RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
23rd Navajo Nation Council --- Fourth Year, 2018

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF RIGHT-OF-WAY TO MCKINLEY COUNTY FOR COUNTY ROAD 100B AND COUNTY ROAD 100C (WOODVIEW ROAD) LOCATED ON NAVAJO NATION FEE LANDS IN BACA/PREWITT CHAPTER, NAVAJO NATION (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 grant final approval for all land withdrawals, non-mineral leases, permits, licenses, rights-of-way, surface easements and bonding requirements on Navajo Nation lands and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfers, renewals, and terminations.

SECTION TWO. FINDINGS

A. McKinley County P.O. Box 70, Gallup, New Mexico 87305, has submitted a right-of-way (ROW) application for County Road 100B and County Road 100C (Woodview Road) on, over and across Navajo Nation Fee Lands in Baca/Prewitt Chapter vicinity, McKinley County, New Mexico. The application request is attached hereto and incorporated herein as **Exhibit "A"**.

B. The proposed right-of-way is described in **Exhibit "B"** attached hereto.

C. The RIGHT-OF-WAY CHECKLIST for SAS NO. 008372 signed October 23, 2017 states that "No land user's consent is required since this is a ROW for operation & maintenance of Existing County Road." The RIGHT-OF-WAY CHECKLIST is attached hereto as **Exhibit "C"**.

D. A waiver of consideration is requested. The right-of-way project would serve a public purpose because the project will benefit Navajo residents.

E. The Cultural Resource Compliance Form is attached as **Exhibit "E,"** the Archaeological Inventory Report is attached as **Exhibit "F,"** the Environmental Assessment (with appendices) is attached as **Exhibit "G,"** and the Biological Resources Compliance Form is attached as **Exhibit "H"**.

F. The application for the Right-of-Way as submitted by McKinley County 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 "I"**.

SECTION THREE. APPROVAL

A. The Resources and Development Committee of the Navajo Nation Council hereby approves the Grant of Right-of-Way to McKinley County for the County Road 100B and County Road 100C (Woodview Road) on, over and across Navajo Nation Fee Lands in Baca/Prewitt Chapter vicinity, McKinley County, New Mexico. The location is more particularly described on the survey map attached hereto as **Exhibit "B"**.

B. The Resources and Development Committee of the Navajo Nation Council hereby waives consideration for the right-of-way project because the project will benefit Navajo residents.

C. The Resources and Development Committee of the Navajo Nation Council hereby approves the right-of-way subject to, but not limited to, the following terms and conditions incorporated herein and attached as **Exhibit "D"**.

D. 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 Navajo Transportation Administrative Complex, Tse Bonito, Navajo Nation (New Mexico), at which a quorum was present and that same was passed by a vote of 3 in favor, 0 opposed, 1 abstained on this 3rd day of January, 2018.

Jonathan Perry, Pro Tempore Chairperson
Resources and Development Committee
of the 23rd Navajo Nation Council

Motion: Honorable Walter Phelps
Second: Honorable Leonard Pete

EXHIBIT
A

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

RIGHT-OF-WAY APPLICATION MUST IDENTIFY [§169.102(a)]:

1. Applicant Name and Address: McKinley County, PO Box 70, Gallup, NM 87305

2. Tract(s) or parcel(s) affected by the right-of-way: Tribal Fee

3. General location (easement description): S/2 Section 5, T. 13 N., R. 12 W., McKinley County, NM

Said right-of-way across Tribal Trust Lands to be 5,646.77 feet in length, 150 feet in width, and 19.44 acres in size, as shown on attached map and plats of definite location, attached hereto, and made a part hereof.

