recreational areas that involve wildlife. However, the Department may delegate certain management responsibilities to the local level, under Department oversight. The Department encourages chapters to plan development in this area compatible with purpose, for example nature trails, interpretive displays and picnic areas.

##### Process for planning and approval of development:

- A. Project Sponsor requests information from the Department on the purpose of the area, and the management plan, if available
- B. Project Sponsor meets with the Department to explore alternatives for development
- C. Project Sponsor, or their consultant, prepares a BE for the proposed development
- D. Department reviews the BE to determine if the proposed project is compatible with the purpose of the area, impacts to wildlife resources are accurately assessed, impacts that can not be avoided are reasonably mitigated, and that no other reasonable alternatives exist
- E. Department issues a letter, to the Project Sponsor, either concurring or not concurring with the BE based on the review
- F. The Department letter must be part of any project approval application package



**PRESIDENT**  
**SEN SHIRLEY**  
**VICE PRESIDENT**  
**SEN LEO JOVE**

NAVAJO FISH AND WILDLIFE

P.O. BOX 1480

WINDOW ROCK, AZ 86515

10 December 2013

13JRAE-08

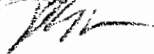
Jim R. Analla  
J.R. Analla EA Services  
Post Office Box 1034  
Gallup, New Mexico 87305

Mr. Analla,  
The Navajo Nation Department of Fish and Wildlife (NNDFW) reviewed the Environmental Assessment for the proposed Marie Antonio Power Line Extension project located in Becenti Chapter, New Mexico. The purpose of this letter is to inform you that we are granting the proposed project a Conditional Approval. The project is approved with the following condition:

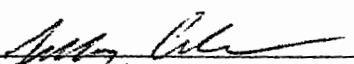
[1] Power line construction shall avoid the Migratory Bird breeding season of 01 MAR -15 AUG or surveys will precede construction activity.

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

Sincerely,

  
Pamela A. Kyselka, Wildlife Biologist  
Navajo Natural Heritage Program  
Department of Fish and Wildlife

**CONCURRENCE**

  
Gloria Tom, Director  
Department of Fish and Wildlife

12/11/13  
Date

xc: CONS-100-13  
BLA

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.: Marie Antonio CDEC 14.4/24.9 kV Power Line Extension. CDEC WO#50300

DESCRIPTION: CDEC proposes to construct, operate and maintain a power line encompassing  $\pm 0.81$  acres (1,764.18 ft.) within Navajo Trust land and  $\pm 1.26$  acres (2,745.53 ft.) within Navajo Fee land. The ROW width is 30 ft. Vegetation and soil may be impacted by construction activity.

LOCATION: S11, S12, T18N, R13W, NMPM, Becenti Chapter, McKinley County, New Mexico

REPRESENTATIVE: Jim R. Analla, J.R. Analla EA Services

ACTION AGENCY: Continental Divide Electric Cooperative, Inc. (CDEC)

B.R. REPORT TITLE / DATE / PREPARER: EAS-1311/NOV 2013/J.R. Analla EA Services

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3. Cumulative Raptor Sensitive Area (CRSA).

Potential nesting habitat exists for ATCUHY.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: [1] *Athene cunicularia hypugaea* (Western Burrowing Owl), G4, MBTA; [2] *Buteo regalis* (Ferruginous Hawk), G3, MBTA.

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: (1) The proposed power line is located within a Cumulative Raptor Sensitive Area (CRSA). The NNDFW highly recommends that the power line is constructed with a raptor-safe power pole design.

CONDITIONS OF COMPLIANCE\*: [1] Power line construction shall avoid the Migratory Bird breeding season of 01 MAR -15 AUG or surveys will precede construction activity.

FORM PREPARED BY / DATE: Pamela A. Kyselka/10 DEC 2013



COPIES TO: (add categories as necessary)

☒ E.A.

