

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
23rd Navajo Nation Council --- Third Year, 2017

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING A
RIGHT-OF-WAY TO U.S. BUREAU OF RECLAMATION TO CONSTRUCT, OPERATE
AND MAINTAIN THE NAVAJO GALLUP WATER SUPPLY PROJECT REACH 10
PUMPING PLANT NO. 7 LOCATED ON TRIBAL TRUST LAND IN TWIN LAKES
CHAPTER VICINITY (MCKINLEY COUNTY, NEW MEXICO)

BE IT ENACTED:

SECTION ONE. AUTHORITY

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

SECTION TWO. FINDINGS

- A. The United States Bureau of Reclamation, 1235 La Plata Highway, Farmington, New Mexico 87401 has submitted a right-of-way application to construct, operate and maintain the Reach 10 Navajo Gallup Water Supply Project located on, over and across Navajo Nation Trust Lands in the Twin Lakes Chapter vicinity, McKinley County, New Mexico attached hereto and incorporated herein as **Exhibit "A"**.
- B. The proposed permanent right-of-way consists of Navajo Nation Trust Lands located in McKinley County, New Mexico and the location is more particularly described on the survey map attached hereto and incorporated herein as **Exhibit "B"**.
- C. The General Land Development Department, memorandum dated October 8, 2017, attached as **Exhibit "C"**, has determined that "Pumping Plant #7 will be included into Reaches 9 through 11 ROW package, and the additional consent for the same area is

not required, since the grazing permit holders had already consented to use the land within those areas."

- D. The Bureau of Reclamation requests a waiver of the consideration because the project will provide a public benefit to the Navajo Nation.
- E. The Resources and Development Committee finds a waiver of the bond requirement, 25 C.F.R. § 169, is in the best interest of the Navajo Nation. See, **Exhibit "D"** which are letters from the Navajo Nation President and the Acting Director of the Bureau of Indian Affairs.
- F. The Resources and Development Committee finds a waiver of valuation, 25 C.F.R. § 169.110, and that the waiver of valuation is in the best interest of the Navajo Nation.
- G. The environmental and archaeological studies have been completed and are attached hereto and incorporated herein by this reference.
- H. The application for the Right-of-Way as submitted by the United States Bureau of Reclamation has been reviewed by the Fish and Wildlife; Historic Preservation; Minerals; Navajo Nation Environmental Protection; Division of Natural Resources and the Department of Justice and "Approved" or found "Sufficient". See **Exhibit "F"**.

SECTION THREE. APPROVAL

- A. The Resources and Development Committee of the Navajo Nation Council hereby grants approval of a Right-of-Way to U.S. Bureau of Reclamation to construct, operate and maintain Reach 10 Pumping Plant No. 7 of the Navajo Gallup Water Supply Project located on Navajo Nation Trust Lands in the Twin Lakes Chapter vicinity, McKinley County, New Mexico. The location is more particularly described on the map attached hereto as **Exhibit "B"**.
- B. The Resources and Development Committee of the Navajo Nation Council hereby waives the consideration for the Right-of-Way because the Reaches 10 Pumping Plant No. 7 of the Navajo Gallup Water Supply Project will provide a public benefit to the Navajo Nation.

- C. The Resources and Development Committee of the Navajo Nation Council hereby approves the Right-of-Way subject to, but not limited to, the terms and conditions incorporated herein as **Exhibit "E"**.
- D. The Resources and Development Committee of the Navajo Nation Council hereby approves waiver of the bond requirement.
- E. The Resources and Development Committee of the Navajo Nation Council hereby approves waiver of valuation.
- F. The Resources and Development Committee of the Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to affect the intent and purpose of this resolution.

CERTIFICATION

I, hereby certify that the following resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at the NAPI Headquarters, Upper Fruitland, Navajo Nation (New Mexico), at which a quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, 1 abstained on this 11th day of December, 2017.



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

Motion: Honorable Davis Filfred
Second: Honorable Jonathan Perry



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

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

Tribal Trust Lands – NGWSP Reach 10 - Pumping Plant No. 7

LANDOWNER NAME: Navajo Nation

Tribal Tract No.: 792-T8183

The Navajo-Gallup Water Supply Project (NGWSP) is a priority project of the United States and the Navajo Nation; therefore, the Department of the Interior, Bureau of Reclamation, the Navajo Nation, and the Bureau of Indian Affairs are working as partners to streamline the processes, as necessary, to meet all project deadlines. Reclamation therefore respectfully requests that this application for NGWSP Rights-of-Way be prioritized accordingly, and that the application is processed when received.

*Please note that the acquisition of tribal consent is time sensitive. Reclamation respectfully requests that the consent to this easement be granted on or before **August 1, 2017** to allow for additional processing by the Bureau of Indian Affairs (BIA).*

COMES NOW THE APPLICANT: The Bureau of Reclamation, Four Corners Construction Office, having a principle place of business at 1235 La Plata Highway, Farmington, New Mexico 87401, who on this 8th day of June, 2017, hereby petitions the Navajo Nation Land Department, 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 C.F.R., Ch. 1, Subchapter H, Part 169, Subpart C § 169.102(a), a request for Tribal Consent to a Grant of Permanent Easement for Right-of-Way (ROW), without limitation in term, and for as long as the easement is used for the intended purpose as described herein.

The ROW requested in this application for Reach 10 – Pumping Plant No. 7 of the NGWSP will contain 5.35 acres, more or less.

The Purpose of the Proposed Action: The Omnibus Public Land Management Act of 2009, Title X, Part III (Public Law 111-11) (Act) authorizes the Bureau of Reclamation to construct the NGWSP that includes water treatment plants, pipeline, several pumping stations and ancillary facilities. Once completed, the NGWSP will deliver a reliable source of potable water, sourced from the San Juan River, to Navajo communities in northwestern New Mexico, the City of Gallup, NM, and the southwest portion of the Jicarilla Apache Reservation for municipal and industrial use. The NGWSP will connect to existing and future water distribution systems operated on the reservation by the Navajo Tribal Utility Authority (NTUA), and in Gallup, by the City of Gallup. The high quality treated water provided by the NGWSP will bring immediate benefits, including improved health and wellbeing to Tribal members.

Authorization: Reclamation is authorized by the Act, under Part III, Section 10602, Subsection (c)(1) and (2) which states : “As a condition of construction of the facilities authorized under this part, the Project Participants shall provide all land or interest in land, as appropriate, that the Secretary identifies as necessary for acquisition under this subsection at no cost to the Secretary”. Therefore, Reclamation hereby respectfully requests that this application be processed so as to acquire ROW that is deemed necessary and appropriate, in order to accommodate the construction, operation, maintenance, and replacement of the main and ancillary facilities of the NGWSP Reach 10.

ROW Type, Size and Purpose: Reclamation hereby requests a grant of permanent ROW for Pumping Plant No. 7, Parcel No. Rch 10-Tribal Trust-02 (P), containing 5.35 acres more or less, on Navajo Tribal Trust Land, Tract No. 792-T8183, in the area of the Twin Lakes Navajo Tribal Chapter, located in McKinley County, New Mexico. The ROW for Pumping Plant No. 7, is illustrated on ROW drawing no. 1695-529-60169, that is attached hereto and by reference, made a part hereof.

Initially, the site of Pumping Plant No. 7 will be utilized for a contractor storage and staging area for the construction of Reaches 9 through 11. Preliminary estimates for the start of the actual construction of the pumping plant is not anticipated to begin until September of the year 2020.

The ROW ultimately will be used for the construction, operation, maintenance and/or replacement of a potable water pumping plant with ancillary features and appurtenances thereto. Ancillary features and appurtenances may include, but are not limited to, a graveled and fenced yard with a graveled access road, reinforced concrete foundation, a pumping plant, a chlorine injection facility, water storage and regulating tanks, pipeline, thrust features, vaults, valves, fiber optic supervisory control and data acquisition systems (SCADA), cathodic protection systems, and single phase utility power to support the operation of the pumping plant infrastructure.

Ownership of Permanent Improvements: Pumping Plant No. 7, located on Tribal Trust Land, will consist of water storage and regulation tanks, a pumping plant facility with a chlorine injection facility, associated pipeline, and ancillary features and appurtenances that will be constructed and owned by the Bureau of Reclamation. It is Reclamation's intent to transfer the operation, maintenance, and replacement (OM&R) responsibility of the Project to the Navajo Tribal Utility Authority (NTUA). It is envisioned that Reclamation would retain title to the facilities for the foreseeable future, however, the Act does provide authority for eventual title transfer to the Navajo Nation.

Construction Schedule:

Obtain ROW: September 25, 2017

Obtain Bids and Establish Contracts: July 11, 2017

Award Contract: August 28, 2017

Notice to Proceed Issue: September 25, 2017

Begin Construction: October 30, 2017

Construction 50% Completed by: November 26, 2018

Construction Complete: December 2, 2019

Across the following described Navajo Tribal Trust Lands: The NGWSP is divided into segments called, "Reaches." Each Reach is designated by a number that designates a section of pipeline between two turnouts, or delivery points, along the water transmission pipeline alignment. This application is for a permanent ROW for Pumping Plant No. 7, which will be constructed between the end of Reach 10, being located at station 10050+57.07, and the beginning of Reach 11, at station 11053+60.00, in the Southwest Quarter of the Northeast Quarter of Section 34, Township 18 North, of Range 18 West, N.M.P.M., McKinley County, New Mexico. Please see the attached map, Sheet 2 of Reach 10, showing the location of Pumping Plant No. 7, dated 03-29-2017 (CD), that is attached hereto and by reference made a part hereof.

Pumping Plant No. 7, will be constructed on the on the East side of U.S. Highway 491, North of the Tohlakai Pumping Plant that is located on Tohlakai Hill in the Southwest Quarter of Section 05, Township 16 North, Range 18 West, being adjacent to and North of Navajo Service Route No. 9, near the Tohatchi/Buffalo Springs turn-out, as illustrated on Plan and Profile Drawing No.'s 1695-D-60307 through

1695-D-60309 (CD), that are attached hereto and by reference are made a part hereof. The Plan and Profile Drawings illustrate a section of the Reach 10 pipeline alignment, Pumping Plant No.7, and the location of ancillary appurtenances and public utilities that are located near the pipeline alignment and the proposed pumping plant location.

Legal Description - Parcel No. RCH 10-Tribal Trust-02 (P): Pumping Plant No. 7 - Drawing No. 1695-529-60169: A parcel of land lying on Navajo Nation, Tribal Trust Land in the Southwest Quarter of the Northeast Quarter of Section 34, Township 18 North, Range 18 West; N.M.P.M., McKinley County, New Mexico. More particularly described as follows:

Beginning at a point on the North right-of-way line of Navajo Service Route 9 from which the East Quarter Corner of Section 34 bears South 65°41'12" East a distance of 1451.19 feet; thence from the point of beginning South 63°03'05" West a distance of 100.00 feet; thence North 26°56'55" West a distance of 170.12 feet; thence along a curve that bears left 28°34'42" a distance of 74.85 feet, which curve has a radius of 150.06 feet; thence South 33°13'42" West a distance of 200.04 feet; thence North 56°46'18" West a distance of 313.84 feet; thence North 33°13'42" East a distance of 637.54 feet; thence South 56°46'18" East a distance of 254.08 feet; thence South 33°13'42" West a distance of 125.04 feet; thence South 56°46'18" East a distance of 125.04 feet; thence South 33°13'42" West a distance of 182.76 feet; thence South 78°13'42" West a distance of 45.69 feet; thence along a curve a distance of 93.81 feet, which chord bears South 37°41'46" East a distance of 93.26 feet, and which curve has a radius of 250.06 feet; thence South 26°56'55" East a distance of 170.12 feet to the point of beginning. Parcel No. RCH 10-Tribal Trust-02(P) contains 5.35 acres more or less.

Landowner Consent: The Navajo Nation gave its concurrence to permission to survey the San Juan Lateral of the NGWSP on August 14, 2009. On March 1, 2010, the Bureau of Indian Affairs, Fort Defiance Agency granted Reclamation Permission to Survey over, across and through Reaches 9, 10, 11, and 12, for the purpose of conducting surveys and studies to determine a final pipeline alignment. The final pipeline alignment across said Reaches is illustrated on the alignment map of Reach 9 through 11, dated December 15, 2016, and the aforementioned ROW and Plan and Profile Drawing attached hereto (CD).

Reclamation requested a Title Status Report (TSR) for the subject Tribal Trust Lands on July 21, 2016 in order to verify the ownership status of the lands to be crossed by Reaches 9 through 11 that includes Pumping Plant No. 7. The TSR was received at Reclamation on August 8, 2016, and verifies that all lands being crossed by Reaches 9 through 11 are Tribal Trust Lands. Please see the TSR which is attached hereto and by reference is made a part hereof. The final pipeline alignment across said Reaches is illustrated on the alignment map of Reach 9 through 11, dated December 15, 2016, and the aforementioned ROW and Plan and Profile Drawings attached hereto (CD).

Reclamation hereby requests the consent of the Navajo Nation to a grant of Permanent Easement for ROW for Pumping Plant No. 7, on the aforementioned Tribal Trust Land, and that in granting said consent, the Navajo Nation waives compensatory consideration of the fair market value of the easement, and agrees to forego the requisite appraisal of the ROW because the NGWSP will provide a direct public benefit to the Navajo Nation.

Environmental Clearance: The Record of Decision (ROD) and Final Environmental Impact Statement (FEIS) (Bureau of Reclamation 2009) for the Navajo-Gallup Water Supply Project, is attached hereto (CD) and by reference is made a part hereof. The ROD and FEIS can also be viewed on the world-wide web at <http://www.usbr.gov/uc/envdocs/eis/navgallup/FEIS/index.html>. The alignment of Reaches 9 through 11 has not changed substantially from what was presented in the FEIS and ROD.

As discussed with Pamela A. Kyselka, Wildlife Biologist, Navajo Natural Heritage Program, Department of Fish and Wildlife, on December 7, 2016, Reclamation will conduct a NEPA Sufficiency Review over Reaches 9 through 11, to include the location of Pumping Plant No. 7, to determine if the proposed action would have any new potentially significant impacts, not already discussed and considered in previous NEPA documentation.

Biological Resource Compliance: Please see attached BRCF – NNDFW Review No. 17usbr01, dated February 14, 2017 that documents the approval by the NNDFW that the NGWSP Block 9 through 11 proposed to be constructed in the area of the Naschitti and Tohatchi Navajo Chapters 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. The NNDFW concurs with the mitigation recommendations outlined in the BE, Section 6.5 and is approved by Ms. Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife.

Cultural Resources Compliance: Please see letter dated April 25, 2016 that includes a summary of the Class III Inventory Report and eligibility determinations for Reaches 9 through 11, attached hereto, and by reference made apart hereof. The survey was conducted by PaleoWest under the authority of Navajo Nation Cultural Resources Permit No. B13543. The inventory identified a total of 292 cultural resources, including isolated occurrences, archaeological sites, in-use sites, Navajo Traditional Cultural Properties, and Jishchaa' within the Reach 9 through 11 Area of Potential Effect.

Reclamation submitted said report to the Navajo Nation Historic Preservation Department and concurrence was received from the Tribal Historic Preservation Officer on August 30, 2016, said letter is attached hereto, and by reference, made a part hereof. The report was also consulted upon with all NGWSP signatory and consulting parties in compliance with the Programmatic Agreement for the NGWSP. Following the completion of consultation with Navajo Nation and the NGWSP Programmatic Agreement parties, a final version of the report, with the changes noted in the Navajo Nation's August 30, 2016, concurrence, was submitted to all participants on October 11, 2016.

Per the internal BIA memo from the Supervisory Environmental Protection Specialist, Branch of Environmental Quality, Act Compliance and Review, written to the Supervisory Civil Engineer, Engineering & Technical Support Division, dated October 29, 2015, attached hereto and by reference made a part hereof, the subject report, with concurrence from the Navajo Nation Historic Preservation Department, is considered acceptable for compliance with the National Historic Preservation Act (NHPA).

Waiver of Title 25, Code of Federal Regulations, 25 C.F.R. Part 169.103 (Bonding Requirements): The Bureau of Indian Affairs, in cooperation with the Bureau of Reclamation and with the support of the Navajo Nation, requested a waiver from the Assistant Secretary – Indian Affairs under 25 C.F.R. § 1.2 and 25 C.F.R. Part 169 § 169.103 bonding requirement, for all NGWSP ROW's.

Said waiver of Title 25, *Code of Federal Regulations*, 25 C.F.R. Part 169.103 (Bonding Requirements) was approved by the Principle Deputy Assistant Secretary – Indian Affairs in a memo dated November 22, 2016. A copy of said waiver is attached (CD), and by reference is made a part hereof.

_____ The Bureau of Reclamation, an agency of the Federal Government, hereby assures that it will pay damages promptly, when they are sustained, under the provisions of the Federal Tort Claims Act (June 25, 1948, Ch. 646, Title IV, 62 Stat. 982, "28 U.S.C. Pt. VI Ch.171" and 28 U.S.C. Part 1346(b)).

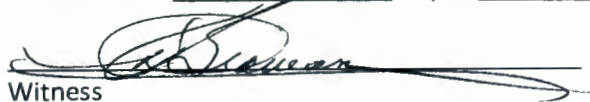
SAID APPLICANT UNDERSTANDS AND EXPRESSLY AGREES TO THE FOLLOWING STIPULATIONS:

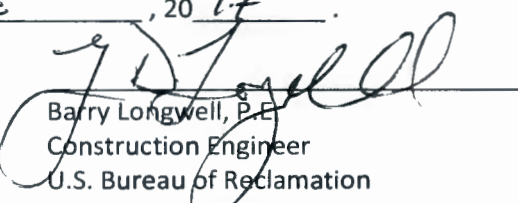
1. To construct and maintain improvements within the right-of-way in a professional manner consistent with industry standards;
2. ~~To pay promptly all damages and compensation, in addition to bond or alternative form of security made pursuant to 169.103, determined by the BIA to be due the landowners and authorized users and occupants of the land as a result of the granting,, construction and maintenance of the right of way;~~
3. To restore the land as nearly as may be possible to its original condition, upon the completion of construction, to the extent compatible with the purpose for which the right-of-way was granted, or reclaim the land if agreed to by the landowners;
4. To clear and keep clear the land within the right-of-way, to the extent compatible with the purpose of the right-of-way, and dispose of all vegetative and other material cut, uprooted, or otherwise accumulated during construction and maintenance of the project;
5. Comply with all applicable laws and obtain all required permits;
6. Not commit waste.
7. Operate, repair and maintain improvements consistent with the right-of-way grant;
8. Build and maintain necessary and suitable crossings for all roads and trails that intersect the improvements constructed, maintained, or operated under the right-of-way;
9. Restore the land to its original condition, as much as reasonably possible, upon cancellation or termination of the right-of-way, or reclaim the land if agreed to by the landowners;
10. At all times keep the BIA, and the tribe, for tribal land, informed of the grantees address;
11. Refrain from interfering with the landowner's use of the land, provided that the landowner's use of the land is not inconsistent with the right-of-way;
12. Comply with the following due diligence requirements:
 - Obtain bids and establish contracts: July 11, 2017
 - Award Contract: August 28, 2017
 - Issue notice to proceed: September 25, 2017
 - Begin construction: October 30, 2017
 - Complete 50% of construction: November 26, 2018
 - Complete construction: December 2, 2019
13. Notify the BIA, and the tribe, for tribal land, if it files for bankruptcy or is placed in receivership.
14. Comply with all applicable federal and tribal law.

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.

IN WITNESS WHEREOF, Barry D. Longwell has caused this instrument to be executed this 8TH day of JUNE, 20 17.