4. Purpose: Obtain right-of-way for operation and maintenance of County Road 100B and County Road 100C (Woodview Road).

5. Term (Renewal, if applicable): 20 Years

6. Identify ownership of permanent improvements associated with the right-of-way and the responsibility for constructing, operating, maintaining, and managing; or removal of permanent improvements under §169.105:

REQUIRED SUPPORTING DOCUMENTS [§169.102(b)]:

1. Accurate legal description of the right-of-way, its boundaries, and parcels associated with the right-of way;
2. A map of definite location of the right-of-way; (25 CFR 169.102((b)(2); survey plat signed by professional surveyor or engineer showing the location, size, and extent of the ROW and other related parcels, with respect to each affected parcel of individually owned land, tribal land, or BIA land and with reference to the public surveys under 25 U.S.C.§ 176, 43 U.S.C. § 2 AND § 1764, and showing existing facilities adjacent to the proposed project.)
3. Bond(s), insurance, and/or other security meeting the requirements of §169.103;
4. Record of notice that the right-of-way was provided to all Indian landowners;
5. Record of consent that the right-of-way meets the requirements of §169.107, or a statement documenting a request for a right-of-way without consent under §169.107(b);
6. If applicable, a valuation meeting the requirements of §§ 169.110, 112, 114;
7. With each application, if the applicant is a corporation, limited liability company, partnership, joint venture, or other legal entity, except a tribal entity, information such as organizational documents, certificates, filing records, and resolutions, demonstrating that:

a. The representative has authority to execute the application;
b. The right-of-way will be enforceable against the applicant; and
c. The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located.

8. Current environmental and archaeological reports, surveys, and site assessments, as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements;
9. If required, a statement from the appropriate tribal authority that the proposed right-of-way is in conformance with applicable 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.

Applicant Point of Contact Information:

Name: Anthony Dimas
Address: McKinley County Emergency Management Services, PO Box 70, Gallup NM, 87305
Phone: 505-722-4248
Fax: 505-722-9009
Email: adimas@co.mckinley.nm.us

Date: 7-6-17

Applicant Signature: [signature]

Applicant (Print Name): Anthony Dimas

PERMITS WEST, INC.
PROVIDING PERMITS for LAND USERS
37 Verano Loop, Santa Fe, New Mexico 87508 (505) 466-8120

JUL 12 2017
REVIEW SECTION
GLDD

RECEIVED
JUL 11 2017
Navajo Land Dept.
Window Rock
17-9060

July 10, 2017

Michelle Hoski
General Land Development Department
P.O. Box 69
St. Michaels, AZ 86511

Dear Michelle:

On behalf of McKinley County, enclosed is a Right-of-Way application for County Road 100B and 100C (Woodview Road) on Tribal Fee land. The right-of-way is for the purpose of conducting immediate road repairs due to flooding and on-going operation and maintenance of the road. McKinley County has received FEMA funding to complete the road repairs needed due to flooding.

The application packet includes:

Right of Way Application
Project Description
Project Map/Survey
Field Clearance Request
Environmental Assessment
Archeological Report/Clearance

Due to budget constraints, the County is unable to compensate the Navajo Nation for the right-of-way. The County is respectfully requesting any compensation and bonding be waived. Please let me know if you have any questions.

Sincerely,

Jeanette Reisenburg
Agent

PERMITS WEST INC.
37 VERANO LOOP
SANTA FE, NM 87508-8351

95-44/1070

1608

DATE 7/10/17

PMP

PAY TO THE ORDER OF NAVAJO NATION $ 500.00

Five Hundred

DOLLARS

Heat Reactive Ink

© DELUXE deluxe.com/checks SPECIALTY BLUE HIGH SECURITY

First National SANTA FE
(505) 992-2000
www.firstnationalsantafe.com

MEMO McKinley County Woodview Road Application

MP

⑆107000440⑆ ⑈177003277⑈ 1608

LOOK FOR FRAUD-DETERRING FEATURES INCLUDING THE SECURITY SQUARE AND HEAT-REACTIVE INK. DETAILS ON BACK.