☐ \_\_\_\_\_

**2 NTC § 164 Recommendation:**

Signature

Date 12/11/13

☐ Approval

☒ Conditional Approval (with memo)

☐ Disapproval (with memo)

☐ Categorical Exclusion (with request letter)

☐ None (with memo)

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

\*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 12-18-13

**A Cultural Resources Inventory  
of the Marie Antonio Powerline Extension  
Becenti Chapter, McKinley County, New Mexico  
(DCD1-13-006), July 8, 2013**

ARCHAEOLOGICAL INVENTORY REPORT DOCUMENTATION PAGE (HPD 2010)

<b>1. HPD REPORT NO.:</b>											
<b>2. TITLE OF REPORT:</b> A Cultural Resource Inventory of the Marie Antonio Powerline Extension, Becenti Chapter, San Juan County, New Mexico  <b>AUTHOR(S):</b> Denise R.E. Copeland	<b>3. FIELDWORK DATE(S):</b> May 2, 2013										
	<b>4. REPORT DATE(S):</b> May 3, June 18, & July 8, 2013										
<b>5. CONSULTANT NAME AND ADDRESS:</b> <b>Gen. Charge:</b> Denise R.E. Copeland, Principal Archaeologist <b>Org. Name:</b> Capital Improvement Office <b>Org. Address:</b> P.O. Box 335 Fruitland, New Mexico 87416 <b>Phone:</b> 505 368-1059	<b>6. PERMIT NO.:</b> NTC										
	<b>7. CONSULTANT REPORT NO.:</b> DCD 13-006										
<b>8. SPONSOR NAME AND ADDRESS:</b> <b>Ind. Responsible:</b> Debbie Oliver <b>Org. Name:</b> Continental Divide Electric Cooperative, Inc. <b>Org. Address:</b> P.O. Box 1087 Grants, New Mexico 87020 <b>Phone:</b> 505 285-6656	<b>9. SPONSOR PROJECT NO.:</b> WBS# 17-BBT-0007										
	<b>10. AREA OF EFFECT:</b> 2.47 ac  <b>AREA SURVEYED:</b> 12.34 ac										
<b>11. LOCATION (MAP ATTACHED):</b> <table border="0"> <tr> <td>a. <b>Chapter:</b> <u>Becenti</u></td> <td>f. <b>UTM Center:</b> <u>NAD 83, Zone 12; 1/BOP: N 39 66 303.3m E 7 53 510.8m</u></td> </tr> <tr> <td>b. <b>Agency:</b> <u>Eastern</u></td> <td>2: <u>N 39 67 201.0m, E 7 53 753.9m, 3/IUS-A: N 39 67 8870.8m, E 7 53 505.8m</u></td> </tr> <tr> <td>c. <b>County:</b> <u>McKinley</u></td> <td>g. <b>Legal:</b> <u>T 18 N R 13 W NW 1/4 of Sec. 11 &amp; W 1/2 of Sec. 2 NMPM</u></td> </tr> <tr> <td>d. <b>State:</b> <u>New Mexico</u></td> <td>h. <b>7.5' USGS Map(s):</b> <u>Antelope Lookout Point, New Mexico 1970, PR 1982</u></td> </tr> <tr> <td>e. <b>Land Status:</b> <u>See Table 1</u></td> <td>i. <b>Lead Agency:</b> <u>BIA/Navajo Region</u></td> </tr> </table>		a. <b>Chapter:</b> <u>Becenti</u>	f. <b>UTM Center:</b> <u>NAD 83, Zone 12; 1/BOP: N 39 66 303.3m E 7 53 510.8m</u>	b. <b>Agency:</b> <u>Eastern</u>	2: <u>N 39 67 201.0m, E 7 53 753.9m, 3/IUS-A: N 39 67 8870.8m, E 7 53 505.8m</u>	c. <b>County:</b> <u>McKinley</u>	g. <b>Legal:</b> <u>T 18 N R 13 W NW 1/4 of Sec. 11 &amp; W 1/2 of Sec. 2 NMPM</u>	d. <b>State:</b> <u>New Mexico</u>	h. <b>7.5' USGS Map(s):</b> <u>Antelope Lookout Point, New Mexico 1970, PR 1982</u>	e. <b>Land Status:</b> <u>See Table 1</u>	i. <b>Lead Agency:</b> <u>BIA/Navajo Region</u>