Witness


Barry Longwell, P.E.
Construction Engineer
U.S. Bureau of Reclamation
Four Corners Construction Office
1235 La Plata Hwy.
Farmington, NM, 87401

Required Supporting Documents:

1. () ~~Form 5-104b.~~
2. () ~~Evidence of Authority of Officers to execute Papers (ROW Form 94-4).~~
3. () ~~Evidence of good faith and financial responsibility.~~
4. () ~~Double estimated damages (deposit - 25 CFR 169.4).~~
5. () ~~State certified corporate charter or articles of incorporation.~~
6. () ~~Certified copy of resolution or by-laws of the corporation authorizing the filing of the application.~~
7. () ~~State certification that the applicant is authorized to conduct business in the State of xxx.~~
8. () ~~Certified copy of the articles of partnership or association.~~
9. (x) **Other attachments**
 - (x) NGWSP - Public Law 111-11 As amended thru 11-15-16 (CD)
 - (x) Application for Permanent Easement for Right-of-Way
 - (x) ROW Drawing - Pumping Plant No. 7 - Dwg. No. 1695-529-60169
 - (x) Plan & Profile: Dwg. No. 1695-D-T24015
 - (x) ROW Description - Pumping Plant No. 7
 - (x) Map - NGWSP - Drawing No. 1695-529-537 - 03-13-17
 - (x) Map - Block 9-11 Alignment - 12-15-16
 - (x) Map - Site Map - Location of Pumping Plant No. 7
 - (x) Map Package - Reach 9B-11
 - (x) Navajo Nation Executive Order No. 03-2012
 - (x) Chapter Resolution - Twin Lakes
 - (x) TSR - Tract No. 8183 - Certified 12-27-06
 - (x) Permission to Survey - Dated 03-01-10
 - (x) Permission to Conduct Engineering Data Collection - Dated 10-05-16
 - (x) Letter - Navajo Nation - Waiver of Bond Requirement - 25 CFR Part 169.103 - Dated 09-09-16

- (x) Waiver of 25 CFR 169.103 - Dated 11-22-16
- (x) Final Environmental Impact Statement and Record of Decision can be viewed at:
<http://www.usbr.gov/uc/envdocs/eis/navgallup/FEIS/index.html>.
- (x) FEIS - Volume 1, Volume 2, and Volume 3 (CD)
- (x) FEIS - Record of Decision (ROD) Dated 2009 (CD)
- (x) Phase I ESA - Nelson Consulting Dated November 2016 (CD)
- (X) BRCF - NNDFW Review No. 17usbr01 - Dated 02-14-17
- (x) Class III Inventory Report and Concurrence of Eligibility Determinations - Dated 04-25-16
- (x) Class III Inventory and Determination of Eligibility - Final Report - NHPA - Dated 10-11-16
- (x) Memorandum - Acceptable NEPA and NHPA Compliance Documents - Dated 10-29-15
- (x) Spread Sheet - Tribal Lands - ROW and TCE Summary (CD)
- (x) Spread Sheet - Tribal Lands - Reach 9B-11 - Length and Acreage – Navajo Minerals (CD)
- (x) CD - Pumping Plant No. 7 Documents

United States Department of the Interior
Bureau of Indian Affairs
Title Status Report

Report Certification Time and Date: 12/27/2006 08:00:00 PM
Requestor: ABCWMAH1 Date/Time: 08/02/2016 20:03:10

See Appendix C for Land Legal Descriptions

Title Status

Tract 791 T 8183 is held by the United States of America in trust for the land owner(s) with trust interests and/or by the land owner(s) with restricted interests and/or fee simple interests, as listed in Appendix "A" attached to and incorporated in this Title Status Report.

The title to Tract 791 T 8183 is current, complete, correct, and without defect. Ownership is in unity and interests are owned in the following title status: Trust.

The tract ownership is encumbered by the title documents as listed on Appendix "B" attached to and incorporated in this Title Status Report.

No Tract Notes or Coded Remarks for this tract.

This report does not cover encroachments nor any other rights that might be disclosed by a physical inspection of the premises, nor questions of location or boundary that an accurate survey may disclose. This Report also does not cover encumbrances, including but not limited to irrigation charges, unpaid claims, not filed or recorded in this Land Titles and Records Office. This report does not state the current ownership of the interests owned in fee simple but states the ownership at the time the interest ceased to be held in trust or restricted ownership status.

This Title Status Report is a true and correct report of the status of title to the real estate described herein according to the official land records recorded and maintained in this office.

Appendix "A"

Effective Ownership as of 12/03/2004

| ----- OWNER ----- | | | | - DOCUMENT - | | NAME IN WHICH | FRACTION TRACT | AGGREGATE SHARE | AGGREGATE |
|-------------------|----------------------|--------------|-----------|--------------|----------|--------------------|----------------|------------------|--------------|
| Tribu | Indian or Non-Indian | Title Status | Interest* | Class | Type | SURNAME/FIRST NAME | AS ACQUIRED | CONVERTED TO LCD | DECIMAL |
| NAVAJO NATION | Tribe | Trust | All | Treaty | SPEC ALT | NAVAJO TRIBE | 1 | 1 | |
| | | | | | | | 1 | 1 | 1.0000000000 |

* "All" means the equitable beneficial interest and the legal title interest merged together.

| | | |
|-----------|---|--------------|
| IN TRUST: | 1 | 1.0000000000 |
| IN FEE: | 0 | |
| TOTAL: | 1 | 1.0000000000 |

Appendix "C"

| Land Legal Description | | Tract Number | LTRO | Region | Agency | Resources | | | | | | | |
|------------------------|-------------------|--------------|------------|------------------------|------------------------|-------------------|---------|---------|------------|----------|------------|---------|---------|
| Land Area | Land Area Name | | | | | | | | | | | | |
| 791 | NAVAJO-NEW MEXICO | T 8183 | SOUTHWEST | NAVAJO REGIONAL OFFICE | NAVAJO REGIONAL OFFICE | Both | | | | | | | |
| Section | Township | Range | State | County | Meridian | Legal Description | Acres | | | | | | |
| 1 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | S N | 160.000 | | | | | | |
| | | | | | | S | 320.000 | | | | | | |
| | | | | | | LOT 01= | 40.130 | | | | | | |
| | | | | | | LOT 02= | 40.200 | | | | | | |
| | | | | | | LOT 03= | 40.260 | | | | | | |
| | | | | | | LOT 04= | 40.330 | | | | | | |
| 2 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | S N | 160.000 | | | | | | |
| | | | | | | S | 320.000 | | | | | | |
| | | | | | | LOT 01= | 40.340 | | | | | | |
| | | | | | | LOT 02= | 40.310 | | | | | | |
| | | | | | | LOT 03= | 40.270 | | | | | | |
| | | | | | | LOT 04= | 40.240 | | | | | | |
| 3 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | S N | 160.000 | | | | | | |
| | | | | | | S | 320.000 | | | | | | |
| | | | | | | LOT 01= | 40.200 | | | | | | |
| | | | | | | LOT 02= | 40.170 | | | | | | |
| | | | | | | LOT 03= | 40.130 | | | | | | |
| | | | | | | LOT 04= | 40.100 | | | | | | |
| 4 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | S N | 160.000 | | | | | | |
| | | | | | | S | 320.000 | | | | | | |
| | | | | | | LOT 01= | 40.070 | | | | | | |
| | | | | | | LOT 02= | 40.040 | | | | | | |
| | | | | | | LOT 03= | 40.020 | | | | | | |
| | | | | | | LOT 04= | 39.990 | | | | | | |
| 5 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | S N | 160.000 | | | | | | |
| | | | | | | S | 320.000 | | | | | | |
| | | | | | | LOT 01= | 39.970 | | | | | | |
| | | | | | | LOT 02= | 39.960 | | | | | | |
| | | | | | | LOT 03= | 39.940 | | | | | | |
| | | | | | | LOT 04= | 39.930 | | | | | | |
| 6 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | SE NW | 40.000 | | | | | | |
| | | | | | | E SW | 80.000 | | | | | | |
| | | | | | | S NE | 80.000 | | | | | | |
| | | | | | | SE | 160.000 | | | | | | |
| | | | | | | LOT 01= | 39.930 | | | | | | |
| | | | | | | LOT 02= | 39.950 | | | | | | |
| | | | | | | LOT 03= | 39.970 | | | | | | |
| | | | | | | LOT 04= | 38.950 | | | | | | |
| | | | | | | LOT 05= | 38.920 | | | | | | |
| | | | | | | LOT 06= | 38.880 | | | | | | |
| | | | | | | LOT 07= | 38.840 | | | | | | |
| | | | | | | 7 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | E W | 160.000 |
| | | | | | | | | | | | | E | 320.000 |
| | | | | | | | | | | | | LOT 01= | 38.850 |
| LOT 02= | 38.930 | | | | | | | | | | | | |
| LOT 03= | 38.990 | | | | | | | | | | | | |
| LOT 04= | 39.070 | | | | | | | | | | | | |
| 8 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 | | | | | | |
| PROJECTED SURVEY | | | | | | | | | | | | | |
| 9 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 | | | | | | |
| PROJECTED SURVEY | | | | | | | | | | | | | |
| 10 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 | | | | | | |
| PROJECTED SURVEY | | | | | | | | | | | | | |

Appendix "C"

| Section | Township | Range | State | County | Meridian | Legal Description | Acres |
|---------|----------|---------|------------|----------|------------|-------------------|---------|
| 11 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 |
| | | | | | | PROJECTED SURVEY | |
| 12 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 |
| | | | | | | PROJECTED SURVEY | |
| 13 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 |
| | | | | | | PROJECTED SURVEY | |
| 14 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 |
| | | | | | | PROJECTED SURVEY | |
| 15 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 |
| | | | | | | PROJECTED SURVEY | |
| 16 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 |
| | | | | | | PROJECTED SURVEY | |
| 17 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 |
| | | | | | | PROJECTED SURVEY | |
| 18 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | E W | 160.000 |
| | | | | | | E | 320.000 |
| | | | | | | LOT 01= | 39.130 |
| | | | | | | LOT 02= | 39.180 |
| | | | | | | LOT 03= | 39.240 |
| | | | | | | LOT 04= | 39.290 |
| | | | | | | PROJECTED SURVEY | |
| 19 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | E W | 160.000 |
| | | | | | | E | 320.000 |
| | | | | | | LOT 01= | 39.350 |
| | | | | | | LOT 02= | 39.420 |
| | | | | | | LOT 03= | 39.480 |
| | | | | | | LOT 04= | 39.550 |
| 20 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 |
| | | | | | | PROJECTED SURVEY | |
| 21 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 |
| | | | | | | PROJECTED SURVEY | |
| 22 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 |
| | | | | | | PROJECTED SURVEY | |
| 23 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 |
| | | | | | | PROJECTED SURVEY | |
| 24 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 |
| | | | | | | PROJECTED SURVEY | |
| 25 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 |
| | | | | | | PROJECTED SURVEY | |
| 26 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 |
| | | | | | | PROJECTED SURVEY | |
| 27 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 |
| | | | | | | PROJECTED SURVEY | |
| 28 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 |
| | | | | | | PROJECTED SURVEY | |
| 29 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | | 640.000 |
| | | | | | | PROJECTED SURVEY | |
| 30 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | LOT 01= | 39.610 |
| | | | | | | LOT 02= | 39.670 |
| | | | | | | LOT 03= | 39.730 |
| | | | | | | LOT 04= | 39.790 |
| 31 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | NE NW | 40.000 |
| | | | | | | N NE | 80.000 |
| | | | | | | LOT 01= | 39.850 |
| 32 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | N N | 160.000 |
| | | | | | | PROJECTED SURVEY | |
| 33 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | N N | 160.000 |
| | | | | | | PROJECTED SURVEY | |
| 34 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | N N | 160.000 |
| | | | | | | PROJECTED SURVEY | |
| 35 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | N N | 160.000 |

Appendix "C"

| <u>Section</u> | <u>Township</u> | <u>Range</u> | <u>State</u> | <u>County</u> | <u>Meridian</u> | <u>Legal Description</u> | <u>Acres</u> |
|--------------------|-----------------|--------------|--------------|---------------|-----------------|--------------------------|--------------|
| 36 | 018.00N | 018.00W | NEW MEXICO | MCKINLEY | New Mexico | N N | 160.000 |
| PROJECTED SURVEY | | | | | | | |
| TOTAL TRACT ACRES: | | | | | | | 19667.170 |

[illegible]

STATE OF NEW MEXICO
COUNTY OF SAN JUAN

Witness me, _____, County Clerk of San Juan County, New Mexico, on this _____ day of _____, 19____, at _____, New Mexico, before me, _____, County Clerk of San Juan County, New Mexico, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, 19____.

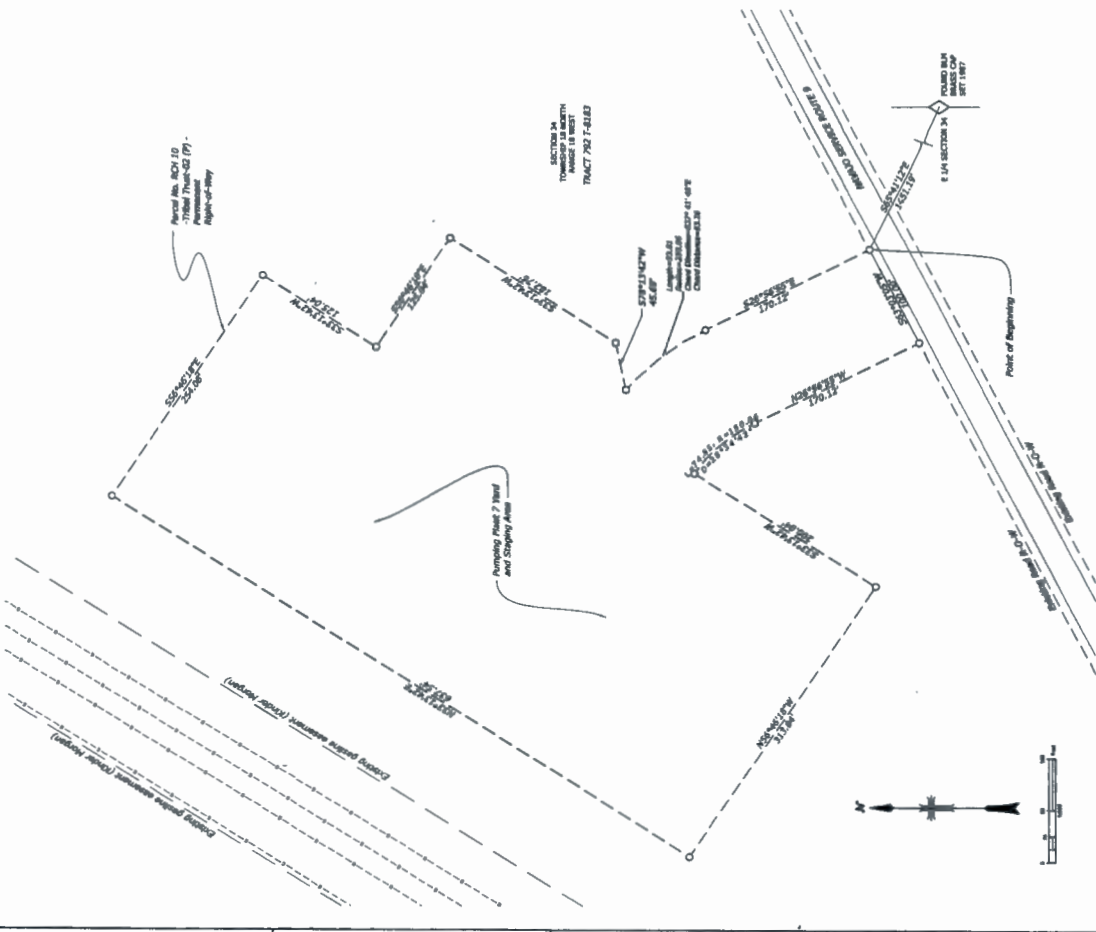
County Clerk of San Juan County, New Mexico

Notary Public for New Mexico

Date

[illegible]

NOTE: Bearings shown on this drawing are developed from the New Mexico State Plane West Zone Grid (NAD83) and are based on surveys of existing monuments. Distances and Stations shown are ground (local). The Grid Factor from distances shown to New Mexico State Plane West Zone Grid (NAD83) is 0.999703658004.



ALWAYS THINK SAFETY

U.S. Department of the Interior
Bureau of Land Management

MINERAL RIGHTS RESERVED
BY THE UNITED STATES OF AMERICA

WATER RIGHTS RESERVED
BY THE STATE OF ARIZONA

SMITH-RANDALL TRACT, MAP 10
CONCESSION

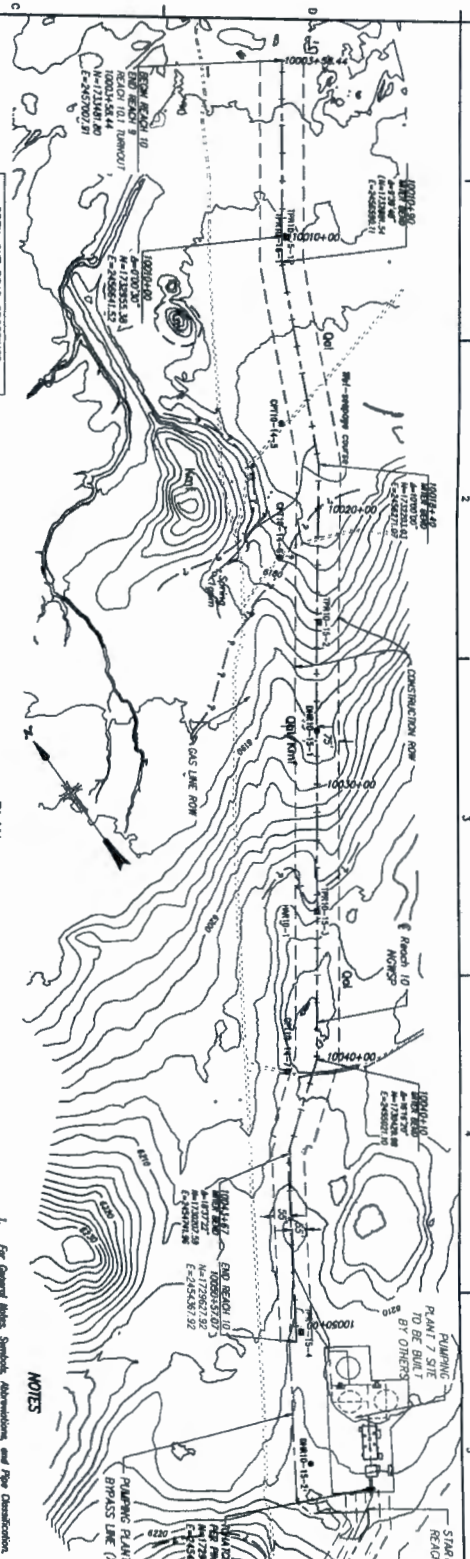
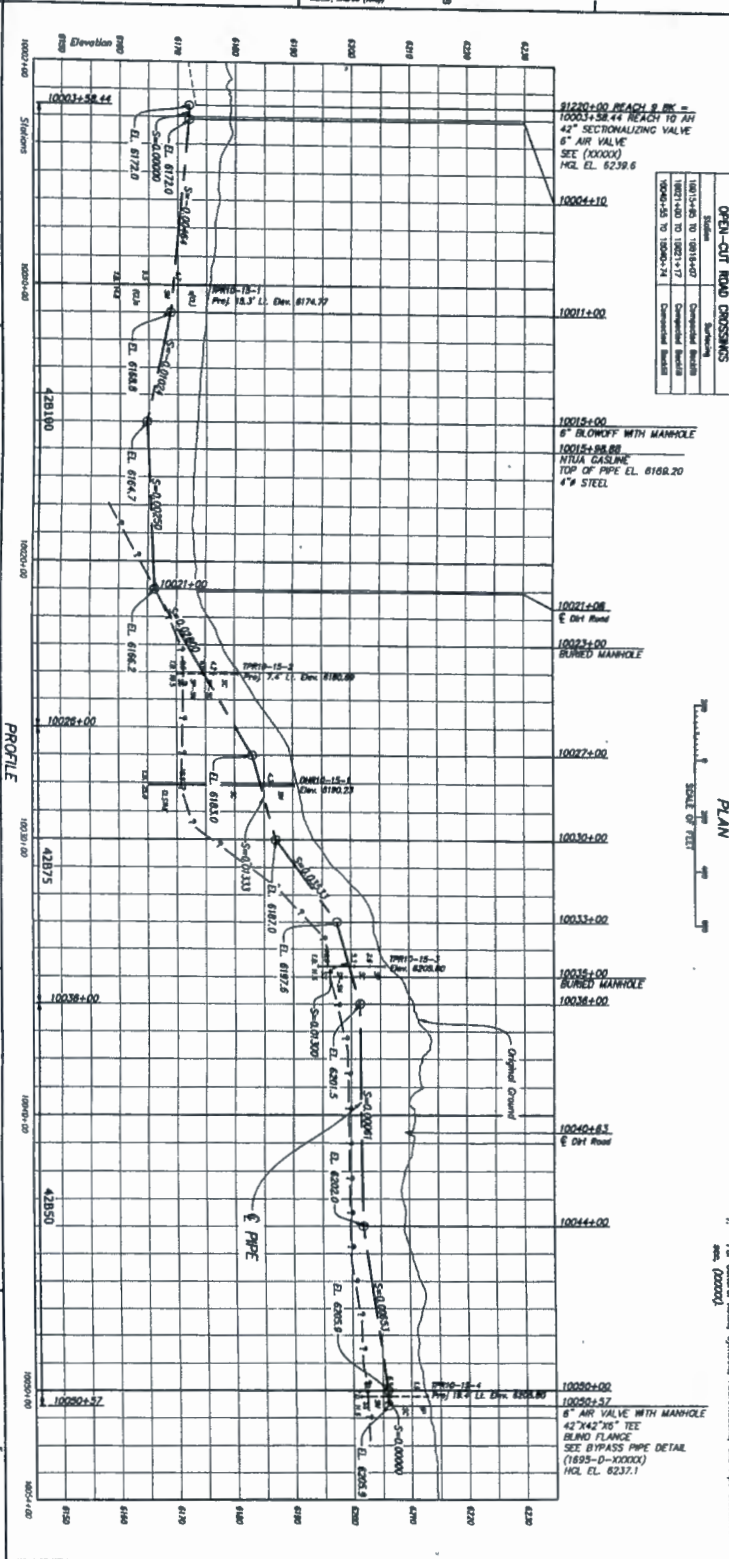
SAN JUAN WATER LATERAL - REACH 10