McKinley County
Woodview Drive
Field Survey Map

Section 5
Township 13N, Range 12W
County Road 100B & 100C
Prewitt, McKinley County, New Mexico

Area to be Surveyed

1:3,750

0 250 500

Feet

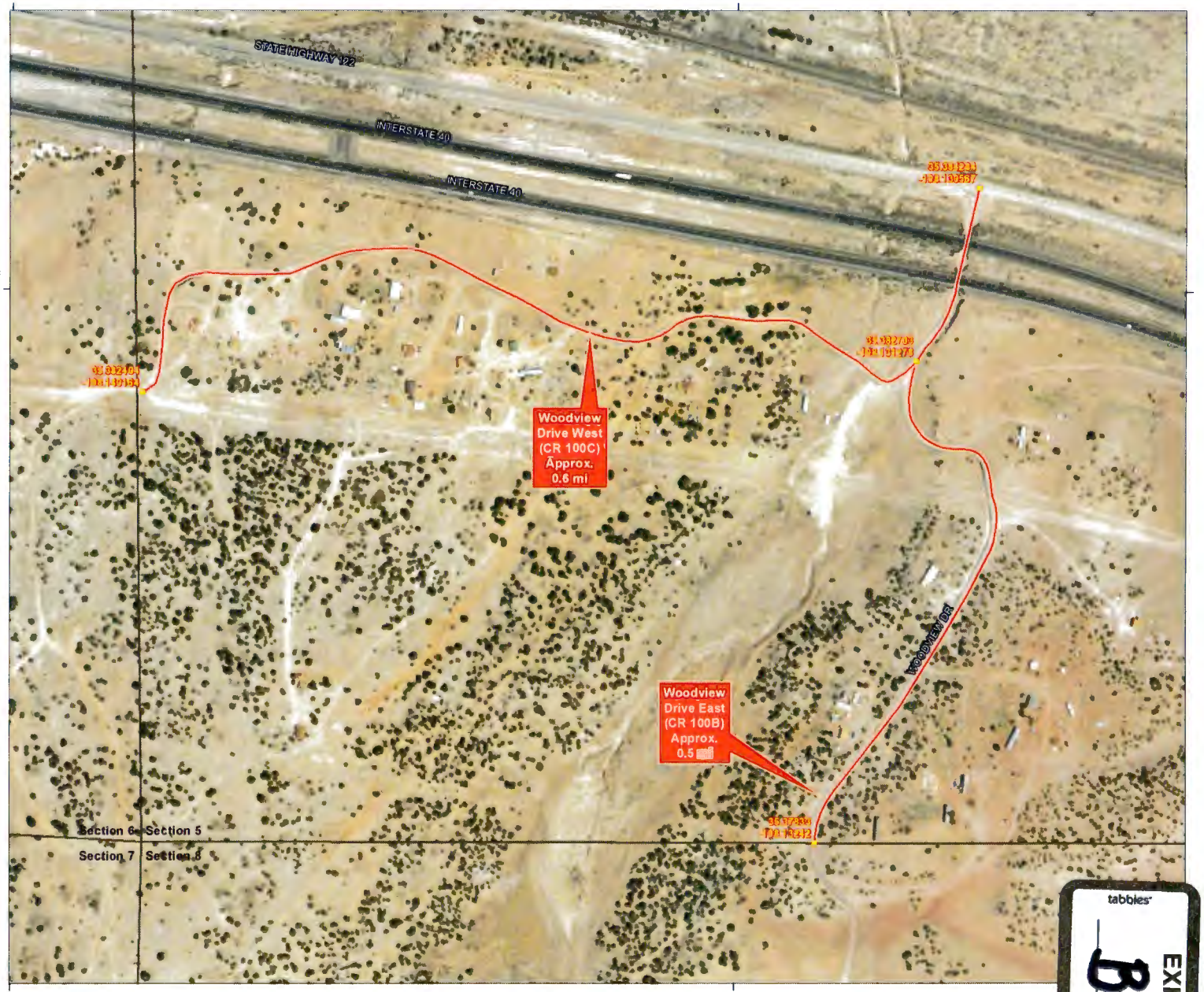
NAD 1983 New Mexico State Plane West
FIPS 3003 Meters