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<b>12. REPORT ATTACHMENTS:</b> <p>a. <b>Description of Undertaking:</b> The undertaking consists of construction of 20 ft/6.1 m R-O-W for 5,376.03 ft. of a CDEC single-phase powerline extension for Marie Antonio. Ground disturbing activities will include installation of utilities.</p> <p>b. <b>Existing Data Review:</b> As part of this project, the archival data of the Navajo Nation Historic Preservation Department (NNHPD) in Window Rock were consulted. One completed project (HPD# 06-1168) has been conducted within 200 ft of the current project. No known recorded sites have been recorded within 200 ft of the current project.</p> <p>c. <b>Area Environmental and Cultural Setting:</b> The powerline is found and located 1.5 miles west of the Becenti Chapter House. The project crosses two unnamed drainages the northern one drains to the west into Indian Creek; the southern one has no outlet. The vegetation includes grama grass, greasewood, muhly grass, Navajo celery, prickly pear cactus, Russian thistle, sagebrush, and snakeweed.</p> <p>d. <b>Field Methods:</b> Katherine Gallegos, PLS, Transmission and Distribution Services, LLC provided the drawing showing the location of the powerline and Mr. Bruce Prichard of T&amp;D Services, LLC, showed the author the project area. The investigation was conducted by (100%) a Class III level pedestrian inventory of a 100 ft right-of-way corridor x 5,376.03 ft. of powerline extension. The approximate project was covered by parallel transects spaced 15 m apart. A total of 12.34 ac was inventoried. The author interview Mr. Franco Antonio and Ms. Maria Antonio on May 02, 2011 regarding TCP's and no TCP's were identified within or near the area.</p>											
<b>13. CULTURAL RESOURCE FINDINGS:</b> <p>a. <b>Location/identification of Each Resource:</b> One in-use site (IUS-A) was identified within the proposed project area and consists of a frame house (1990-93) with a trailer (ca. 1998) and a bathroom addition; and an outhouse</p> <p>b. <b>Evaluation of Significance of Each Resource:</b> IUS-A does not meet the 50 year guideline for inclusion into the National Register of Historic Places. No historic properties will be affected.</p>											
<b>14. MANGEMENT SUMMARY (RECOMMENDATIONS):</b> Notice to proceed for the undertaking is recommended.											
<b>15. CERTIFICATION:</b>  <table border="0"> <tr> <td><b>SIGNATURE:</b> <u>Denise R.E. Copeland</u></td> <td><u>July 8, 2013</u></td> </tr> <tr> <td><b>Direct Charge Name:</b> Denise R.E. Copeland</td> <td><b>Date</b></td> </tr> </table>		<b>SIGNATURE:</b> <u>Denise R.E. Copeland</u>	<u>July 8, 2013</u>	<b>Direct Charge Name:</b> Denise R.E. Copeland	<b>Date</b>						
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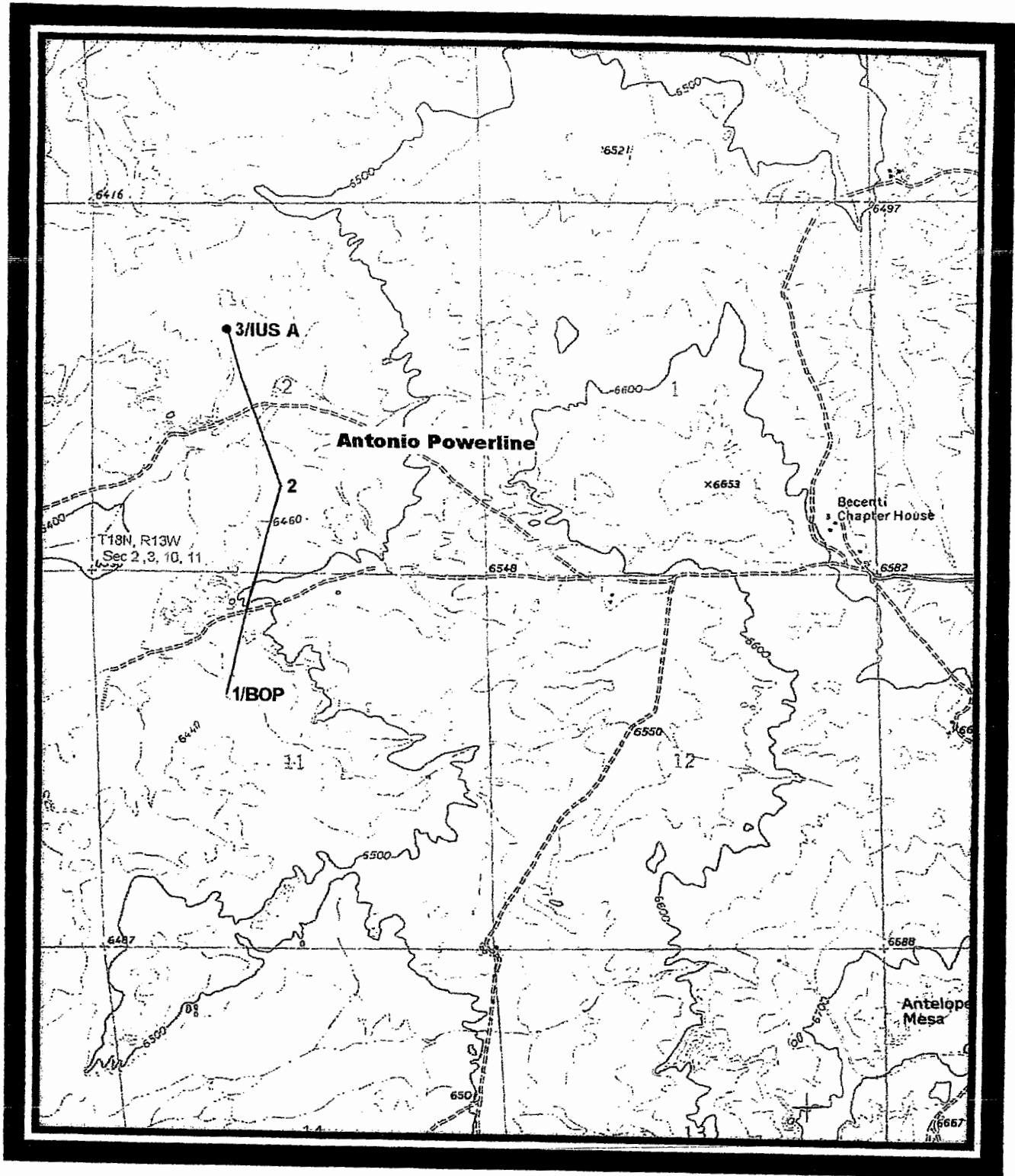
A Cultural Resource Inventory of the Marie Antonio Powerline Extension, Becenti Chapter, San Juan County, New Mexico DCD1 13-006