PUMPING PLANT NO. 7

[illegible]

DATE: 10/15/03
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]

DATE: 10/15/03
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]



| Station | Structure |
|----------------------|--------------|
| 10011+00 TO 10015+00 | Compass Road |
| 10015+00 TO 10021+00 | Compass Road |
| 10021+00 TO 10025+00 | Compass Road |



1. For General Notes, Symbols, Abbreviations, and Pipe Classification, see (00000).

| REVISION | DATE | BY | CHKD | DESCRIPTION |
|----------|----------|-------------|-------------|---------------|
| 1 | 10/15/03 | [Signature] | [Signature] | 1005-D-124015 |

| | |
|-------------|-----------------------------------|
| PROJECT NO. | 1005-D-124015 |
| SECTION | PLAN AND PROFILE |
| DATE | 10/15/03 |
| BY | [Signature] |
| CHKD | [Signature] |
| DESCRIPTION | REACHING TO END (STATION 1005+50) |

FOR ALWAYS THINK SAFETY
 DRAFT
 SAN JUAN LATERAL REACH 10
 Not For Distribution

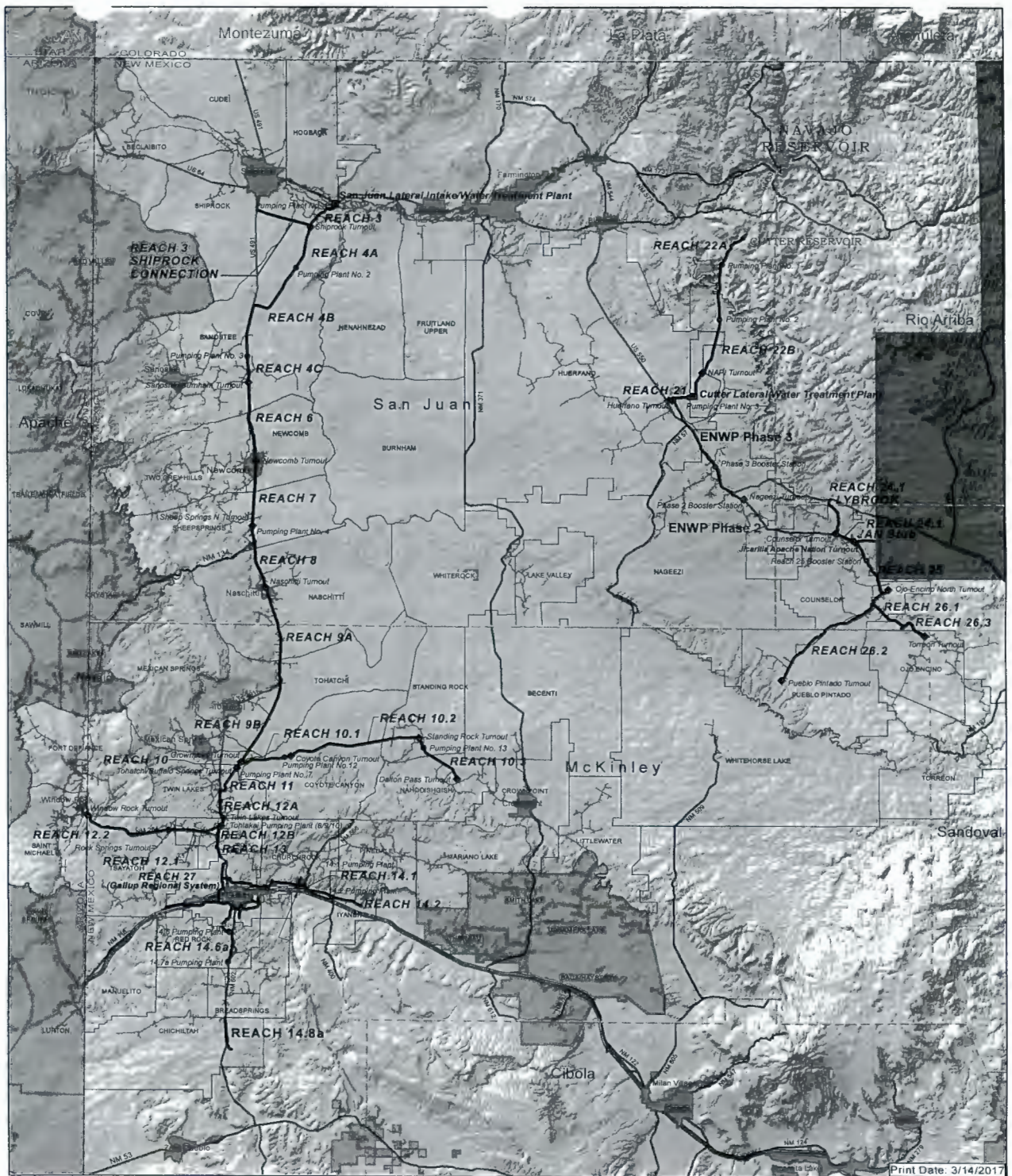
RECLAMATION
 BUREAU OF RECLAMATION
 WASHINGTON, D.C. 20250

Navajo-Gallup Water Supply Project - Reach 10 - Parcel No. RCH 10-Tribal Trust-02(P) ~ Pumping Plant
No. 7 - Permanent Easement for Right-of-Way

A parcel of land lying on Navajo Nation, Tribal Trust Land in the Southwest Quarter of the Northeast Quarter of Section 34, Township 18 North, Range 18 West; N.M.P.M., McKinley County, New Mexico. More particularly described as follows:

Beginning at a point on the north right-of-way line of Navajo Service Route 9 from which the East Quarter Corner of Section 34 bears South 66°17'51" East a distance of 1463.79 feet; thence from the point of beginning South 63°03'05" West a distance of 60.00 feet; thence South 63°03'05" West a distance of 20.00 feet; thence North 26°56'55" West a distance of 170.12 feet; thence along a curve that bears left 28°34'42" a distance of 74.85 feet, which curve has a radius of 150.06 feet; thence South 33°13'42" West a distance of 200.04 feet; thence North 56°46'18" West a distance of 313.84 feet; thence North 33°13'42" East a distance of 637.54 feet; thence South 56°46'18" East a distance of 254.08 feet; thence South 33°13'42" West a distance of 125.04 feet; thence South 56°46'18" East a distance of 125.04 feet; thence South 33°13'42" West a distance of 182.76 feet; thence South 78°13'42" West a distance of 45.69 feet; thence along a curve a distance of 93.81 feet, which chord bears South 37°41'46" East a distance of 93.26 feet and which curve has a radius of 250.06 feet; thence South 26°56'55" East a distance of 170.12 feet; thence South 63°03'05" West a distance of 20.00 feet to the point of beginning.

Parcel No. RCH 10-Tribal Trust-02(P) contains 5.35 acres more or less.



Print Date: 3/14/2017

LEGEND

- San Juan Lateral
- Cutter Lateral
- Gallup Regional System
- Eastern Navajo Water Pipeline (ENWP) Phase 2
- Eastern Navajo Water Pipeline (ENWP) Phase 3
- Water Treatment Plant
- Pumping Plant
- Turnout
- Navajo Tribal Utility Authority Distribution System
- Navajo Nation Served Chapters
- Navajo Nation Non-Served Chapters
- Jicarilla Apache Nation (JAN)

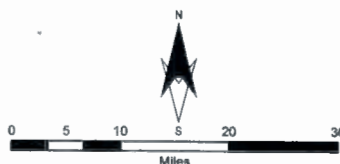
Navajo Gallup Water Supply Project

RECLAMATION

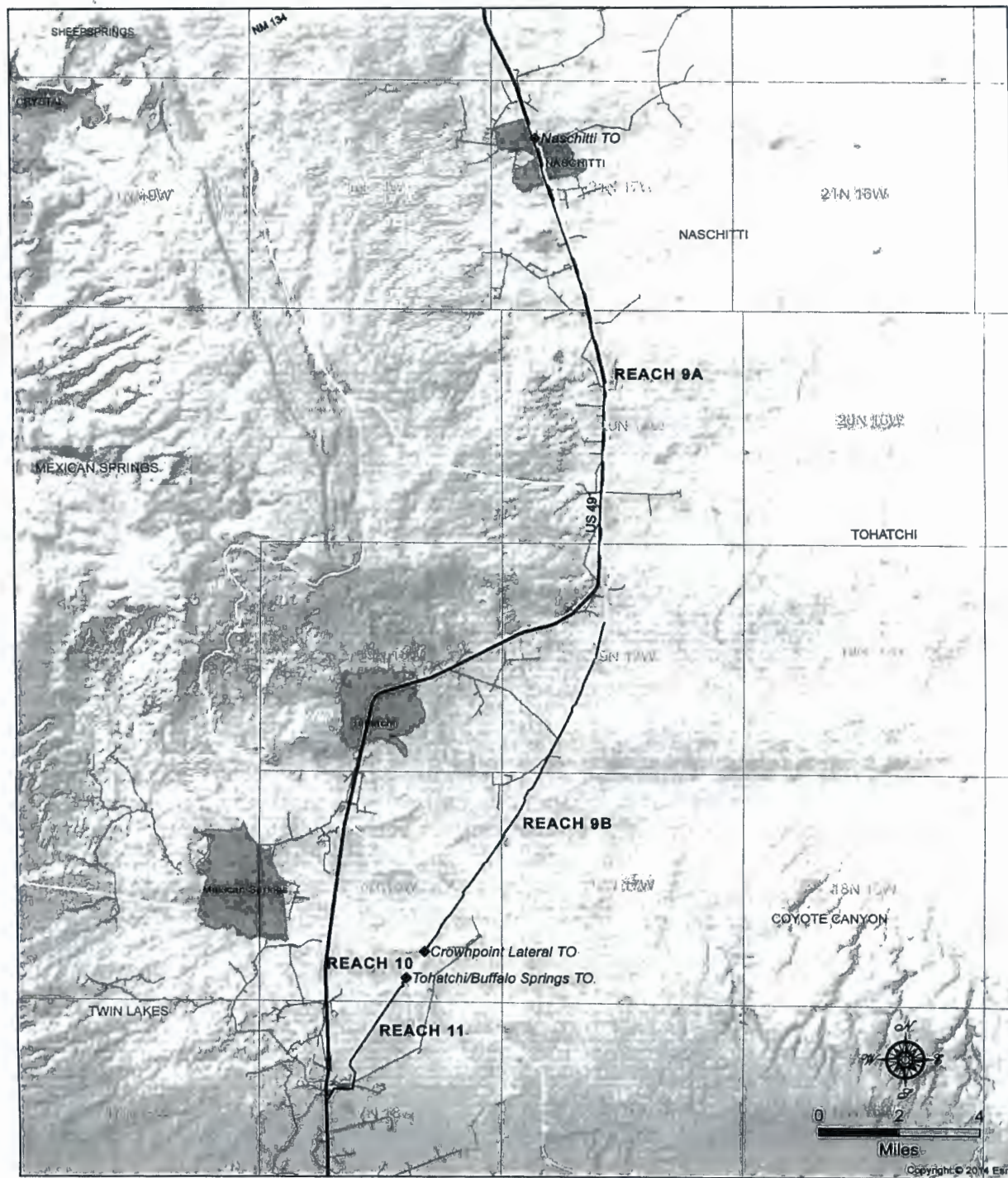
Managing Water in the West

Note: Pumping Plant numbers reflect FEIS designations. Some pumping plants in original FEIS design have been combined and/or eliminated as a result of additional analyses and optimization studies.

Disclaimer: Not for construction purposes. Alignment may be refined as designs and field reviews are completed.



1695-529-537
Last Update: March 13, 2017



Navajo-Gallup Water Supply Project **RECLAMATION** *Managing Water in the West*

LEGEND

- Reach 9A
- Reach 9B
- Reach 10
- Reach 11
- ◆ Turnout (TO)
- US Highway

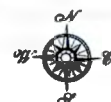
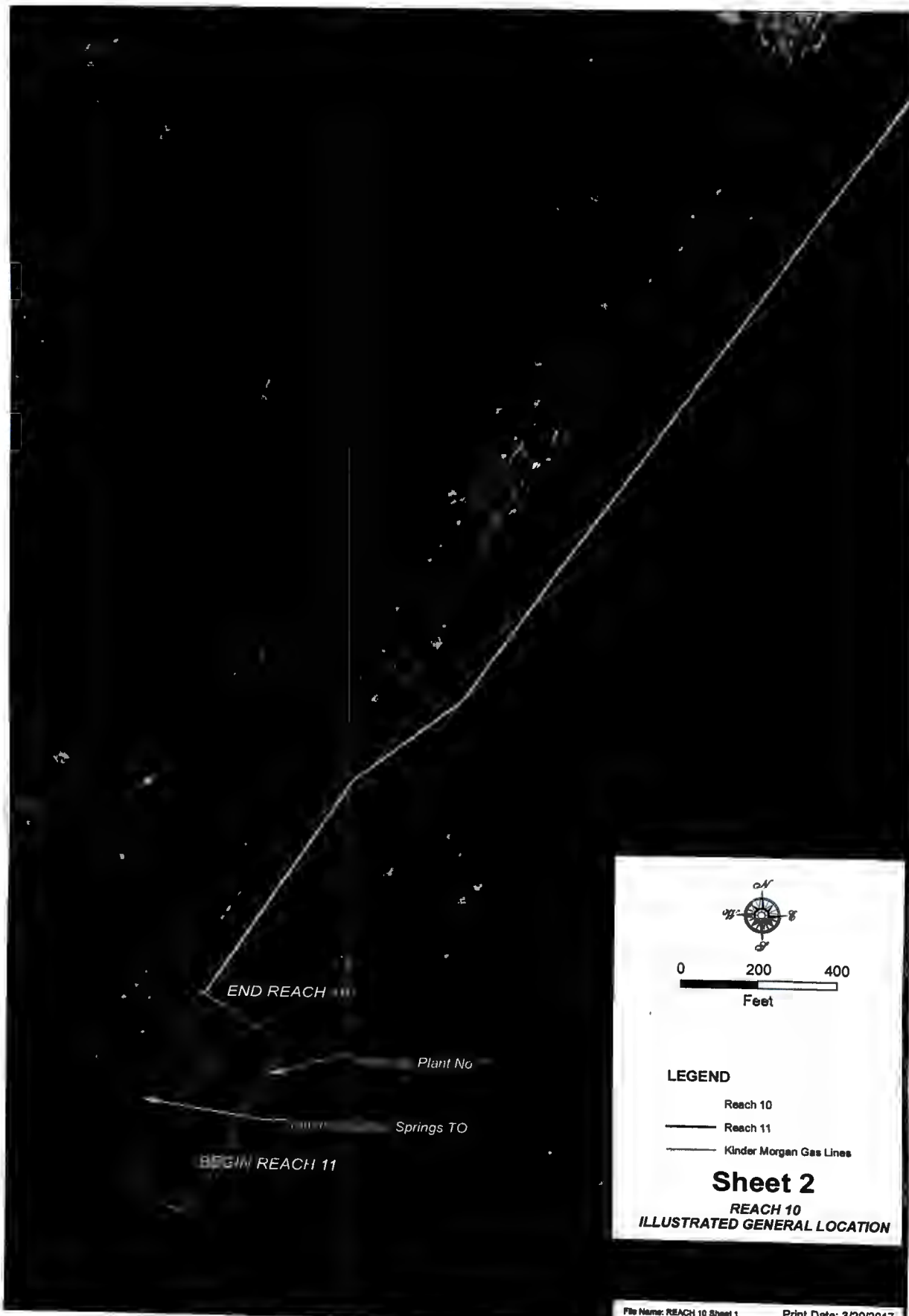
CHAPTER NAME Navajo Nation Serviced Chapters

**BLOCK 9-11
 LAND STATUS MAP
 REACHES 9A, 9B, 10 AND 11**

FIGURE 1



Print Date: 12/15/2016
 Document Name: BLOCK 9 R9 10 11



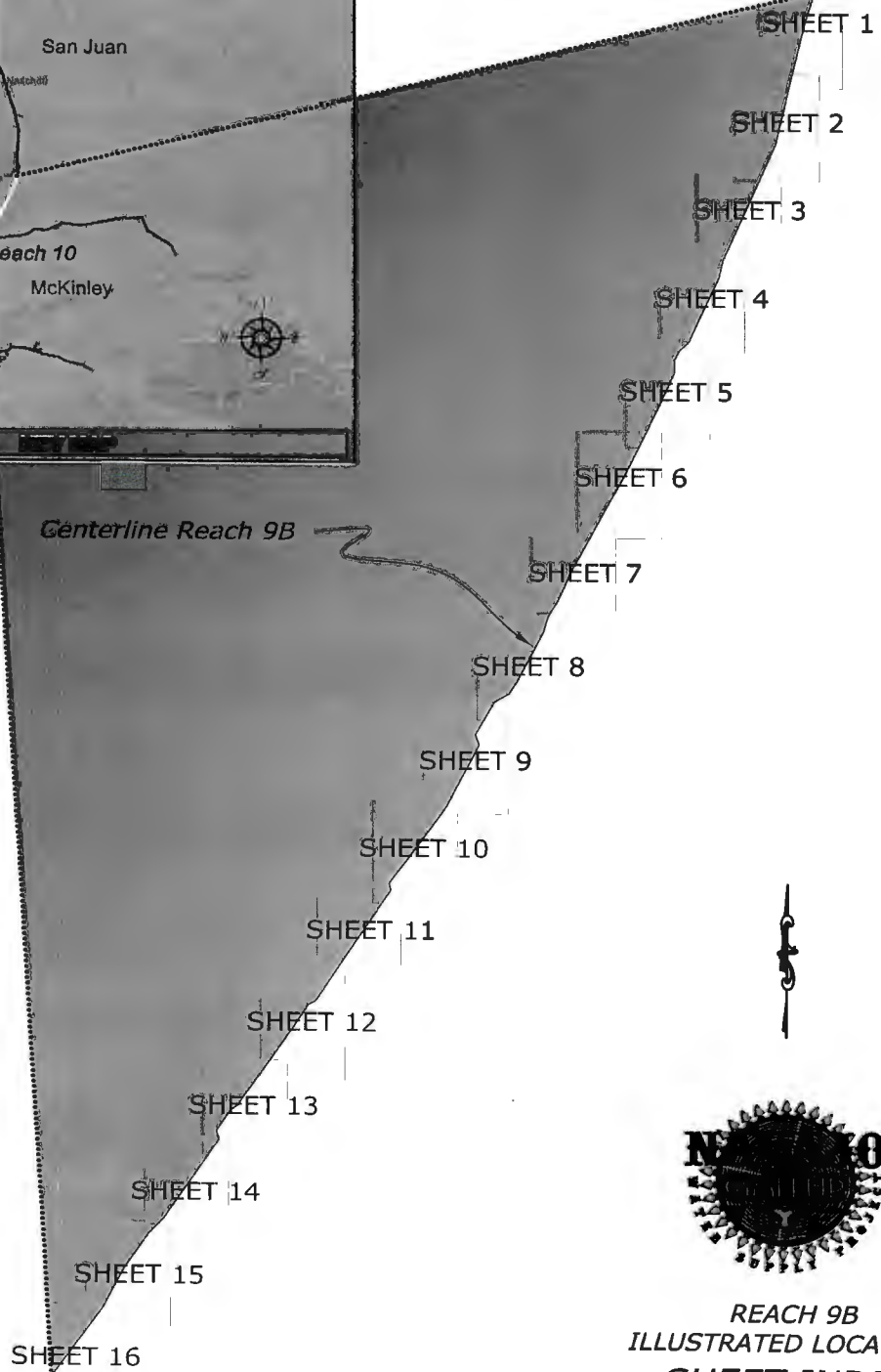
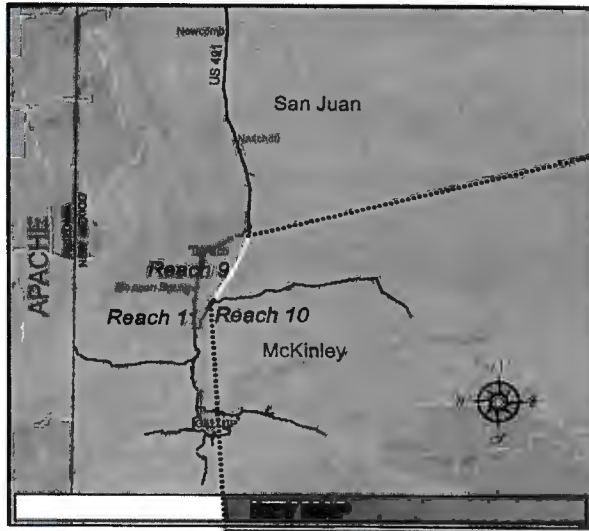
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Feet