N

PERMITS WEST

Prepared by Permits West, Inc., September 28, 2016
for McKinley County, New Mexico

Area of Detail



tabbies

EXHIBIT

B

Project Fact Sheet

Company:	McKinley County P.O. Box 70 Gallup, NM 87305
Project:	**County Road 100B and 100C (Woodview Road)**
Purpose:	To obtain a right-of-way to make road improvements due to flooding; ongoing operation and maintenance of road.
Surface:	Navajo Tribal Fee
Tribal Location:	S/2 Section 5, T. 13 N., R. 12 W., McKinley County, NM
Right-of-Way Length:	5,646.77 feet
Right-of-Way Width:	150 feet
Total Project Acreage	19.44 acres
Contact:	Permits West, Inc. 37 Verano Loop Santa Fe, NM 87508 505/466-8120 Fax: 505/466-9682

EXHIBIT C

Draft 10-9-2012

RIGHT-OF-WAY CHECK LIST

SAS NO. 008372

1. Terms & Conditions: (a) General
   (b) BIA Roads
   (c) IHS/PHS

Check to see if ROW terms and conditions form contains standard provisions.

EXAMPLES:
(a) compliance with Navajo and federal laws
(b) no waiver of sovereign immunity
(c) consent to Navajo Nation jurisdiction

Note! NTUA rights-of-way do not generally require compensation to the Navajo Nation unless it serves a commercial purpose. If the terms and conditions provide for compensation make sure that the grantee provides the BIA with a copy (proof) of any payment to the Navajo Nation within at least five days of payment.

2. Term -- twenty (20) years or less.

EXCEPTIONS:

(a) IHS P.L. 86-121 projects can be perpetual
(b) BIA roads 75 years
(c) N.M./AZ State roads can be perpetual ie. as long as it is used for state highway
(d) If an applicant is seeking longer than a twenty (20) year term, the applicant must explain why in writing in order that the Navajo Nation can make an informed decision whether to recommend it, unless a longer term is preauthorized.

3. Variation on standard terms and conditions.

(a) other roads
(b) electric transmission
(c) gas pipeline
(d) other

4. Resources and Development Committee Resolution.

Resources and Development Committee has final approval authority -- Naa bik iyati

Resolution not necessary where right-of-way is sought by another governmental entity.

EXCEPTIONS:

(a) IHS P.L. 86-121 rights-of way do not need a Resources and Development Committee Resolution - see Resolution RCF-41-95. NLD can give consent if terms similar to approved form

(b) NTUA rights-of-way do not need Resources and Development Committee approval The NLD has been delegated the authority to consent on behalf of the Navajo Nation provided that the right-of-way terms and conditions are consistent with the approved **standard form** and the application is supported by:

1. Letter of application
2. Legal description
3. Right-of-way location maps
4. Biological Resources Compliance Form
5. Cultural Resources Compliance form
6. Field Clearance Documents
7. Chapter Resolution
8. Environmental Assessment (EA) and/or Addendum
9. Other pertinent documents if required

See RCD-104-10

☑ 5. Check exhibits for land user/permittee consent * No land user's consent is required since this is a ROW for operation & maintenance of Existing County Road.

(a) trust land needs grazing permittees' consents
(b) fee land does not
(c) If some permittees consent and others do not then this must be explained in the resolution/legislation
(d) check to see if surface damages, if sought, has been placed in an escrow account
(e) grazing official sign off if trust land
(f) NAPI consent if the proposed right-of-way is within NAPI lands.

☑ 6. Check to see if all required Divisions, Departments, etc., have reviewed and surnamed the SAS package.