11.

j. Land Status:

**Table 1**  
**Land Status**  
(T18N, R13W)

Location	Land Status	Length (Feet)	Length (Meters)	R-O-W Acreage Area of Effect	Surveyed Acreage
Sec. 11	TNT	1764.18	537.72	0.81	4.05
SW ¼ of Sec. 2	Tribal Fee	2745.53	836.84	1.26	6.30
NW ¼ of Sec. 2	Indian Allotment	866.32	264.05	0.40	1.99
<b>Total:</b>		5376.03	1638.61	2.47	12.34



**Figure 1:** Specific Location of the Marie Antonio Powerline and IUS-A. Map is U.S.G.S 7.5 Antelope Lookout Point, NM, 1970, Photo Revised 1982. Work Order No. 50300 (DCD 13-006).

**Cultural Resource Compliance Form  
NNHPD NO. HPD-15-535**

# CULTURAL RESOURCES COMPLIANCE FORM

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

## ROUTE COPIES TO:

☒ DCD1

NNHPD NO. **HPD-13-535 - REVISED**

OTHER PROJECT NO.: DCD1 13-006

PROJECT TITLE: *REVISED*: A Cultural Resource Inventory of the Marie Antonio Powerline Extension, Becenti Chapter, McKinley County, New Mexico

LEAD AGENCY: BIA/NR

SPONSOR: Debbie Oliver, Continental Divide Electric Cooperative, Inc., PO Box 1087, Grants, New Mexico 87020

PROJECT DESCRIPTION: The proposed undertaking will involve the construction of a single-phase powerline measuring 5,376.03-ft with a 20-ft wide right-of-way. The area of effect is 2.47-acres. Ground disturbance will be intensive and extensive with the use of heavy equipment.