LEGEND

- Reach 10
- Reach 11
- Kinder Morgan Gas Lines

Sheet 2

**REACH 10
ILLUSTRATED GENERAL LOCATION**



REACH 9B
ILLUSTRATED LOCATIONS
SHEET INDEX

ILLUSTRATED GENERAL LOCATION

REACH 9

Sheet 1

— Kinder Morgan Gas Lines

— Reach 9B

— Reach 9A

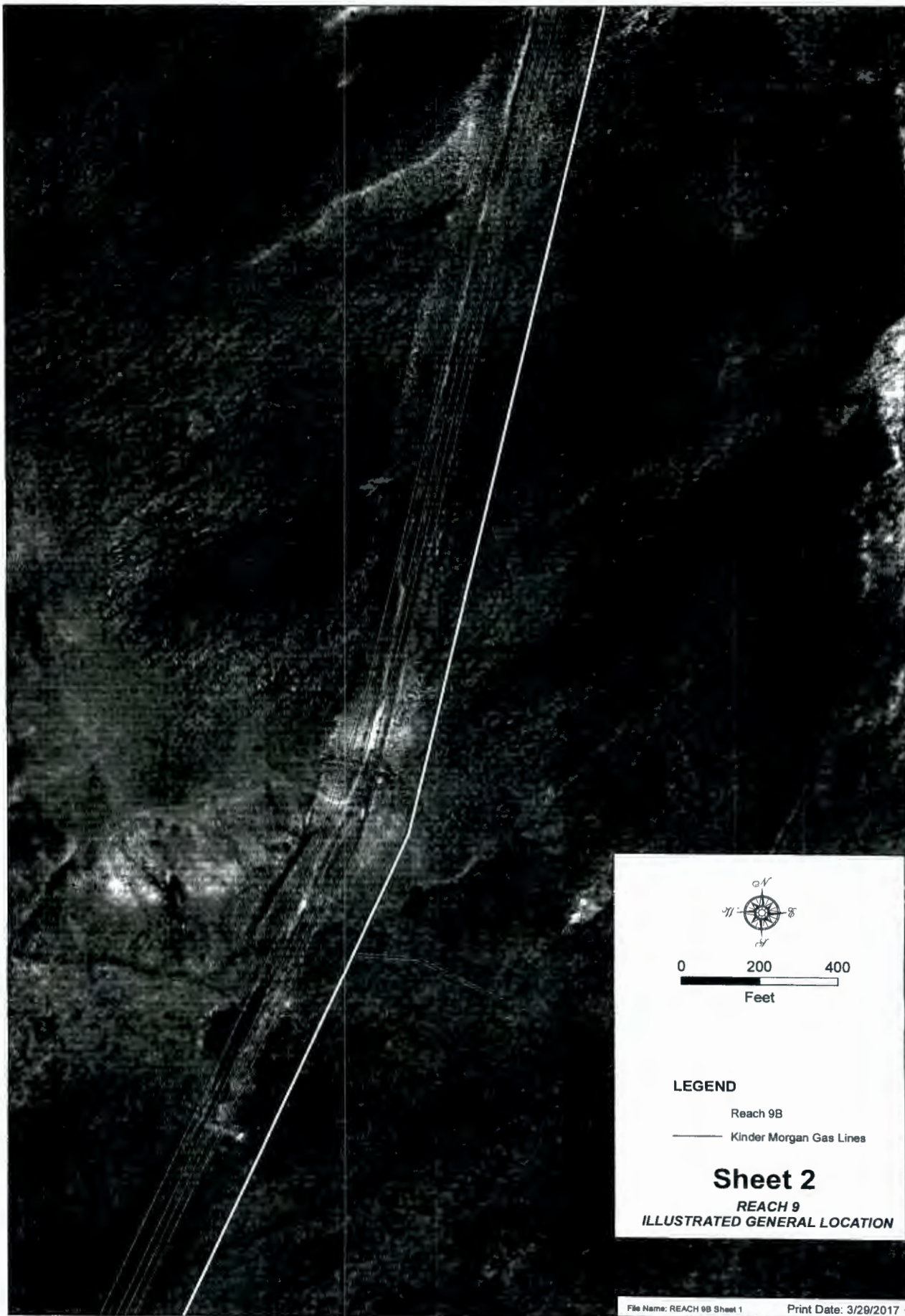
LEGEND

Feet

0 200 400



END REACH 9A
BEGIN REACH 9B



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Feet

LEGEND

- Reach 9B
- Kinder Morgan Gas Lines

Sheet 2

REACH 9
ILLUSTRATED GENERAL LOCATION

ILLUSTRATED GENERAL LOCATION

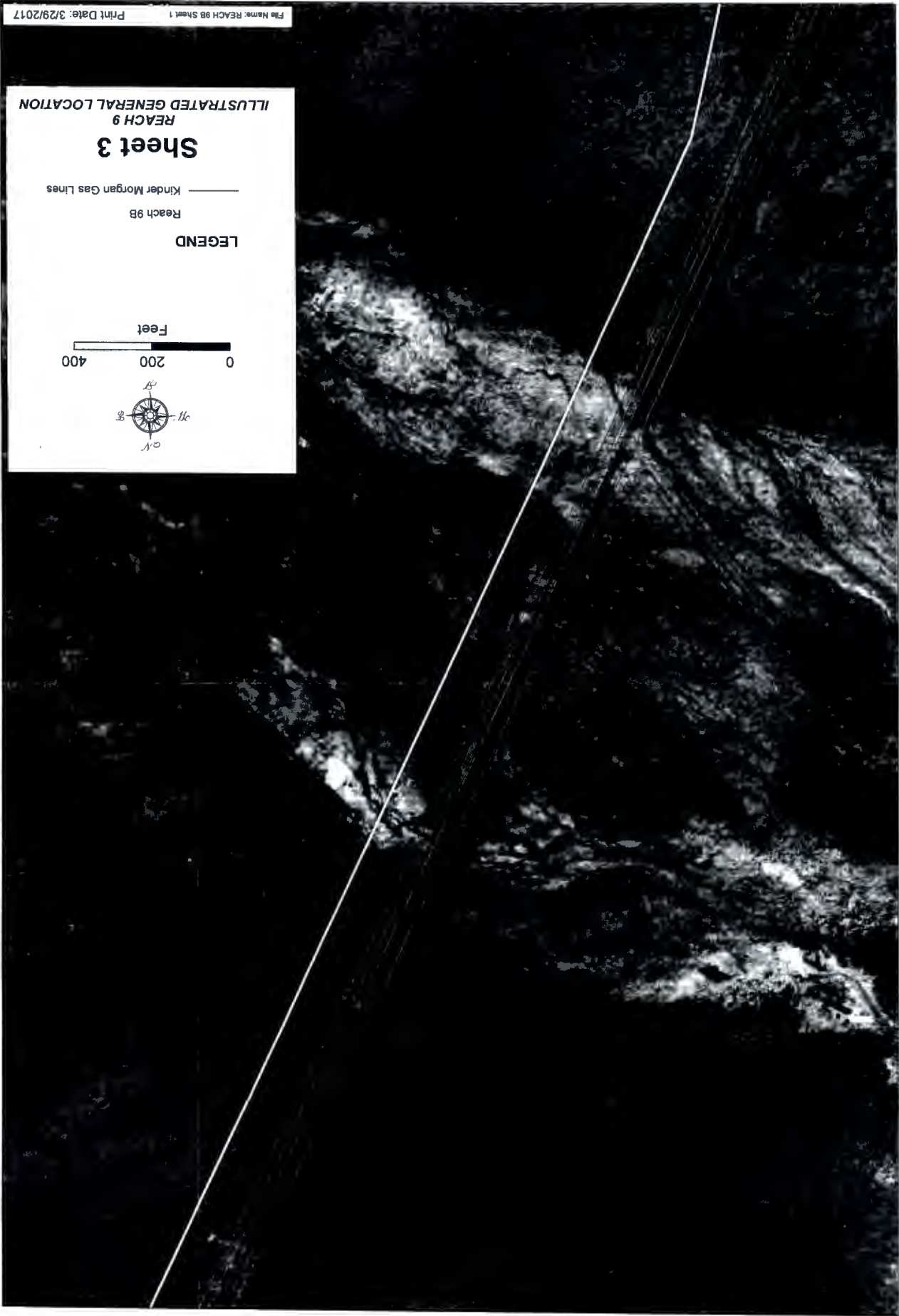
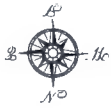
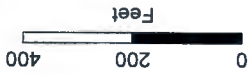
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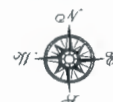
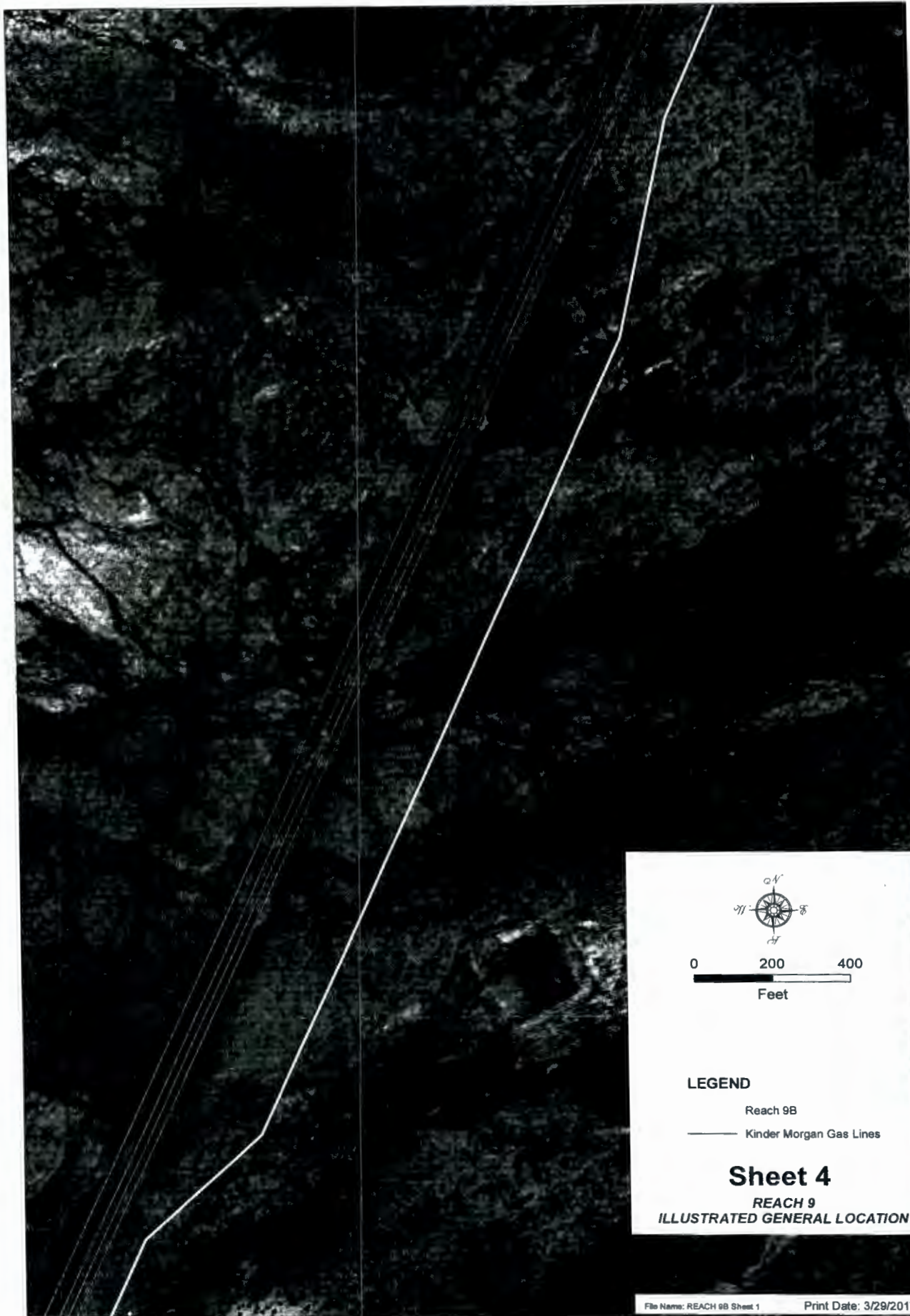
Sheet 3

— Kinder Morgan Gas Lines

Reach 9B

LEGEND





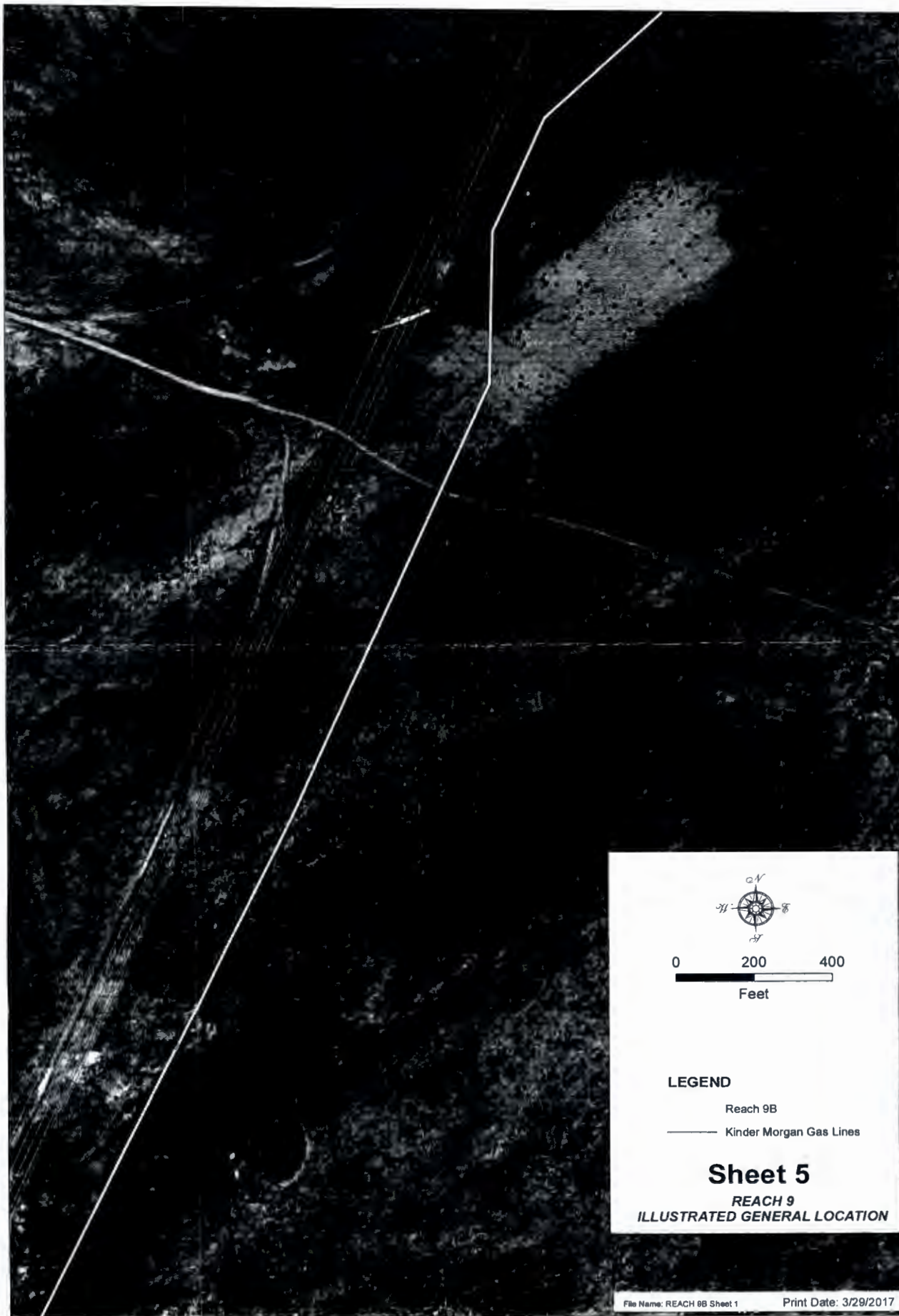
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LEGEND

- Reach 9B
- Kinder Morgan Gas Lines

Sheet 4

REACH 9
ILLUSTRATED GENERAL LOCATION



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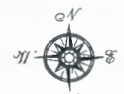
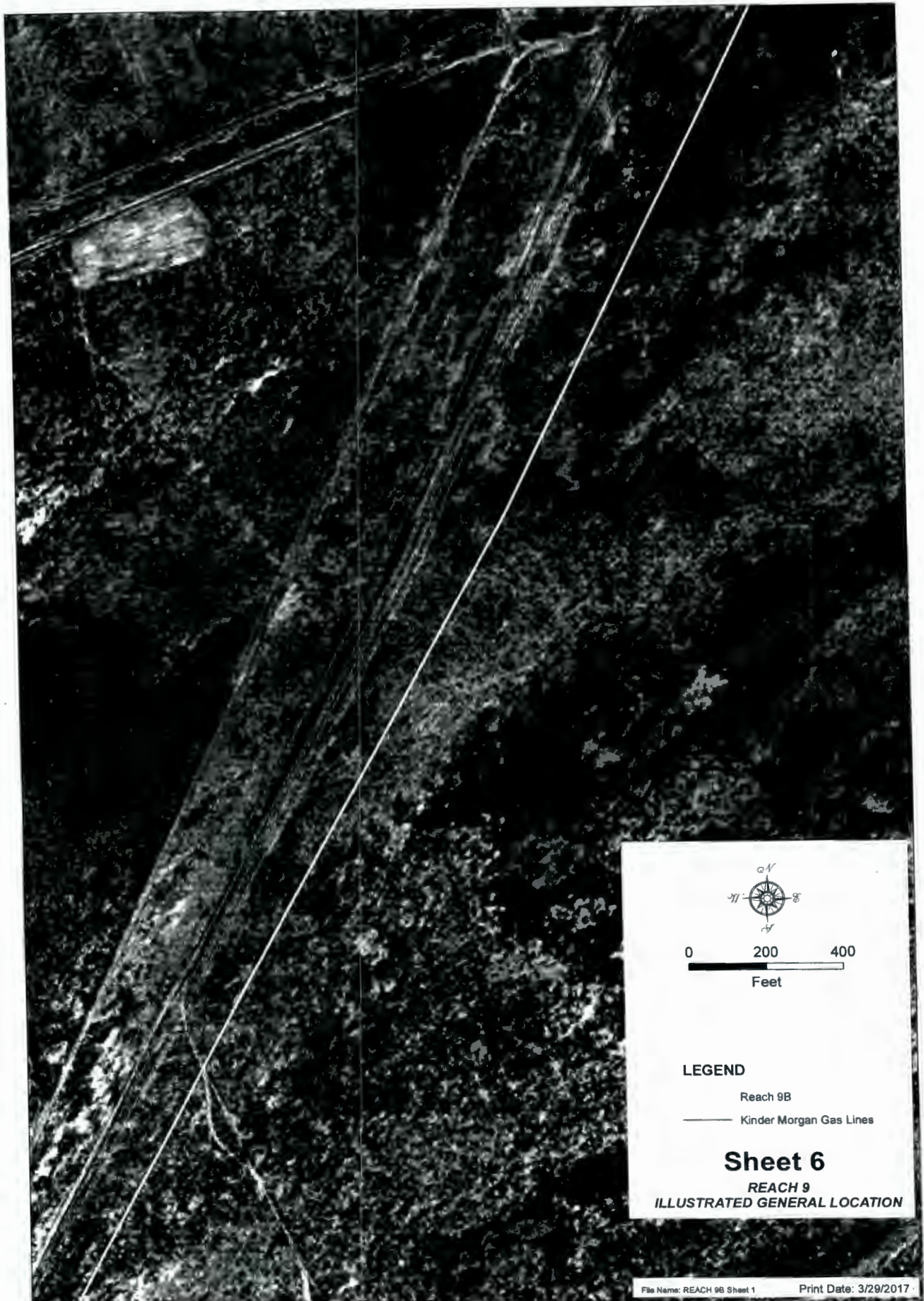
LEGEND