Approved (a) Project Review Office/Navajo Land Department
" — (b) Fish & Wildlife Department
" — (c) Historic Preservation Department
" — (d) Navajo Environmental Protection Agency
" — (e) Minerals

Approved (g) Division of Natural Resources

☑ 7. If additional terms and conditions are suggested by NNEPA, Fish & Wildlife Department or others, try to determine if they are necessary. The concerns may already be covered by the general terms and conditions, BIA required stipulations or 25 C.F.R. § 169.

— None

☑ 8. Check the content of proposed resolution or legislation to ensure it expressly incorporates in a Resolved Clause the right-of-way terms and conditions.

— Resln, N/A.

☑ 9. Check to see if there is a legal description and whether it appears to be accurate.

10. Check to see if all documents are attached:

☑ (a) Environmental Assessment (EA) unless categorical exclusion applies (IHS projects)

☑ (b) Archaeological Clearance / Inventory

☑ (c) Cultural Resources Compliance Form

☐ (d) Threatened and Endangered Species/Biological Survey

☐ (e) Letter from the Fish & Wildlife Department or an EA indicating that a biological survey is not necessary i.e. (the project will not have a significant impact).

☑ (f) Biological Resources Compliance Form.

10/23/17
Date

Reviewed by

AA/10-9-2012

PERMITS WEST, INC.
PROVIDING PERMITS for LAND USERS
37 Verano Loop, Santa Fe, New Mexico 87508 (505) 466-8120

July 10, 2017

Michelle Hoski
General Land Development Department
P.O. Box 69
St Michaels, AZ 86511

Dear Michelle:

On behalf of McKinley County, I am requesting a field clearance for the proposed right-of-way on County Road 100B and 100C (Woodview Road) on Tribal Fee land. The purpose of the right-of-way in the immediate future is to perform road repairs due to flooding; the long-term use of the right-of-way is for on-going operation and maintenance of the road.

The project is marked on the attached map. The legal descriptions of the project is:

S/W Section 5, T. 13 N., R. 12 W., McKinley County, NM.