LAND STATUS: Navajo Tribal Fee & Allotment

CHAPTER: Becenti

LOCATION: T.18N, R.13W - Sec.: 2 & 11; Antelope Lookout Point Quadrangle, McKinley County, New Mexico NMPM

PROJECT ARCHAEOLOGIST: Denise R. E. Copeland

NAVAJO ANTIQUITIES PERMIT NO.: NTC

DATE INSPECTED: 05/02/12

DATE OF REPORT: 07/08/13

TOTAL ACREAGE INSPECTED: 12.34 - ac

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

LIST OF CULTURAL RESOURCES FOUND:

(1) In-Use Site (IUS)

LIST OF ELIGIBLE PROPERTIES:

None

LIST OF NON-ELIGIBLE PROPERTIES:

(1) IUS

LIST OF ARCHAEOLOGICAL RESOURCES:

None

EFFECT/CONDITIONS OF COMPLIANCE: **No historic properties affected.**

In the event of a discovery ["discovery" means any previously unidentified or incorrectly identified cultural resources including but not limited to archaeological deposits, human remains, or locations reportedly associated with Native American religious/traditional beliefs or practices], all operations in the immediate vicinity of the discovery must cease, and the Navajo Nation Historic Preservation Department must be notified at (928) 871-7147.

FORM PREPARED BY: Tamara Billie

FINALIZED: March 3, 2014 - Revised

Notification to

Proceed Recommended:

Yes ☒ No ☐

Conditions:

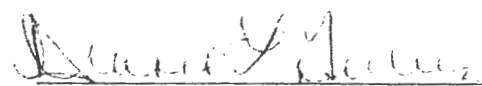
Yes ☐ No ☒

  
The Navajo Nation  
Historic Preservation Office

3-3-14  
Date

Navajo Region Approval:

Yes ☒ No ☐

  
Acting BIA-Navajo Regional Office

3/24/14  
Date

Tam 3.24.14



# United States Department of the Interior

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



MC 620: Division of Environmental, Cultural & Safety Management

APR 10 2014

Mr. Jim R. Analla  
J.R. Analla EA Services  
P.O. Box 1034  
Gallup, NM 87305

Dear Mr. Analla:

In your letter of April 8, 2014, you requested an amendment to, **EA-13-148** for the Continental Divide Electric Cooperative, Inc. (CDEC), proposed Marie Antonio Power Line Extension Project in the Becenti Chapter, McKinley County, New Mexico. The total power length has been changed from 5,376 feet to 5, 376.03 feet as requested. There are no other changes to the document. Enclosed is a revised first page of the FONSI to be inserted into the original FONSI.

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

Sincerely,

Regional Director, Navajo

Enclosure

cc: N101  
Chrono  
Subject (c:\EA 13-148.msw)

N620:LAWTSOSIE/lawt/04/09/2014:lawt/am





**ENVIRONMENTAL PROTECTION AGENCY**  
OFFICE OF EXECUTIVE DIRECTOR/ADMINISTRATION  
OFFICE OF ENVIRONMENTAL REVIEW  
PO BOX 339 WINDOW ROCK ARIZONA 86515 Office: 928/871-7188 Fax: 928/871-7996  
Website: [www.navajonationnepa.org](http://www.navajonationnepa.org)

**M E M O R A N D U M**

**TO:** Howard Draper, Program & Project Specialist  
Project Review Office  
Navajo Land Department  
Division of Natural Resources

**FROM:**

Rita Whitehorse-Larsen, Senior Environmental Specialist  
Office of Executive Director/Administration  
Office of Environmental Review  
NNEPA

**DATE:** October 6, 2014

**SUBJECT:** 164 EOR 002323 ROW FeeLand Marie Antonio Becenti NM

The Continental Divide Electric Cooperative Inc. (CDEC), PO Box 1087, Grants, New Mexico, 87020, submitted a right-of-way (ROW) application to construct, operate and maintain a single phase Marie Antonio 14.4/24.9kV power distribution line on, over and across Navajo Nation Fee lands in Becenti, McKinley County, New Mexico. The proposed ROW is 2745.53 feet long, 20 feet wide, consisting of 1.26 acres, more or less, located in SW/4 of Section 02, T18N, R13W, NMPM, McKinley County, New Mexico.

The Navajo Nation Environmental Protection Agency (NNEPA) reviewed<sup>1</sup> and recommends ***conditional approval*** for the proposed action.

**1. Navajo Nation Clean Water Act:**

- a. Section 401-** A Section 401 certification is required if any drainage with discernable ordinary high water mark will be crossed/disturbed as recommended by Patrick

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<sup>1</sup> JR Analla EA Services. An Environmental Assessment for Marie Antonio CDEC 14.4 24.9 kV Power Line Extension Project CDED WO#50300. December 2013.

Antonio, Principal Hydrologist, NNEPA Water Quality Program on previous proposed projects.