Reach 9B

— Kinder Morgan Gas Lines

Sheet 5

REACH 9
ILLUSTRATED GENERAL LOCATION



0 200 400
Feet

LEGEND

Reach 9B
— Kinder Morgan Gas Lines

Sheet 6

REACH 9
ILLUSTRATED GENERAL LOCATION

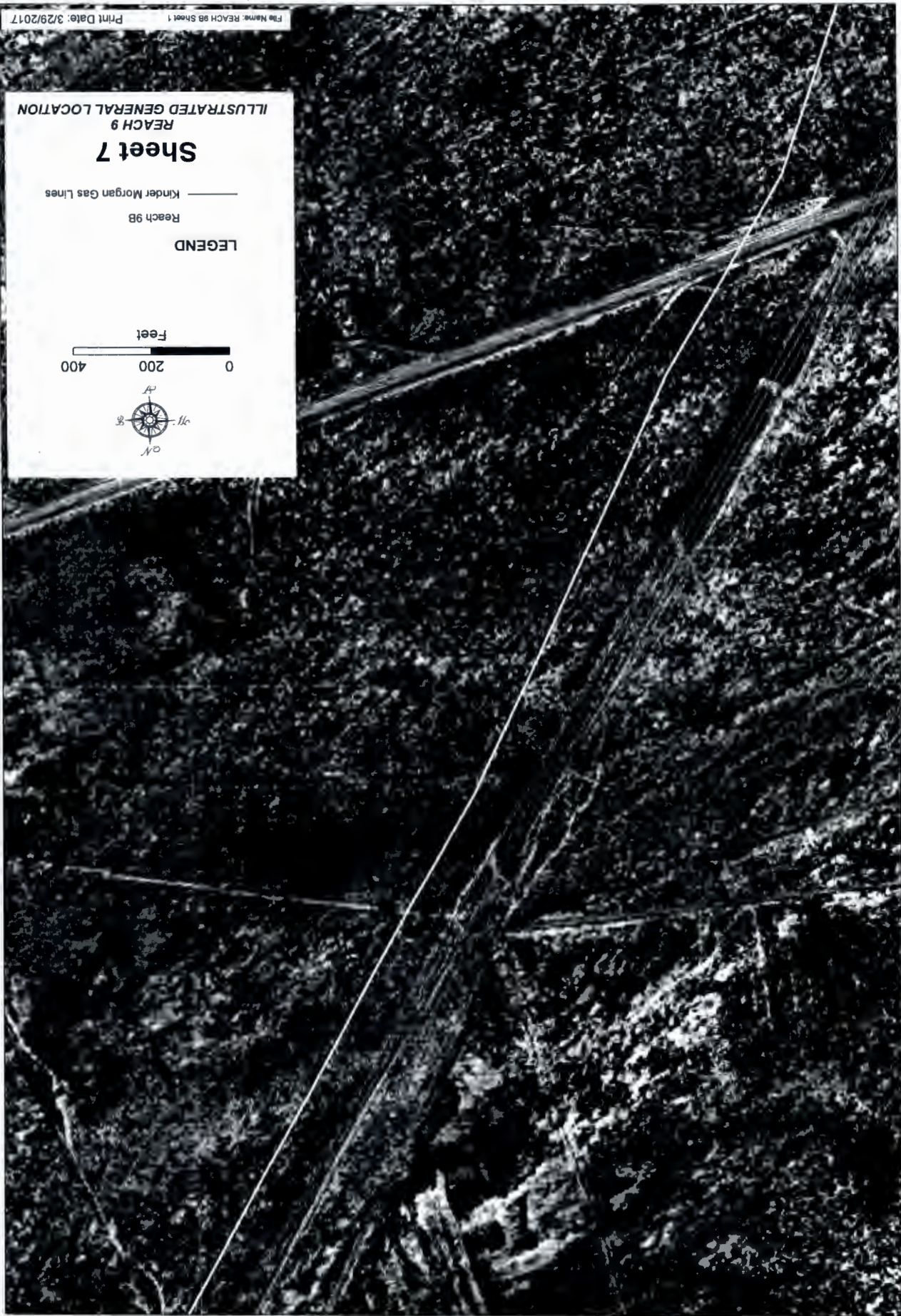
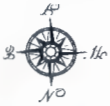
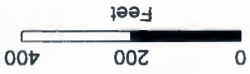
Sheet 7

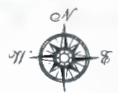
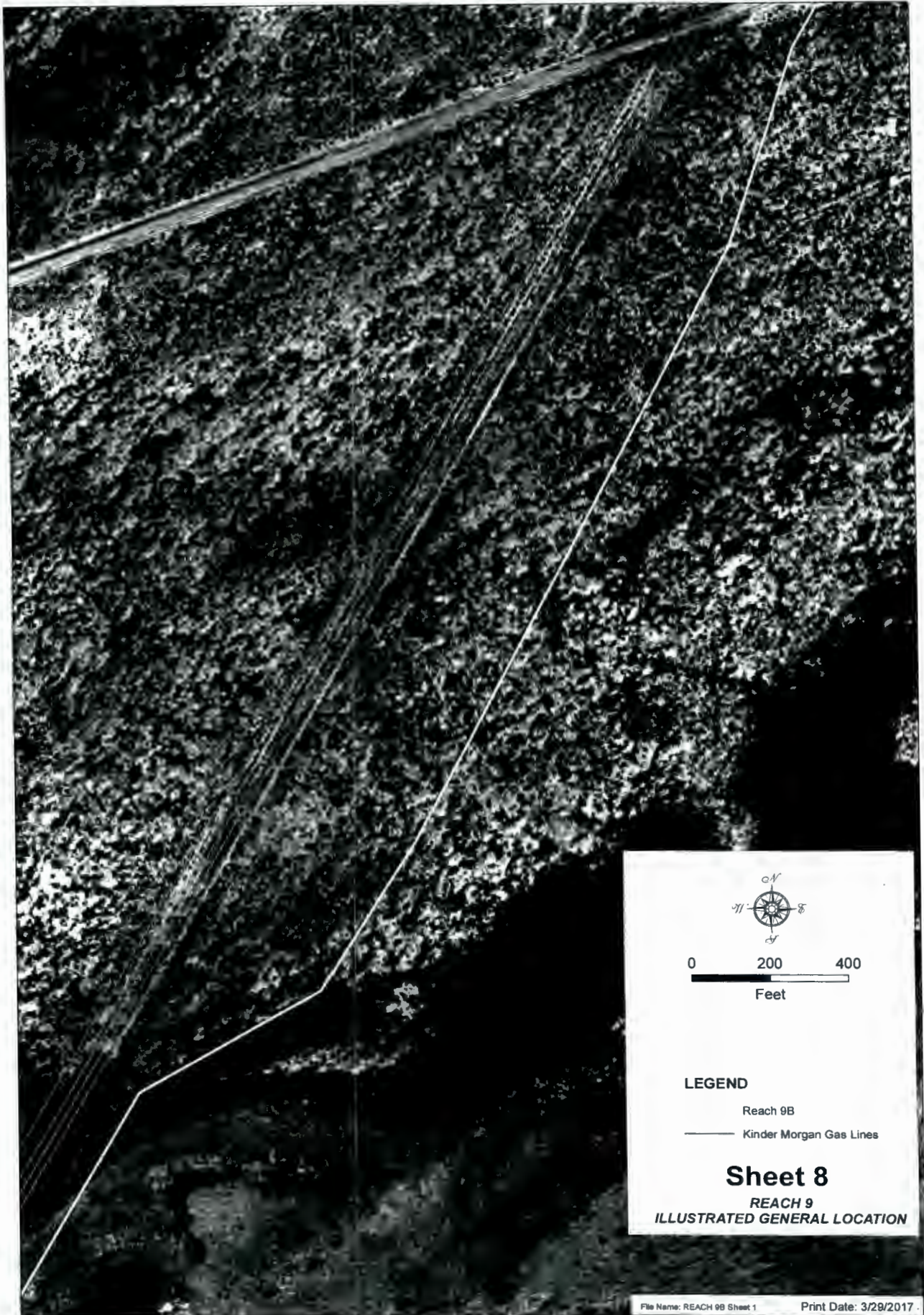
REACH 9

ILLUSTRATED GENERAL LOCATION

Reach 9B
Kinder Morgan Gas Lines

LEGEND





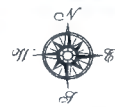
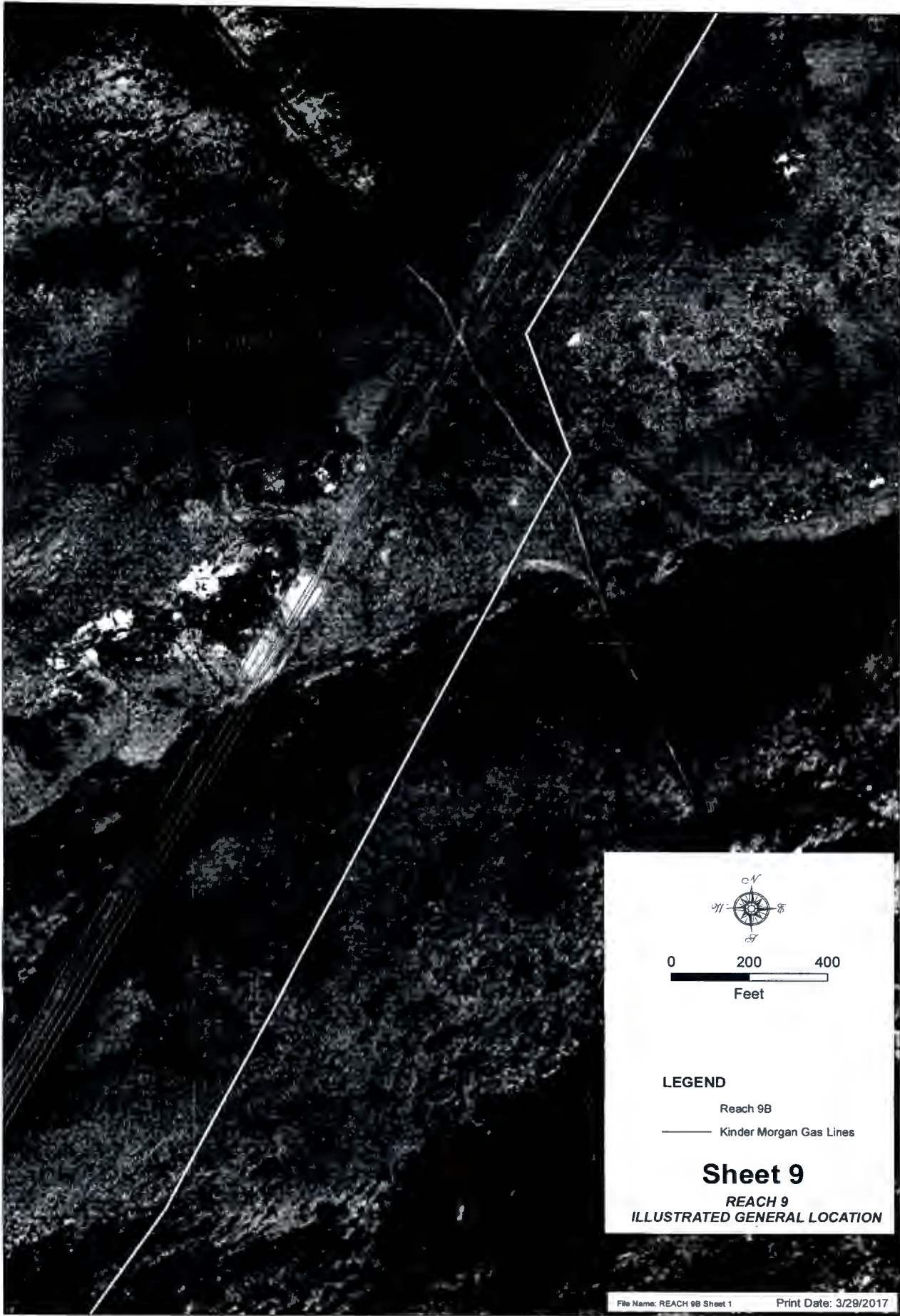
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LEGEND

- Reach 9B
- Kinder Morgan Gas Lines

Sheet 8

REACH 9
ILLUSTRATED GENERAL LOCATION

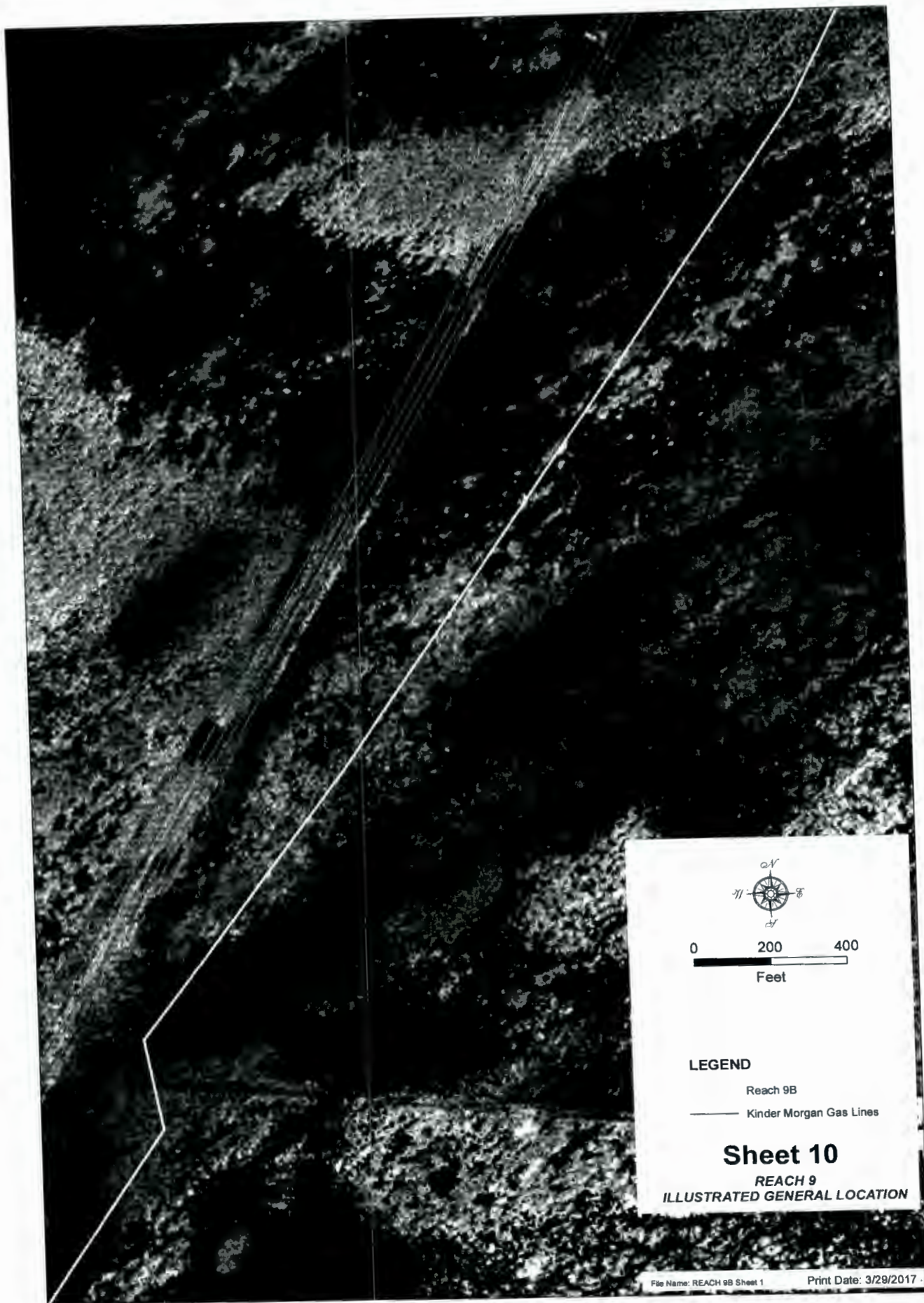


LEGEND

- Reach 9B
- Kinder Morgan Gas Lines

Sheet 9

REACH 9
ILLUSTRATED GENERAL LOCATION





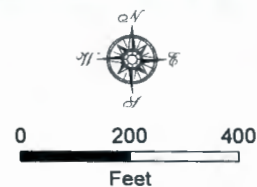
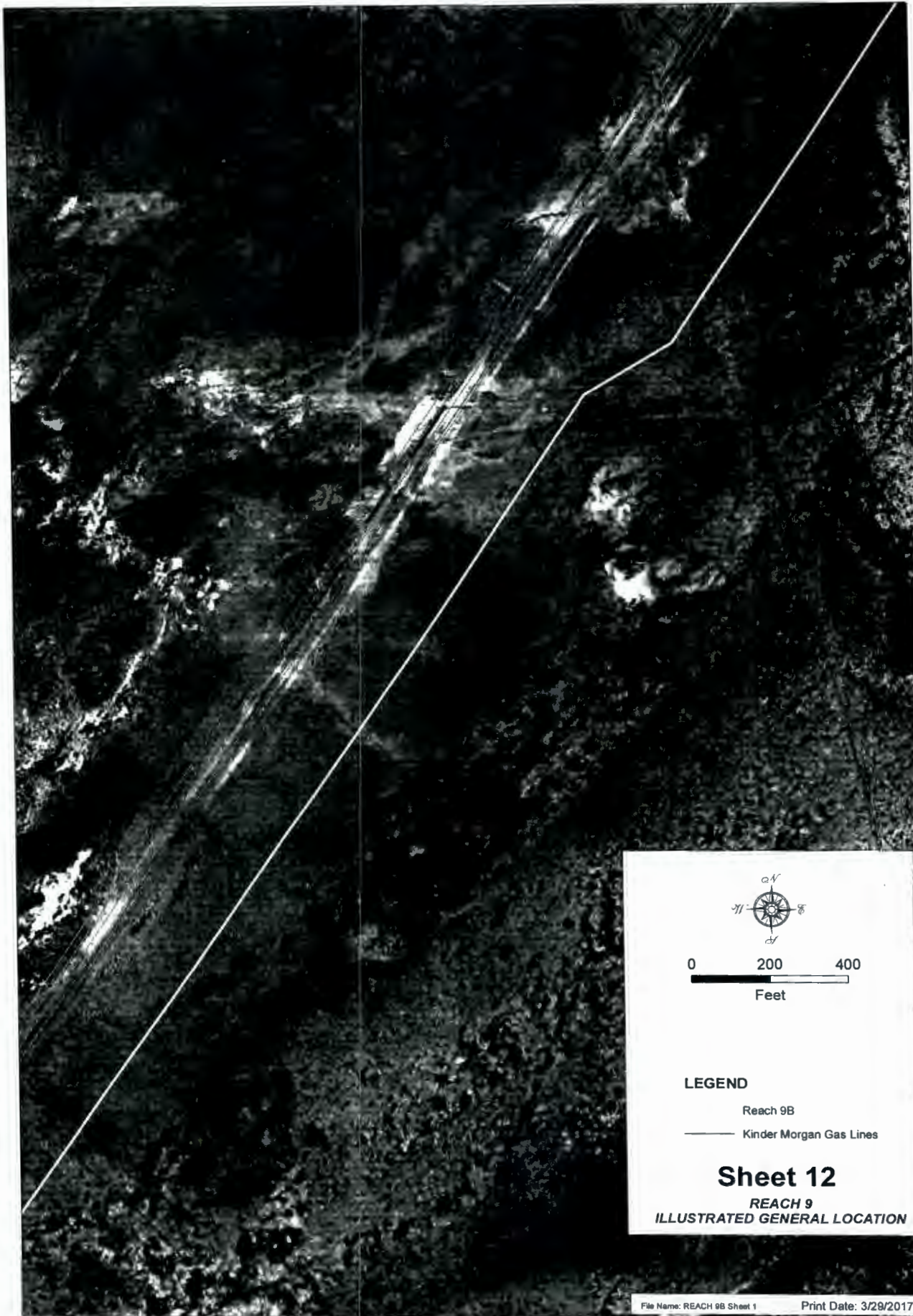
LEGEND