- b. **Section 402** – Land surface disturbance in excess of 1.0 acre will require compliance with the federal General Construction Permit requirements for storm water discharges. The project will disturb 1.26 acres of surface land including guy easements. CDEC is subject to apply for NPDES with both USEPA Region 06 and Region 09. Google stormwater construction for Region 06. As for Region 09, you will find information at <http://www.epa.gov/region9/water/npdes/permits.html>. You can also contact NNEPA Water Quality staff at 928/871-7690 for more information.
- c. **Section 404** – Boring under the drainage will require a Section 404 as recommended by Patrick Antonio, Principal Hydrologist, NNEPA Water Quality Program. Contact the US Army Corps of Engineers.

2. ***Navajo Nation Safe Drinking Water Act:***

- a. Ensure there are no existing drinking waterlines and/or domestic waste waterlines located within the premises of the proposed site to avoid significant impacts to Becenti and surrounding communities' safe drinking water resources before trenching and/or digging.

3. ***Navajo Nation Air Pollution Prevention and Control Act:***

- a. Apply water to control dust to lessen air impacts to community members and public located in or near the proposed action.

4. ***Navajo Nation Pesticide Act:***

- a. CDEC is required to monitor and prevent invasive and noxious weeds either by manual or chemical control.
- b. Before applying any chemicals, contact the NNEPA Pesticide Program at 928/871-7815/7810/7892 to ensure the product is in compliance and appropriately applied by a certified and licensed applicator.
- c. Pesticide staff will also may need to be onsite to monitor during pesticide/herbicide application.

5. ***Navajo Nation Solid Waste Act:***

- a. Solid waste generated from the construction and operation activities will be collected and transported by contractor to a designated trash bins to minimize significant impacts to human and wildlife resources.
- b. If a sub-contractor will be hired to transport waste, ensure the contractors are certified and licensed with the Navajo Nation Business Regulatory Office.
- c. The contractor must submit a copy of the landfill receipt/ticket to guarantee the construction waste has been properly disposed.
- d. Do not allow public to take construction and operation waste. Cumulatively NNEPA receives complaints and reports on illegal trash dumpings on rural areas and in the waters of the US and Navajo Nation.
- e. All illegal waste currently on the proposed site is the responsibility of the land user.

6. ***Navajo Nation Comprehensive Environmental Response, Compensation and Liability Act (NNCERCLA)***

- a. No Hazardous waste will be generated, stored and transported for the proposed action.

7. ***Navajo Nation Storage Tank Act:***

- a. Amended and approved by the Navajo Nation Council, CJA-09-12, February 2012, the aboveground tanks are included to be regulated.
- b. No underground or aboveground greater than 100 gallons is expected to be at the proposed site.

8. ***Others:***

- a. Avoid unnecessary ground disturbance and removal of vegetation within and adjacent to the ROW corridors.

If there are any questions you may contact Rita Whitehorse-Larsen at 928/871-7188. Thank you.

Cc: Debbie Olivar, Engineering/ROW, Continental Divide Electric Cooperative Inc., PO Box 1087,  
Grants, New Mexico 87020  
NNEPA Water Quality; PWSSP; Air Quality, OPP; Pesticides; Radon; RCRP; Storage Tank  
Program; Superfund; Administration chrono file  
*Contact Person: Debbie Olivar, 505/285-6656*

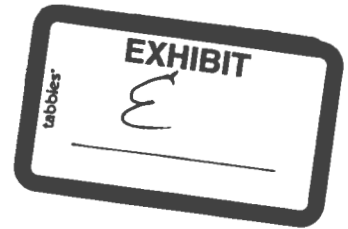


EXHIBIT "E"

NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS

CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC. (GRANTEE)

14.4/24.9 kV Single Phase Power Line for Marie Antonio at Becenti on Fee Lands

1. The term of the right-of-way shall be for twenty (20) years, beginning on the date the right-of-way is granted by the Navajo Nation.
2. The consideration for the right-of-way is assessed at \$32,292.00. The Navajo Nation contributes this amount to the project to provide electricity to constructing, operating and maintaining a 14.4/24.9 kV single phase electrical power line to Navajo home.
3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of constructing, operating and maintaining a 14.4/24.9 kV single phase power line. The Grantee may not develop, use or occupy the right-of-way for any other purpose nor allow others to use or occupy the right-of-way for any other purpose, without the prior written approval of the Navajo Nation. The approval of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation. The Grantee may not develop, use or occupy the right-of-way for any unlawful purpose.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
  - a. Title 25, Code of Federal Regulations, Part 169, subject to the terms of this right-of-way;
  - b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archaeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices;
  - c. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., and the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq.; and
  - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq.. Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.
6. The Grantee shall clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uprooted or otherwise accumulated during any surface disturbance activities.