Reach 9B

Kinder Morgan Gas Lines

Sheet 11

REACH 9
ILLUSTRATED GENERAL LOCATION



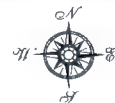
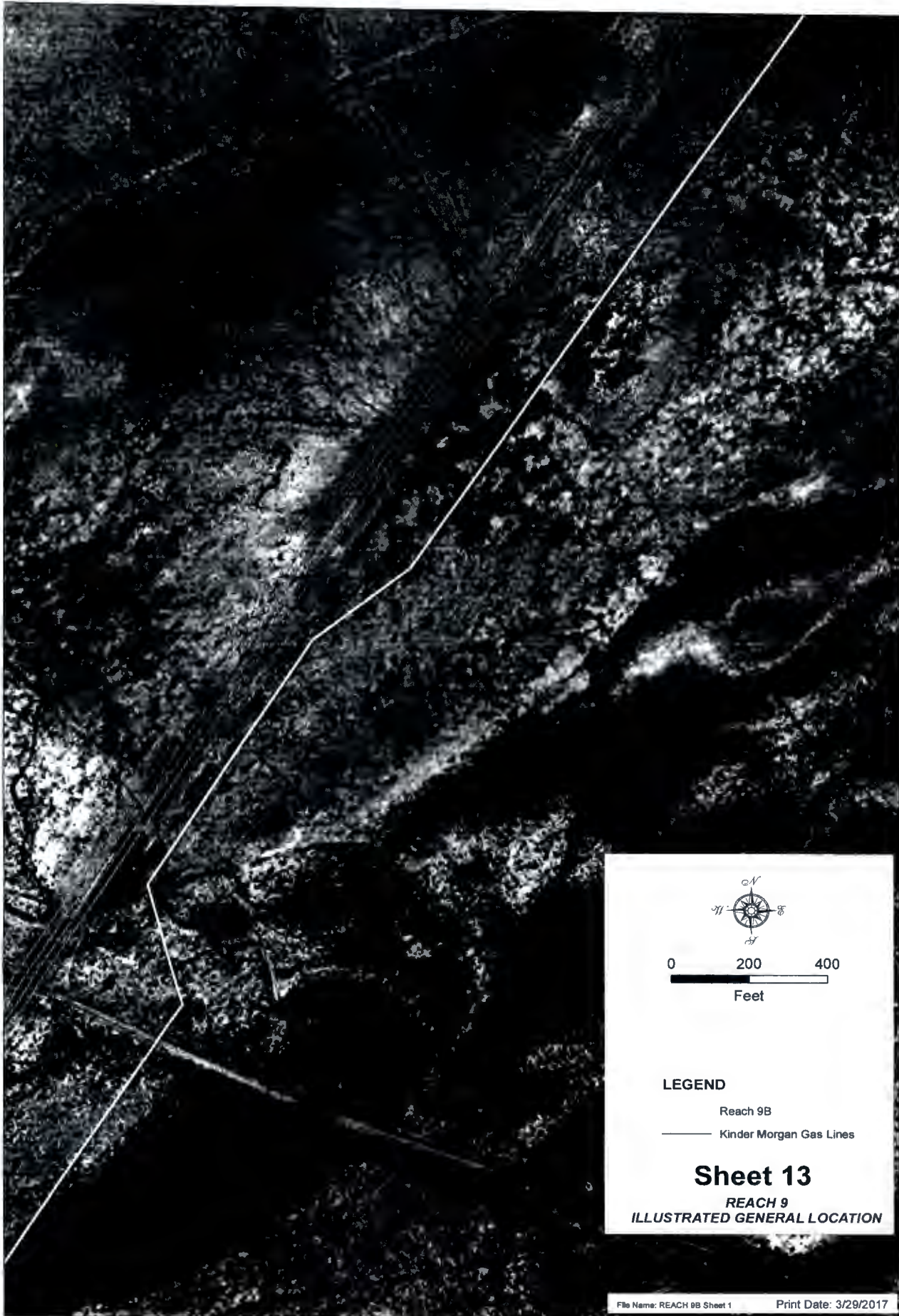
LEGEND

Reach 9B

— Kinder Morgan Gas Lines

Sheet 12

REACH 9
ILLUSTRATED GENERAL LOCATION



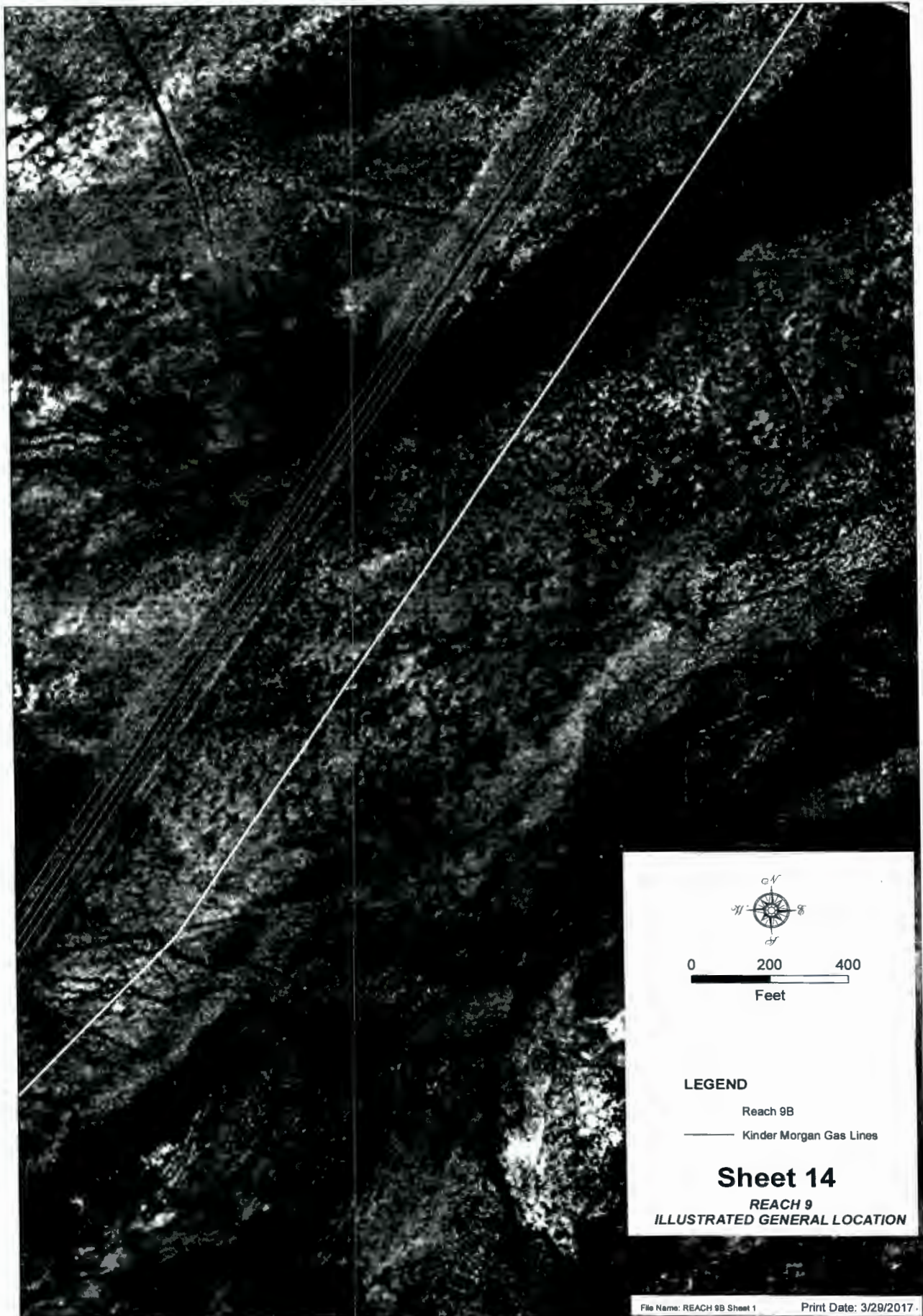
LEGEND

Reach 9B

— Kinder Morgan Gas Lines

Sheet 13

**REACH 9
ILLUSTRATED GENERAL LOCATION**



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Feet

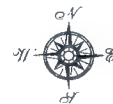
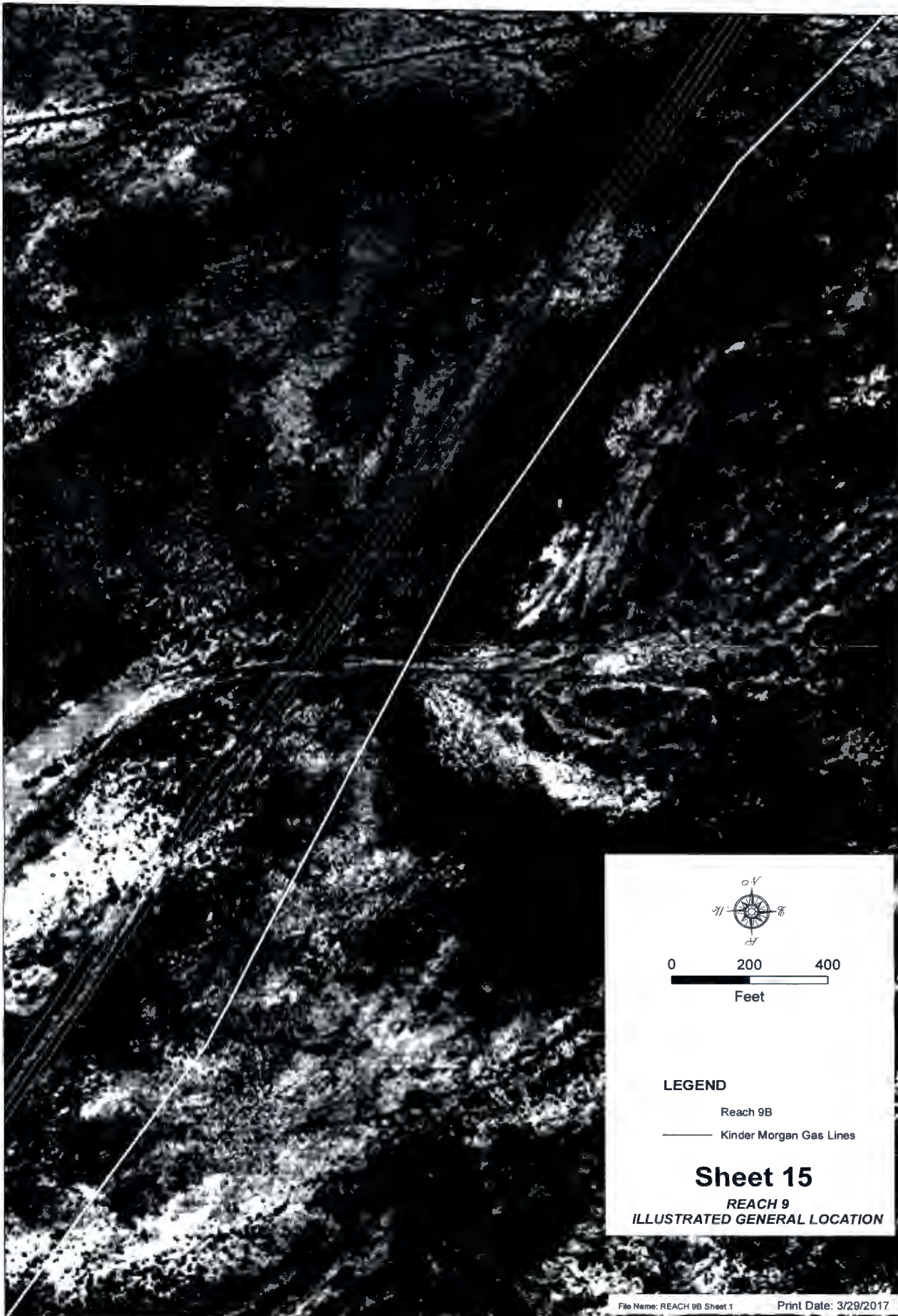
LEGEND

Reach 9B

— Kinder Morgan Gas Lines

Sheet 14

REACH 9
ILLUSTRATED GENERAL LOCATION



0 200 400
Feet

LEGEND

Reach 9B

— Kinder Morgan Gas Lines

Sheet 15

**REACH 9
ILLUSTRATED GENERAL LOCATION**

END REACH 9B
Crownpoint Lateral TO
BEGIN REACH 10

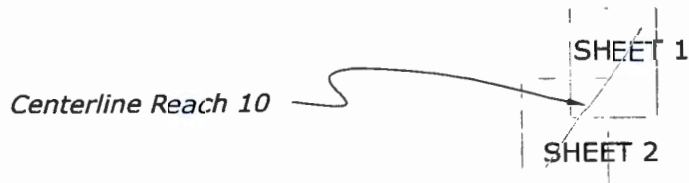
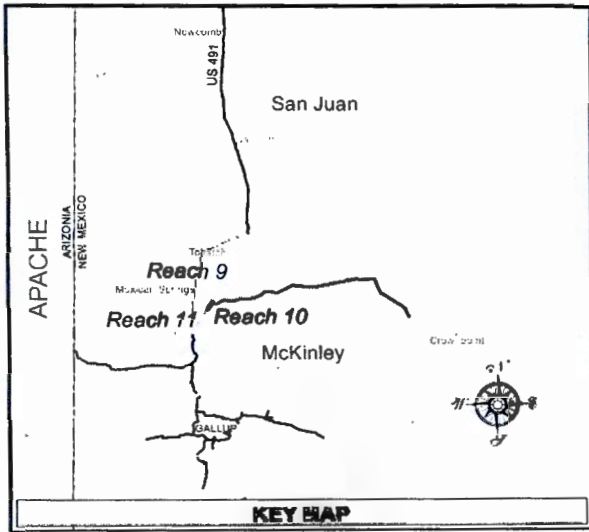


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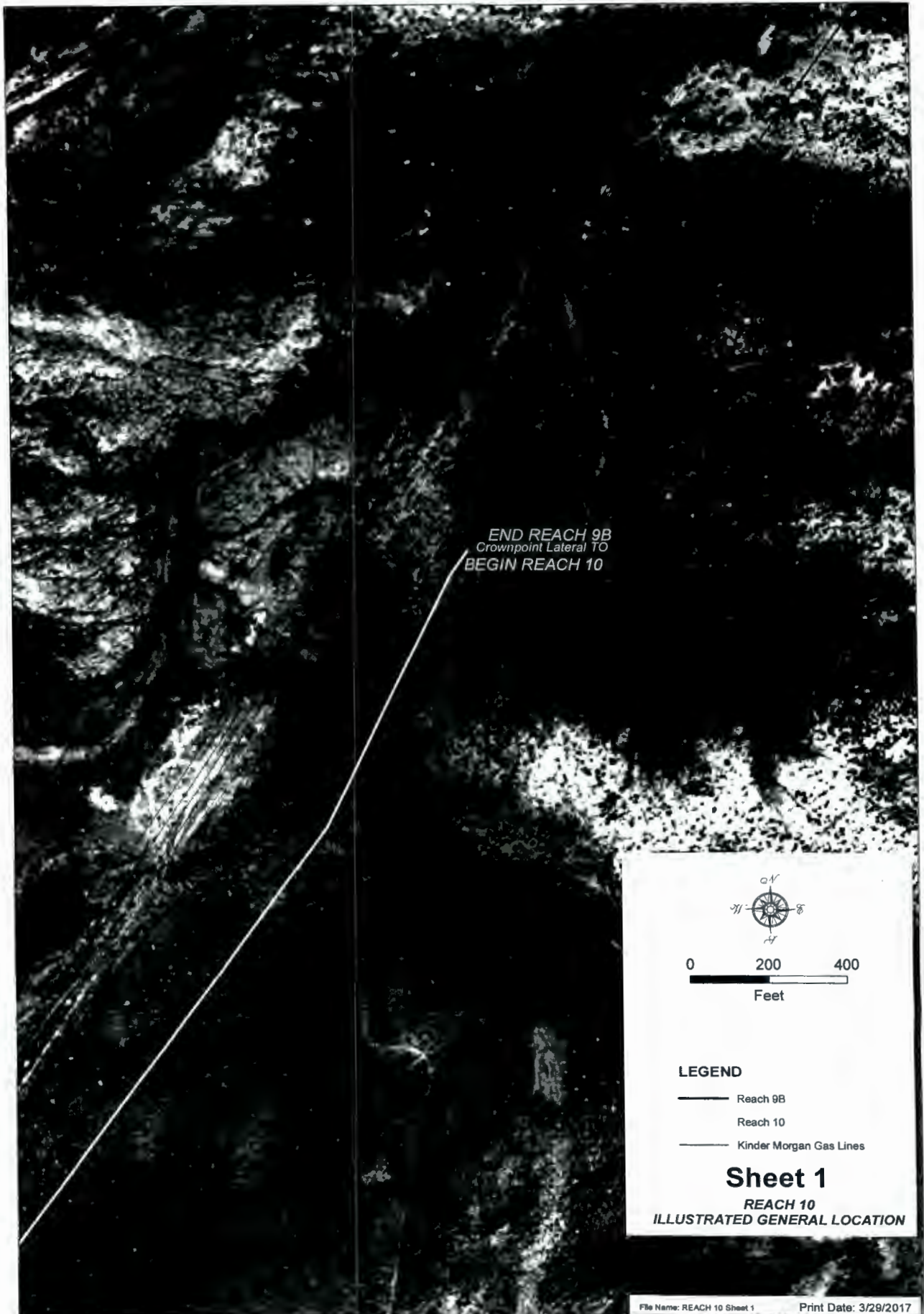
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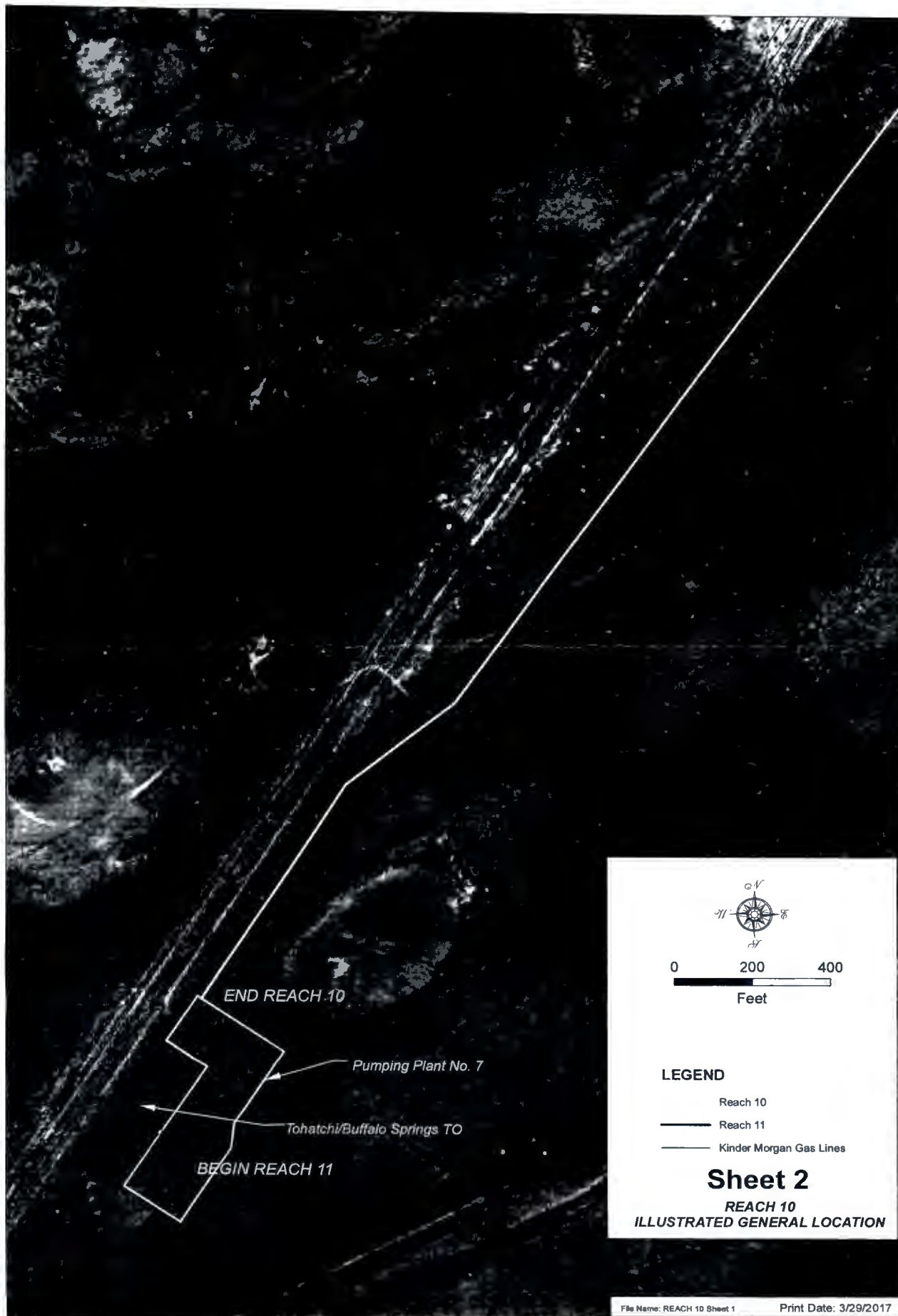
- Reach 9B
- Reach 10
- Kinder Morgan Gas Lines

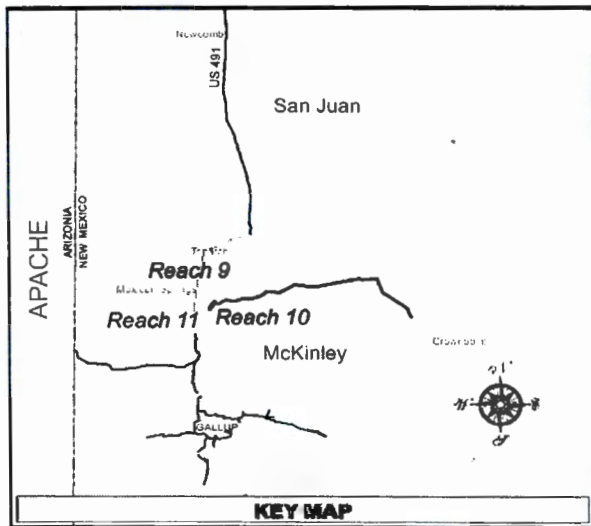
Sheet 16
REACH 9
ILLUSTRATED GENERAL LOCATION