7. The Grantee shall reclaim all surface lands disturbed related to the right-of-way, as outlined in a restoration and revegetation plan, which shall be approved by the Navajo Nation Environmental Protection Agency (NNEPA) prior to any surface disturbance. The Grantee shall comply with all provisions of such restoration and revegetation plan and shall notify the Director of the NNEPA immediately upon completion of the surface disturbance activities so that a site inspection can be made.
8. The Grantee shall at all times during the term of the right-of-way and at the Grantee's sole cost and expense, maintain the land subject to the right-of-way and all improvements located thereon and make all necessary and reasonable repairs.
9. The Grantee shall obtain prior written permission to cross existing rights-of-way, if any, from the appropriate parties.
10. The Grantee shall be responsible for and promptly pay all damages when they are sustained.
11. The Grantee shall indemnify and hold harmless the Navajo Nation and their respective authorized agents, employees, landusers and occupants, against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of right-of-way by the Grantee.
12. The Grantee shall not assign, convey, transfer or sublet, in any manner whatsoever, the right-of-way or any interest therein, or in or to any of the improvements on the land subject to the right-of-way, without the prior written consent of the Navajo Nation. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation.
13. The Navajo Nation may terminate the right-of-way for violation of any of the terms and conditions stated herein. In addition, the right-of-way shall be terminable in whole or part by the Navajo Nation for any of the following causes:
  - a. Failure to comply with any term or condition of the grant or of applicable laws or regulations;
  - b. A non-use of the right-of-way for the purpose for which it is granted for a consecutive two (2) year period;
  - c. An Abandonment of the right-of-way;
  - d. The use of the land subject to the right-of-way for any purpose inconsistent with the purpose for which the right-of-way is granted.
14. At the termination of this right-of-way, the Grantee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. Upon the written request of the Navajo Nation, the Grantee shall provide the Navajo Nation, at the Grantee's sole cost and expense, with phase 1 environmental site assessment of the premises at least sixty (60) days prior to delivery of said premises.

15. Holding over by the Grantee after the termination of the right-of-way shall not constitute a renewal or extension thereof or give the Grantee any rights hereunder or into the land subject to the right-of-way or to any improvements located thereon.
16. The Navajo Nation shall have the right, at any reasonable time during the term of the right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any improvements located thereon.
17. By acceptance of the grant of right-of-way, the Grantee consents to the full territorial legislative, executive and judicial jurisdiction of the Navajo Nation, including but not limited to the jurisdiction to levy fines and to enter judgments for compensatory and punitive damages and injunctive relief, in connection with all activities conducted by the Grantee within the Navajo Nation or which have a proximate (legal) effect on persons or property within the Navajo Nation.
18. By acceptance of the grant of right-of-way, the Grantee covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision shall be construed to negate or impair federal responsibilities with respect to the land subject to the right-of-way or to the Navajo Nation.
19. Any action or proceeding brought by the Grantee against the Navajo Nation in connection with or arising out of the terms and conditions of the right-of-way shall be brought only in the Courts of the Navajo Nation, and no such action or proceeding shall be brought by the Grantee against the Navajo Nation in any court of any state.
20. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.
21. Except as prohibited by applicable federal law, the law of the Navajo Nation shall govern the construction, performance and enforcement of the terms and conditions contained herein.
22. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of the Grantee, and the term "Grantee," whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.
23. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the right-of-way and all lands burdened by the right-of-way, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the right-of-way; and the right-of-way and all lands burdened by the right-of-way shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.
24. The Grantee shall construct the power line in accordance with "suggested practices for Raptor Protection on Power Lines: State of the Art in 2006."

As a condition of the grant of right-of-way, the grantee agrees to the above referenced terms and conditions.

In witness whereof, the parties hereto have executed the grant of right-of-way this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**THE NAVAJO NATION**

By: \_\_\_\_\_  
Ben Shelly, President

**CONTINENTAL DIVIDE ELECTRIC  
COOPERATIVE, INC.**

By: \_\_\_\_\_  
\_\_\_\_\_, General Manager