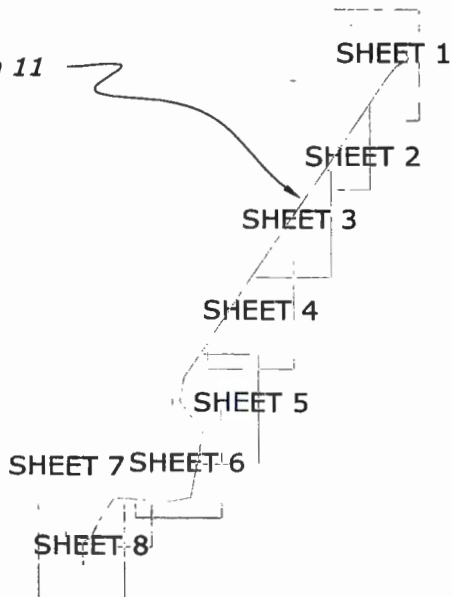
REACH 10
ILLUSTRATED LOCATIONS
SHEET INDEX



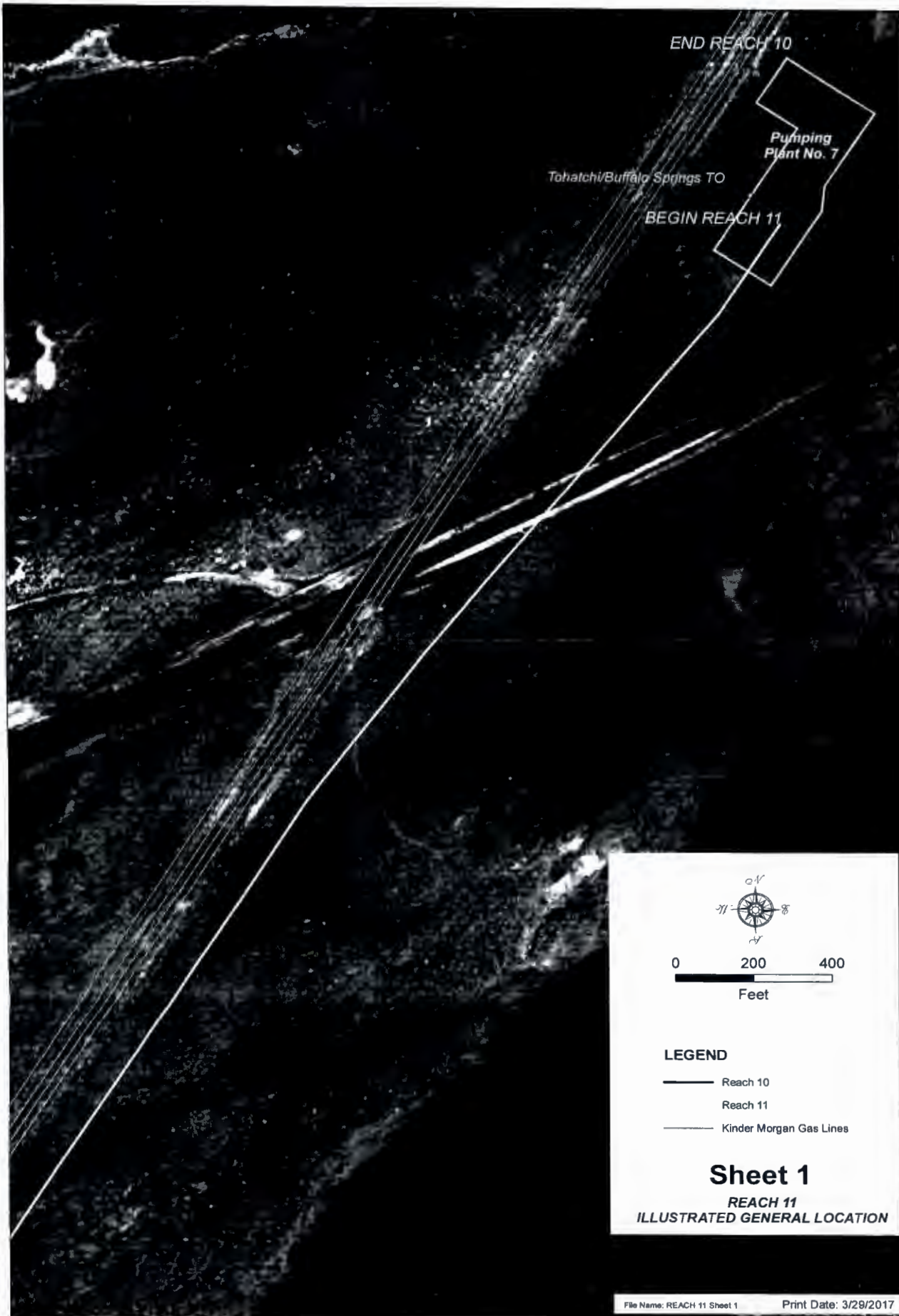




Centerline Reach 11



REACH 11
ILLUSTRATED LOCATIONS
SHEET INDEX



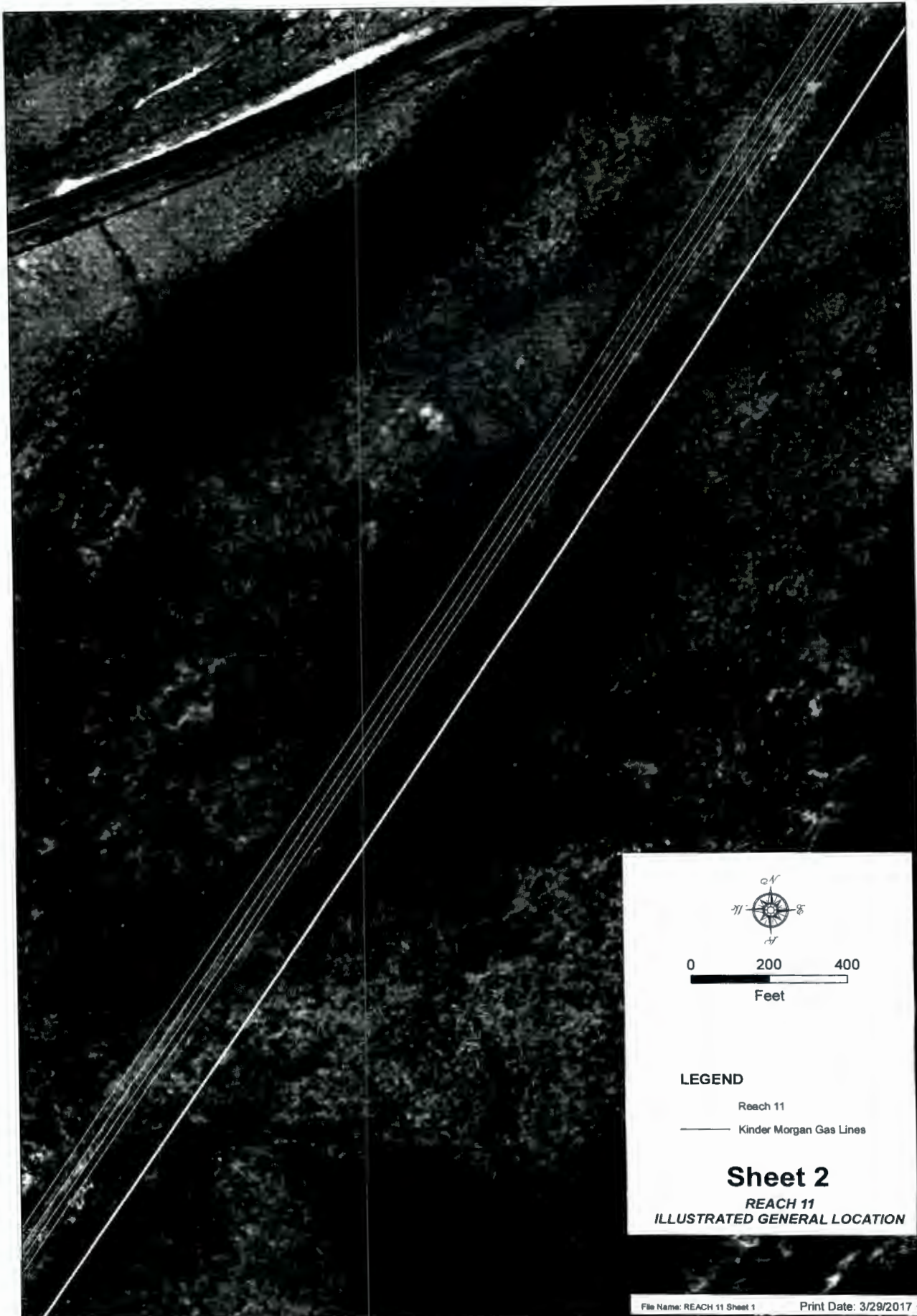
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Feet

LEGEND

- Reach 10
- Reach 11
- Kinder Morgan Gas Lines

Sheet 1

REACH 11
ILLUSTRATED GENERAL LOCATION



0 200 400
Feet

LEGEND

- Reach 11
- Kinder Morgan Gas Lines

Sheet 2

REACH 11
ILLUSTRATED GENERAL LOCATION



0 200 400
Feet

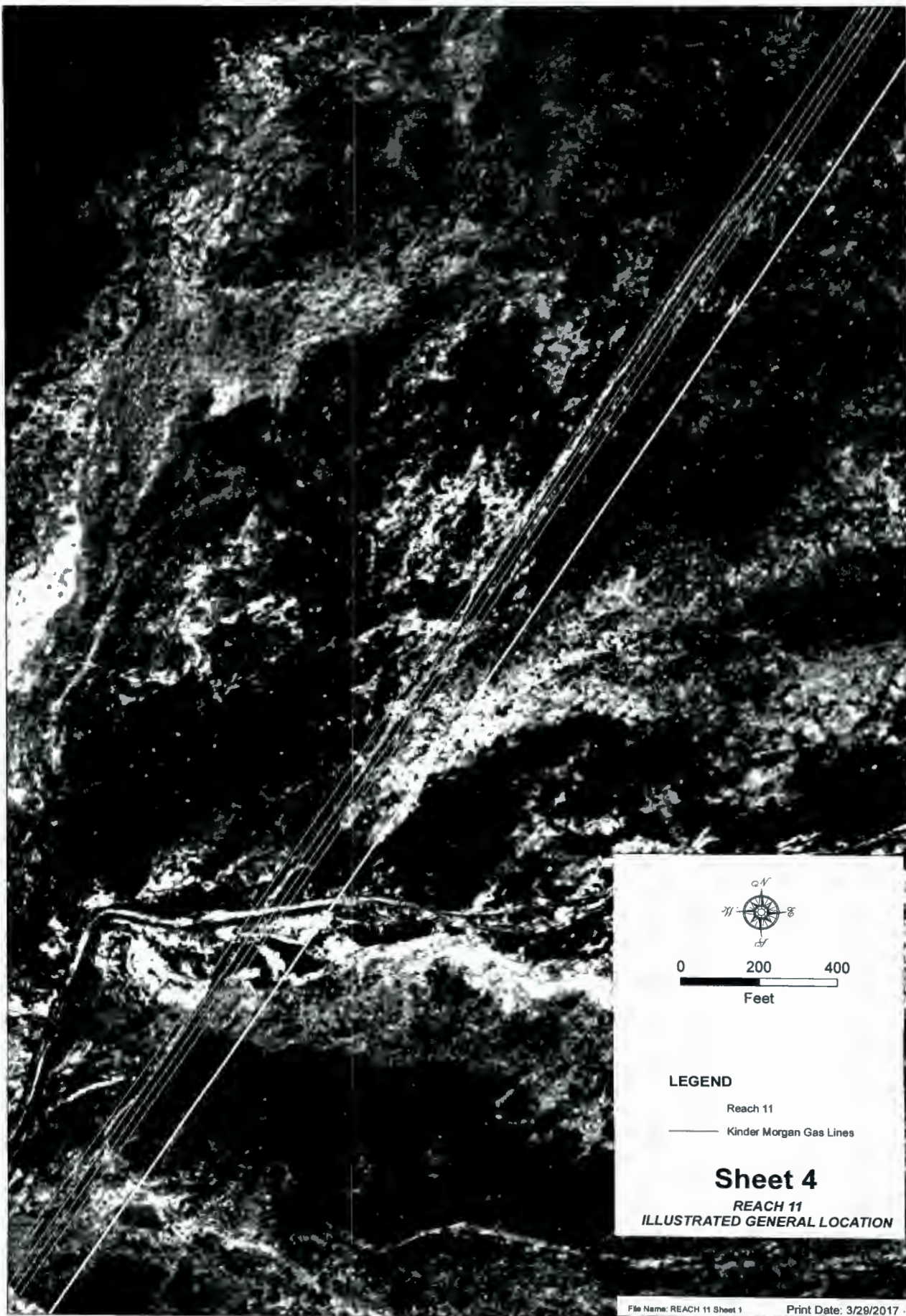
LEGEND

Reach 11

Kinder Morgan Gas Lines

Sheet 3

**REACH 11
ILLUSTRATED GENERAL LOCATION**



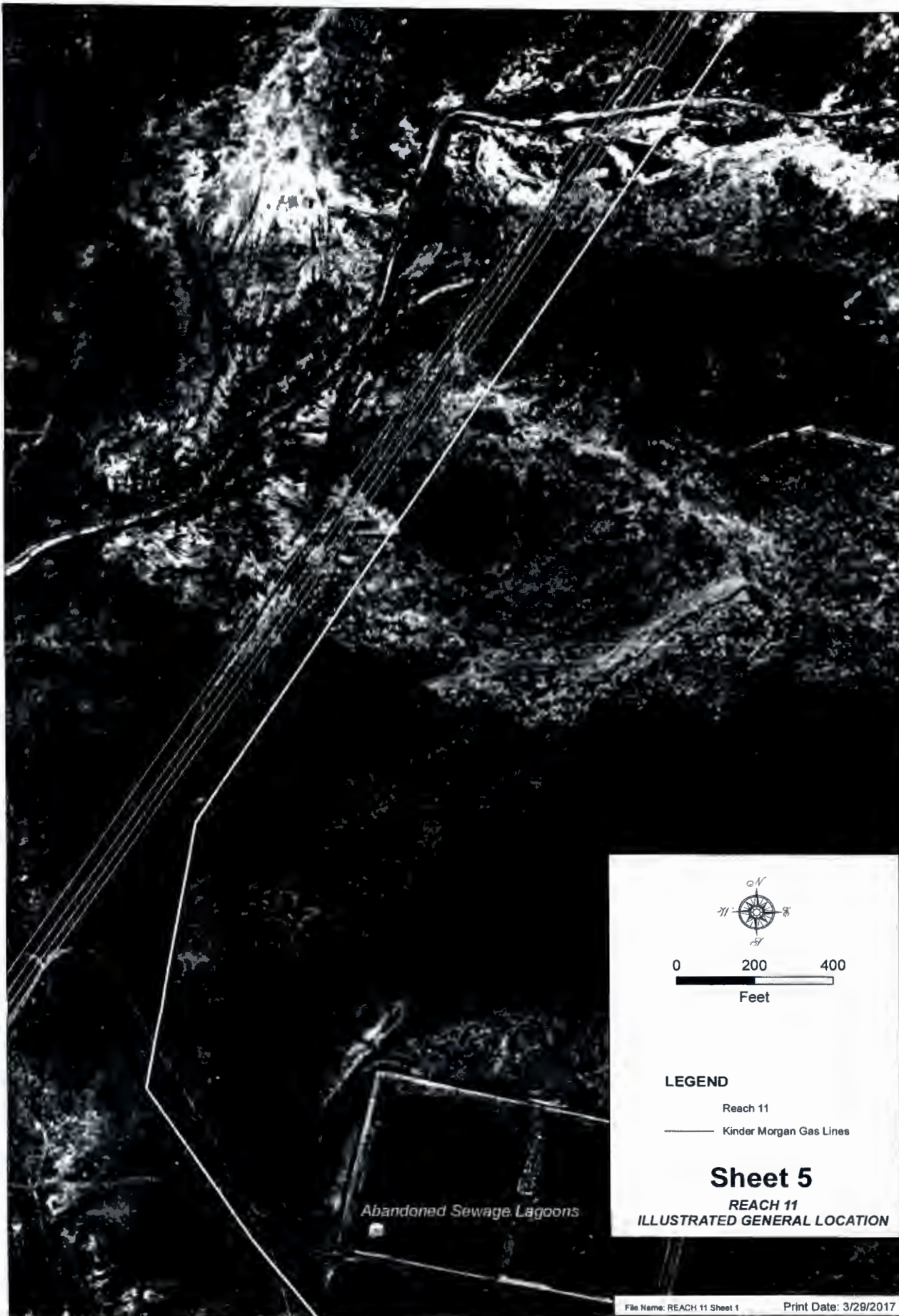
LEGEND

Reach 11

Kinder Morgan Gas Lines

Sheet 4

**REACH 11
ILLUSTRATED GENERAL LOCATION**



0 200 400
Feet

LEGEND

Reach 11

Kinder Morgan Gas Lines

Sheet 5

REACH 11
ILLUSTRATED GENERAL LOCATION



Abandoned Sewage Lagoons



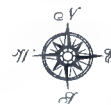
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LEGEND

Reach 11

Sheet 6

REACH 11
ILLUSTRATED GENERAL LOCATION



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LEGEND

Reach 11

Sheet 7

REACH 11
ILLUSTRATED GENERAL LOCATION





THE NAVAJO NATION

RUSSELL BEGAYE
JONATHAN NEZ

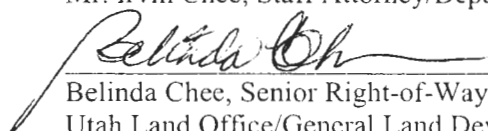
Utah Land Office/General Land Development
Post Office Box 410
Montezuma Creek, Utah 84534



MEMORANDUM

To: Ms. Elerina Yazzie, Program Manager/General Land Development Department
Mr. Irvin Chee, Staff Attorney/Department of Justice

From:


Belinda Chee, Senior Right-of-Way Agent
Utah Land Office/General Land Development Department/DNR

Date: October 9, 2017

Subject: Revision of Field Clearances for Navajo-Gallup Water Supply Project—Reaches 9 through 11 for Bureau of Reclamation

Please be informed that this memo is regarding the revision of the previous Field Clearance Reaches 9 through 11 for Bureau of Reclamation, which I was submitted and dated April 14, 2017. The newly Pumping Plant #7 ROW will be included to said Field Clearance ROW package, since it is located within the same route. Therefore, Pumping Plant #7 ROW will be included to Reaches 9 through 11 ROW package, and the additional consent for the same area is not required, since the grazing permit holders had already consented to use the land within those areas. Three (3) Grazing Committee Members, Mr. Larry Tsosie of Bahastl'ah/Twin Lakes Chapter, Mr. Jonah Barney of Mexican Springs Chapter and Mr. Leonard McReeves of Tohatchi Community Chapter, and twelve (12) grazing permittees have all concurred and consented. The twelve (12) grazing permit holders are as followed:

| <u>No.</u> | <u>Names:</u> | <u>Census No.</u> | <u>Type of and Use: Right</u> |
|------------|-------------------|-------------------|-------------------------------|
| 1. | Laverne Willie | 602,973 | Grazing Rights |
| 2. | Herman Cadman | 49,530 | Grazing Rights |
| 3. | Louise K. Wilson | 98,945 | Grazing Rights |
| 4. | Anthony Howard | 609,670 | Grazing Rights |
| 5. | Kenneth Howard | 127,099 | Grazing Rights |
| 6. | Edith Smith | 41,540 | Grazing Rights |
| 7. | Louise Musket | 47,977 | Grazing Rights |
| 8. | Etta M. Norris | 41,152 | Grazing Rights |
| 9. | Edwood Allison | 90,227 | Grazing Rights |
| 10. | William Allison | 90,225 | Grazing Rights |
| 11. | Emily Freeland | 34,067 | Grazing Rights |
| 12. | Angela Barney-Nez | 100,935 | Grazing Rights |

The addition proposed projects are described as:

Grant of Permanent Easement for Right-of-Way (ROW), without limitation in term, and for as long as the easement is used for the intended purpose, Reach 10-Pumping Plant No. 7, Parcel No. Rch 10-Tribal Trust-02 (P) of the Navajo Gallup Water Supply Pipeline (NGW/SP), will consist of water storage and regulation tanks, a pumping plant facility with a chlorine injection facility, associated

pipeline, and ancillary features and appurtenances that will be constructed, will contain 5.35 acres, more or less, in Southwest Quarter of the Northwest Quarter of Section 34, Township 18 North, of Range 18 West, N.M.P.M., Twin Lakes Chapter, Navajo Reservation, McKinley County, New Mexico. *(And see all of the attachments for more specify details).*

For any inquiries, call me at (435) 651-3504, fax (435) 651-3506 or email at belchee@frontier.com And if you should have any questions to Bureau of Reclamation you may contact Mr. Barry Longwell, Project Construction Engineer at (505) 324-5001 or email at blongwell@usbr.gov Thank you.

Attachments

xc:

Barry Longwell, Project Construction Engineer/Bureau of Reclamation

Larry Tsosie, GCM of Twin Lakes Chapter/NN

Akhtar Zaman, Director/Minerals Dept./NN

Shiprock NNEPA/NN

Bertha Spencer/BIA

File, Utah Land Office/GLDD/DNR/NN



THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT



September 9, 2016

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

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

Dear Assistant Secretary Roberts:

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

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

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

Sincerely,

THE NAVAJO NATION

Russell Begaye, President



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Washington, DC 20240

NOV 22 2016

IN REPLY REFER TO:

Memorandum

To: Principal Deputy Assistant Secretary – Indian Affairs

From: Acting Director, Bureau of Indian Affairs

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

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

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

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

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

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

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

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

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

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

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



EXHIBIT "E"

**NAVAJO NATION RIGHT-OF-WAY TERMS & CONDITIONS:
BUREAU OF RECLAMATION (GRANTEE)
(Navajo Gallup Water Supply Project Reach 10 – Pumping Plant #7)**

1. The term of the permanent right-of-way shall begin on the date it is granted by the Secretary of the Interior (Secretary) and shall continue as long as the Grantee Bureau of Reclamation (BOR) or its successors, or assigns uses the right-of-way for the construction, operation, and maintenance of the Navajo Gallup Water Supply Project (Project).
2. The annual consideration for the use of land is assessed at \$3,852.00 (annually adjusted), which shall be the Navajo Nation's contribution to the Project because the Project will provide water to the Navajo Nation.

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

3. The Grantee may develop, use, and occupy the right-of-way for the purpose(s) of constructing, operating, and maintaining the Navajo Gallup Water Supply Project. The Grantee may not develop, use, or occupy the right-of-way for any other purpose without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions, or withheld at the sole discretion of the Navajo Nation.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all applicable laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
 - a. Title 25, Code of Federal Regulations, Part 169;
 - b. All applicable federal and Navajo Nation antiquities laws and regulations, including compliance with the Programmatic Agreement for the Consideration and Management of Effects on Historic Properties Arising from Construction of the Navajo Gallup Water Supply Project pursuant to Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation's regulation, last date of execution by all signatories being November 21, 2011, and any amendments thereto.
 - c. BOR shall give employment preference to qualifying Navajos and other Indians in accordance with applicable Navajo and federal law. BOR shall utilize Navajo contractors and Navajo businesses (to purchase goods and materials) in accordance with applicable law.
 - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq., to the extent that it is applicable. Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.

5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.
6. The Grantee shall clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during any surface disturbance activities.
7. The Grantee shall reclaim all surface lands disturbed related to the right-of-way, as outlined in a restoration and re-vegetation plan, which shall be approved by the Navajo Nation Environmental Protection Agency (NNEPA) prior to any surface disturbance. The Grantee shall comply with all provisions of such restoration and re-vegetation plan and shall notify the Director of the NNEPA immediately upon completion of the surface disturbance activities so that a site inspection can be made.
8. The Grantee shall at all times during the term of the right-of-way and at the Grantee's sole cost and expense, maintain the land subject to the right-of-way and all improvements located thereon and make all necessary and reasonable repairs.
9. The Grantee shall obtain prior written permission to cross existing rights-of-way, if any, from the appropriate parties.
10. The Grantee shall be responsible for and promptly pay all damages when they are sustained provided that nothing herein shall be deemed to increase the liability of the United States beyond the provisions of the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 982 (28 U.S.C. § 1346(b), 2671 et seq.) or other applicable law.
11. The Grantee shall not assign, convey, or transfer, in any manner whatsoever, the right-of-way or any interest therein, or in or to any of the improvements on the land subject to the right-of-way or any interest therein, or in or to any of the improvements on the land subject to the right-of-way, without the prior written consent of the Navajo Nation and the Secretary of the Interior. Any such attempted assignment, conveyance, or transfer without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions, or withheld at the sole discretion of the Navajo Nation. Congress has authorized BOR to transfer Project title under P.L. 111-11 1062 (f). It is anticipated that after Project title is transferred to the Navajo Nation, the Navajo Tribal Utility Authority will operate and maintain the Project. Therefore, the Grantee may assign and transfer the right-of-way to the Navajo Tribal Utility Authority as authorized by federal law without further approval of the Navajo Nation or the Secretary.
12. At the relinquishment of this right-of-way, the Grantee, other than the United States shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. Upon the written request of the Navajo Nation, the Grantee shall provide the Navajo Nation, at the Grantee's sole cost and expense, with an environmental site assessment of the premises at least sixty (60) days prior to delivery of the said premises. This provision 12 shall not apply to the United States as Grantee.

-
13. Holding over by the Grantee after the relinquishment of the right-of-way shall not constitute a renewal or extension thereof or give the Grantee any rights hereunder or in or to the land subject to the right-of-way or to any improvements located thereon. This provision 13 shall not apply to the United States as Grantee.
 14. The Navajo Nation and the Secretary shall have the right, at any reasonable time during the term of the right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any improvements located thereon.
 15. By acceptance of the grant of right-of-way, the Grantee covenants and agrees never to contest or challenge the legislative, executive, or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare of the Navajo people) over all lands, persons, and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision shall be construed to negate or impair federal responsibilities with respect to the land subject to the right-of-way or to the Navajo Nation.
 16. Any action or claim brought against the Navajo Nation arising out of the injury to person or property (tort) may be heard in the Courts of the Navajo Nation in accordance with applicable Navajo and federal law. No action or claim shall be brought against the Navajo Nation in any state court.
 17. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.
 18. Except as prohibited by applicable federal law, the law of the Navajo Nation shall govern the construction, performance, and enforcement of the terms and conditions contained herein.
 19. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees, and agents, including all contractors and subcontractors, of the Grantee, and the term "Grantee," whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees, and agents.
 20. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the right-of-way and all lands burdened by the right-of-way, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the right-of-way; and the right-of-way and all lands burdened by the right-of-way shall remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.

Document No. 008150

Date **EXHIBIT**

06/12/2017

EXECUTIVE OFFICIAL REVIEW

F

Title of Document: BOW-ROW Reach 10 Pumping Plant No.7

Contact Name: YAZZIE, ELERINA B

Program/Division: DIVISION OF NATURAL RESOURCES

Email: michellehoskie@frontier.com

Phone Number: 928-871-6447

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

| | | | | | |
|--------------------------|--|-------|-------------|--------------------------|--------------------------|
| <input type="checkbox"/> | Business and Industrial Development Financing, Veteran Loans, (i.e. Loan, Loan Guarantee and Investment) or Delegation of Approving and/or Management Authority of Leasing transactions | | | | |
| | 1. Division: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| | 2. Office of the Attorney General: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

| | | | | | |
|--------------------------|---|-------|-------------|--------------------------|--------------------------|
| <input type="checkbox"/> | Fund Management Plan, Expenditure Plans, Carry Over Requests, Budget Modifications | | | | |
| | 1. Office of Management and Budget: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| | 2. Office of the Controller: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| | 3. Office of the Attorney General: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

| | | | | | |
|--------------------------|--|-------|-------------|--------------------------|--------------------------|
| <input type="checkbox"/> | Navajo Housing Authority Request for Release of Funds | | | | |
| | 1. NNEPA: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| | 2. Office of the Attorney General: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

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

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

| | | | | | |
|--------------------------|--|-------|-------------|--------------------------|--------------------------|
| <input type="checkbox"/> | Five Management Plan of the Local Governance Act, Delegation of an Approving Authority from a Standing Committee, Local Ordinances (Local Government Units), or Plans of Operation/Division Policies Requiring Committee Approval | | | | |
| | 1. Division: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| | 2. Office of the Attorney General: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

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

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

Sufficient Insufficient

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

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

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

☐ **Rights of Way**

1. NLD _____ Date: _____ ☐ ☐
2. F&W _____ Date: _____ ☐ ☐
3. HPD _____ Date: _____ ☐ ☐
4. Minerals _____ Date: _____ ☐ ☐
5. NNEPA _____ Date: _____ ☐ ☐
6. Office of the Attorney General: _____ Date: _____ ☐ ☐
7. OPVP _____ Date: _____ ☐ ☐

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

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

☐ **Assignment of Mineral Lease**

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

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

1. NLD _____ Date: _____ ☐ ☐
2. F&W _____ Date: _____ ☐ ☐
3. HPD _____ Date: _____ ☐ ☐
4. Minerals _____ Date: _____ ☐ ☐
5. NNEPA _____ Date: _____ ☐ ☐
6. DNR _____ Date: _____ ☐ ☐
7. DOJ *(ic)* *VB Black hat* Date: *10/18/17* ☒ ☐
8. OPVP *✓* Date: *11-1-17* ☒ ☐

☐ **OTHER:**

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



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT
REVIEW
REQUEST
FORM

| |
|---|
| DOJ |
| 10-16-17 @ 1:38p |
| DATE / TIME |
| <input type="checkbox"/> 7 Day Deadline |
| DOC #: 008150 #2 |
| SAS #: |
| UNIT: NM |

☒ RESUBMITTAL
(August 2017)

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

CLIENT TO COMPLETE

| | | | |
|------------------|----------------------------------|-------------|-------------------------------------|
| DATE OF REQUEST: | 10/16/2017 | DIVISION: | Division Natural Resources |
| CONTACT NAME: | Michelle Hoskie or Stevie Hudson | DEPARTMENT: | General Land Development Department |
| PHONE NUMBER: | 871-6447 or 6401 | E-MAIL: | michellehoskie@frontier.com |

TITLE OF DOCUMENT: BOR ROW REACH 10 PUMPING PLANT NO. 7

DOJ SECRETARY TO COMPLETE

| | | | |
|--------------------|-----------------|------------------------------|------------------------|
| DATE/TIME IN UNIT: | 10.10.17 2pm | REVIEWING ATTORNEY/ADVOCATE: | Irwin Chee 10.25.17 |
|--------------------|-----------------|------------------------------|------------------------|

DATE TIME OUT OF UNIT: 10-19-17 @ 2pm B

DOJ ATTORNEY / ADVOCATE COMMENTS

- I informed GLDD Sponsors & ROW Agent that we can use the consent form(s) that were obtained & attached for Reach 9-11 &

| | | | |
|----------------------|-------------|----------------------|------------------|
| REVIEWED BY: (Print) | Date / Time | SURNAMED BY: (Print) | Date / Time |
| TAMME | 10/18/17 | V Blackhat | 10/18/17 9:04 AM |

Emailed Michelle & Stevie
DOJ Secretary Called: Stevie for Document Pick Up on 10.19.17 at 12 By: B

PICKED UP BY: (Print)

DATE / TIME:


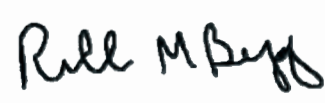
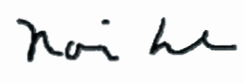
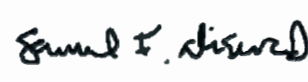
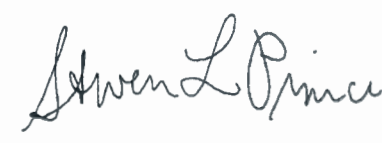
NNDJ/DRRF-July 2013

COMPLETED

Pumping Plant #7 is w/in Reach 9-11. Therefore, consent that was attached for Reach 9-11 can also be used for Pumping Plant No. 7 since Pumping Plant is w/in Reach 9-11, therefore, no additional consent is required.

Thx - IC

Tier 2 Document Voting Results

| User Name (Facility) | Job Title | Department | Vote Cast | Comments | Replies | Vote Date | Signature |
|--|--|---|-----------|---|-------------|-------------|---|
| Bidtah N. Becker (FBFA) | FBFA Users | FBFA Action Team | Approved | 1. GLDD-- Please note comments from Robert Allan and Mike Halona concerning consents. This "vote" of sufficient is contingent on inserting the consents and the terms and conditions uploaded to the system by the Minerals Dept. | 1. No Reply | 25-Aug-2017 |  |
| Richard Begay NNHP (Navajo Land Historic Title Data System - Windowrock AZ) | Navajo Nation Preservation Officer | Historic Preservation Department | Approved | 1. NNHHPD has made determinations of eligibility of the identified sites within the APE and is working with BOR to implement the Sampling Plan to mitigate any adverse effects to affected sites. | 1. No Reply | 01-Aug-2017 |  |
| Ronnie Ben EPA (Navajo Land Control - Title Data System - Windowrock AZ) | Underground Injection Control - Reviewer | Navajo Nation Environmental Protection Agency | Approved | 1. Conditional approval based on compliance with applicable NNEPA and EPA environmental laws. | 1. No Reply | 11-Jul-2017 |  |
| Sam Diswood (Navajo Land Review Title Data System - Windowrock AZ) | Technical Review | Fish and Wildlife | Approved | no comments | No Reply | 14-Jul-2017 |  |
| Steven Prince MIN (Navajo Land Title Data System - Windowrock AZ) | Technical Reviewer | Navajo Nation Minerals Management | Approved | 1. This vote is contingent on permanent inclusion in this application package of the uploaded Terms & | 1. No Reply | 17-Jul-2017 |  |

Conditions
document.
slp

W. Mike Manager III NLD
Halona Navajo Land Administration
(Navajo Land Department
Title Data
System -
Windowrock
AZ)

Approved






1. I assume
that the
consents
will be
added to the
packet once
they are
obtained.

1. No
Reply

10-Jul-2017

A handwritten signature in black ink, appearing to read "Dahn", with a long horizontal line extending to the left.

Tier 1 Document Voting Results

| User Name (Facility) | Job Title | Department | Vote Cast | Comments | Replies | Vote Date | Signature |
|---|----------------------------------|---|-----------|--|-------------|-------------|---|
| Eugenia Quintana EPA (Navajo Land Title Data System - Windowrock AZ) | Air and Toxics - Reviewer | Navajo Nation Environmental Protection Agency | Approved | no comments | No Reply | 21-Jun-2017 |  |
| Lee Anna Martinez EPA (Navajo Land Title Data System - Windowrock AZ) | Water Quality - Reviewer | Navajo Nation Environmental Protection Agency | Approved | 1. Please read the memo attached. Thank you. | 1. No Reply | 10-Jul-2017 |  |
| Najamh Tariq (Navajo Land Title Data System - Windowrock AZ) | Approver | Department of Water Resources | Approved | no comments | No Reply | 20-Jun-2017 | |
| Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ) | Technical Review | Fish and Wildlife | Approved | 1. Biological review #17usbro1 for Reaches 9-11 will cover the proposed pumping plant. | 1. No Reply | 16-Jun-2017 |  |
| Pam Maples EPA (Navajo Land Title Data System - Windowrock AZ) | Storage Tanks Program - Reviewer | Navajo Nation Environmental Protection Agency | Approved | no comments | No Reply | 23-Jun-2017 |  |
| Patrick Antonio (Navajo Land Title Data System - Windowrock AZ) | Water Quality - Supervisor | Navajo Nation Environmental Protection Agency | Approved | 1. Coverage is required under the federal Construction General Permit for storm water discharges from construction sites. A Notice of Intent (NOI) must be submitted to USEPA 14 days prior to earthmoving. A storm water pollution prevention plan must be developed prior to NOI submission. | 1. No Reply | 15-Jun-2017 |  |

| | | | | | | |
|--|--|-------------|---|----------------|-------------|-----------------|
| Robert Allan Deputy DNR Director (Navajo Land DNR Title Data System - Windowrock AZ) | DNR Administration | Approved 1. | CONDITIONAL, 1. No based upon inclusion of land user consent forms, as required. | No Reply | 28-Jun-2017 | Robert O. Allan |
| Tamara Billie HPD NNHP Reviewer (Navajo Land Title Data System - Windowrock AZ) | Historic Preservation Department | Approved | no comments | No Reply | 16-Jun-2017 | Tamara Billie |
| Yolanda Public Barney EPA Water (Navajo Land System Title Data Supervision System - Program Windowrock AZ) | Navajo Nation Environmental Protection Agency | Approved 1. | Please see attached memorandum approving this project. | 1. No Reply | 22-Jun-2017 | Yolanda |



THE NAVAJO NATION
ENVIRONMENTAL PROTECTION AGENCY

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



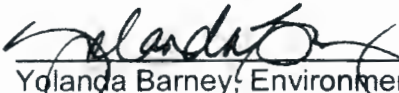
Russell Begaye
President

Jonathan Nez
Vice President

June 22, 2017

MEMORANDUM

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

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

SUBJECT: DOCUMENT No. 008150

The Navajo Nation Environmental Protection Agency's Public Water Systems Supervision Program ("PWSSP") reviewed Document No. 008150: Application for Consent to Grant Right-of-Way (ROW), Tribal Trust Land, Reach 10, Pumping Plant #7, San Juan Lateral, Navajo Gallup Water Supply Project, Twin Lakes Chapter, McKinley County, New Mexico. The PWSSP recommends approval of this document.

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

All proposed wastewater projects will need to be permitted by the Domestic Wastewater Program-NNEPA. Extensions, upgrades, new sewer infrastructure, septic tanks, and other wastewater infrastructure must comply with the design review and construction permit requirements pursuant to §201 of the Domestic Wastewater Program.

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

xc: Ronnie Ben, Environmental Department Manager, Surface/Ground Water Protection Dept., NNEPA
PWSID#NN3500237
DWWP#NN35140007



Navajo Nation Environmental Protection Agency
Water Quality Program
P. O. Box 339, Window Rock, AZ 86515
Phone: 928-871-7690 • Fax: 928-871-7996



Russell Begaye,
President

Jonathan Nez,
Vice-President

July 10, 2017

MEMORANDUM

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

FROM: _____
Lee Anna Martinez-Silversmith
401 Certification Coordinator/Sr. Environmental Specialist
Water Quality/NPDES Program
Navajo Nation Environmental Protection Agency

RE: Document No. 8150

The Navajo Nation Environmental Protection Agency Water Quality Program (NNEPA WQ) has reviewed the 164 Document No. 8150: also referenced as BOW ROW Reach 10 Pumping Plant No. 7, Tohatchi – Twin Lakes, New Mexico. This project will provide water line infrastructure carried through Navajo Nation to Gallup, NM. It is suggested that a Clean Water Act Section 401 Certification be applied for and submitted to our office regarding this upcoming waterline project. The information that was provided in the Document No. 8150; the topo maps attached with the 164 packet indicates waterway crossings. It is highly recommended that all future infrastructure developments on Navajo Nation contact our Water Quality office to ensure that the proper certification and permits are followed for these future developments.

Any infrastructure development project that cross waterways, ephemeral or perennial need to contact NN Water Quality Office and abide by our Navajo Nation Surface Water Quality Standards. Respectfully, the US Army Corps of Engineers, Christopher Wrbas, needs to be contacted regarding projects complained with 404 & 401 Certifications.

Please contact our office at (928) 871-7690 or email lamartinez@navajo-nsn.gov. Thank you.

cc: Christopher Wrbas, USACOE-Abq. District
Ronnie Ben, NNEPA Department Manager
File

Bureau of Reclamation

Navajo Gallup Water Supply Project Tribal Trust Land Reach 10 – Pumping Plant No. 7

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- 1. Application for Consent to a Grant of Right-of-Way**
- 2. Right-of-Way Drawing No. 1695-529-60169**
- 3. Plan and Profile Drawings No. 1695-D-T24015**
- 4. ROW Description**
- 5. NGWSP Map Drawing No. 1695-529-537 dated March 13, 2017**
- 6. Map – Block 9 – 11 Alignment – Dated December 15, 2016**
- 7. Map – Site Map – Location of Pumping Plant No. 7**
- 8. Map Package – Reach 9B – 11**
- 9. Navajo Nation Executive Order No. 03-2012**
- 10. Chapter Resolution – Twin Lakes**
- 11. TSR – Tract No. 8183 – Certified December 27, 2006**
- 12. Permission to Survey – Dated March 01, 2010**
- 13. Permission to Conduct Engineering Data Collection – Date October 05, 2016**
- 14. Letter – Navajo Nation – Waiver of Bond Requirements – 25 CFR Part 169.103 – Dated September 09, 2016 – and Waiver of 25 CFR 169.103 – Dated November 22, 2016**
- 15. BRCF – NNDFW Review No. 17 usbr01 – Dated February 14, 2017**
- 16. Class III Inventory Report and Concurrence of Eligibility Determinations - Dated April 25, 2016**
- 17. Class III Inventory and Determination of Eligibility – Final Report – NHPA – Dated October 11, 2016**
- 18. Memorandum – Acceptable NEPA and NHPA Compliance Documents – Dated October 29, 2015**