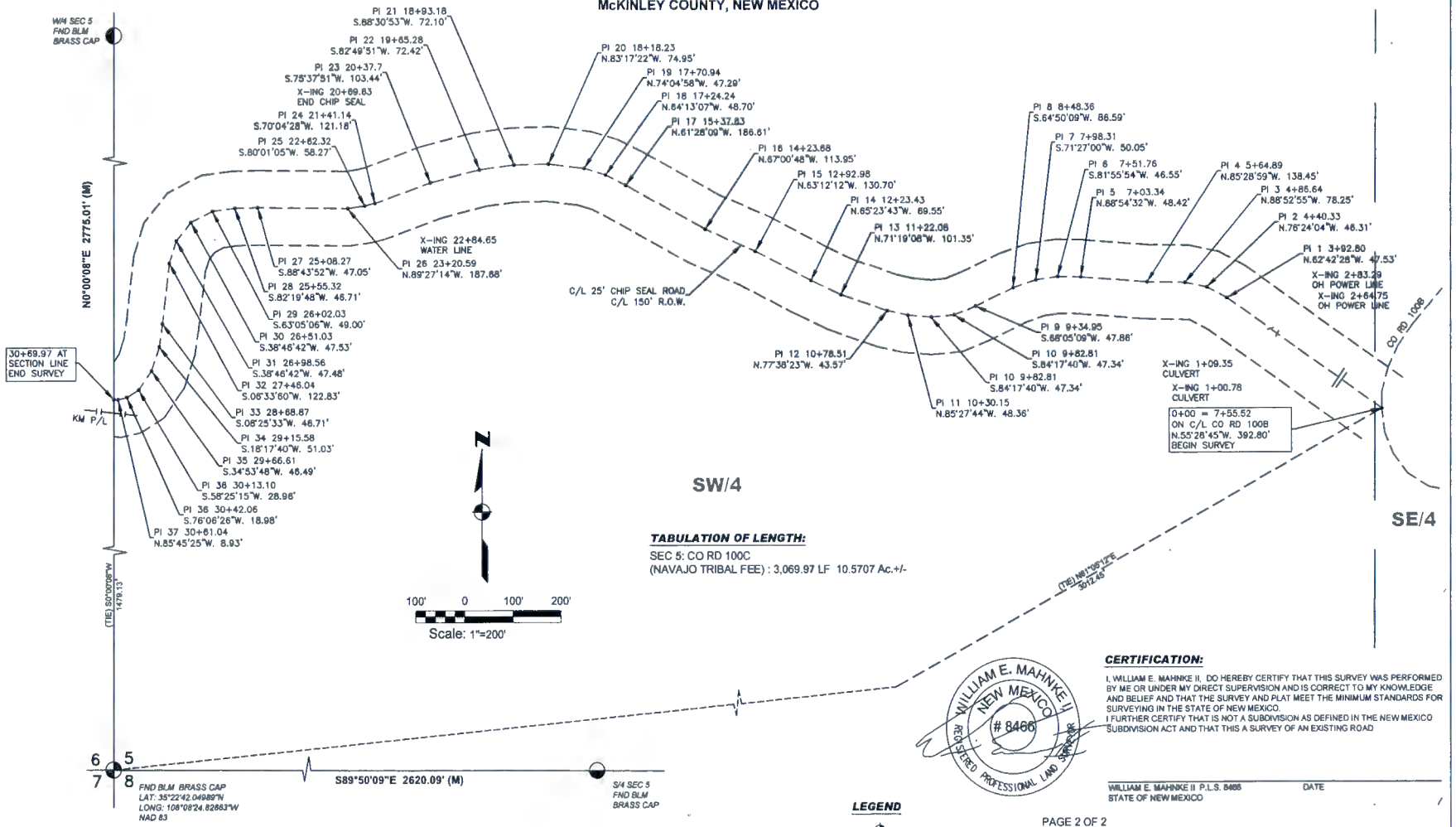
The proposed right-of-way is 150 feet in width, 5,646.77 feet in length, and 9.44 acres in size.

Due to budget constraints, the County is unable to compensate grazing permittees for the right-of-way. The County is respectfully requesting any compensation be waived.

Sincerely,

Jeanette Reisenburg
Consultant

McKINLEY COUNTY ROAD RIGHT-OF-WAY SURVEY
WOODVIEW DRIVE (CO RD 100C)
S/2 SEC. 5 T13N, R12W, N.M.P.M., McKINLEY COUNTY, NEW MEXICO



TABULATION OF LENGTH:

SEC 5: CO RD 100C
(NAVAJO TRIBAL FEE) : 3,069.97 LF 10.5707 Ac.+/-

CERTIFICATION:

I, WILLIAM E. MAHNKE II, DO HEREBY CERTIFY THAT THIS SURVEY WAS PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION AND IS CORRECT TO MY KNOWLEDGE AND BELIEF AND THAT THE SURVEY AND PLAT MEET THE MINIMUM STANDARDS FOR SURVEYING IN THE STATE OF NEW MEXICO.
I FURTHER CERTIFY THAT IS NOT A SUBDIVISION AS DEFINED IN THE NEW MEXICO SUBDIVISION ACT AND THAT THIS A SURVEY OF AN EXISTING ROAD

WILLIAM E. MAHNKE II, NEW MEXICO, # 8466, REGISTERED PROFESSIONAL LAND SURVEYOR

WILLIAM E. MAHNKE II P.L.S. 8466 DATE
STATE OF NEW MEXICO

BASIS OF BEARINGS:

THE NEW MEXICO COORDINATE SYSTEM WEST ZONE

LEGEND

- FOUND SEC. COR.
- FOUND QUARTER SEC. COR.
- CORNER TIES
- SIXTEENTH LINE
- QUARTER LINE
- SECTION LINE
- POWERLINE
- WATER LINE

PAGE 2 OF 2

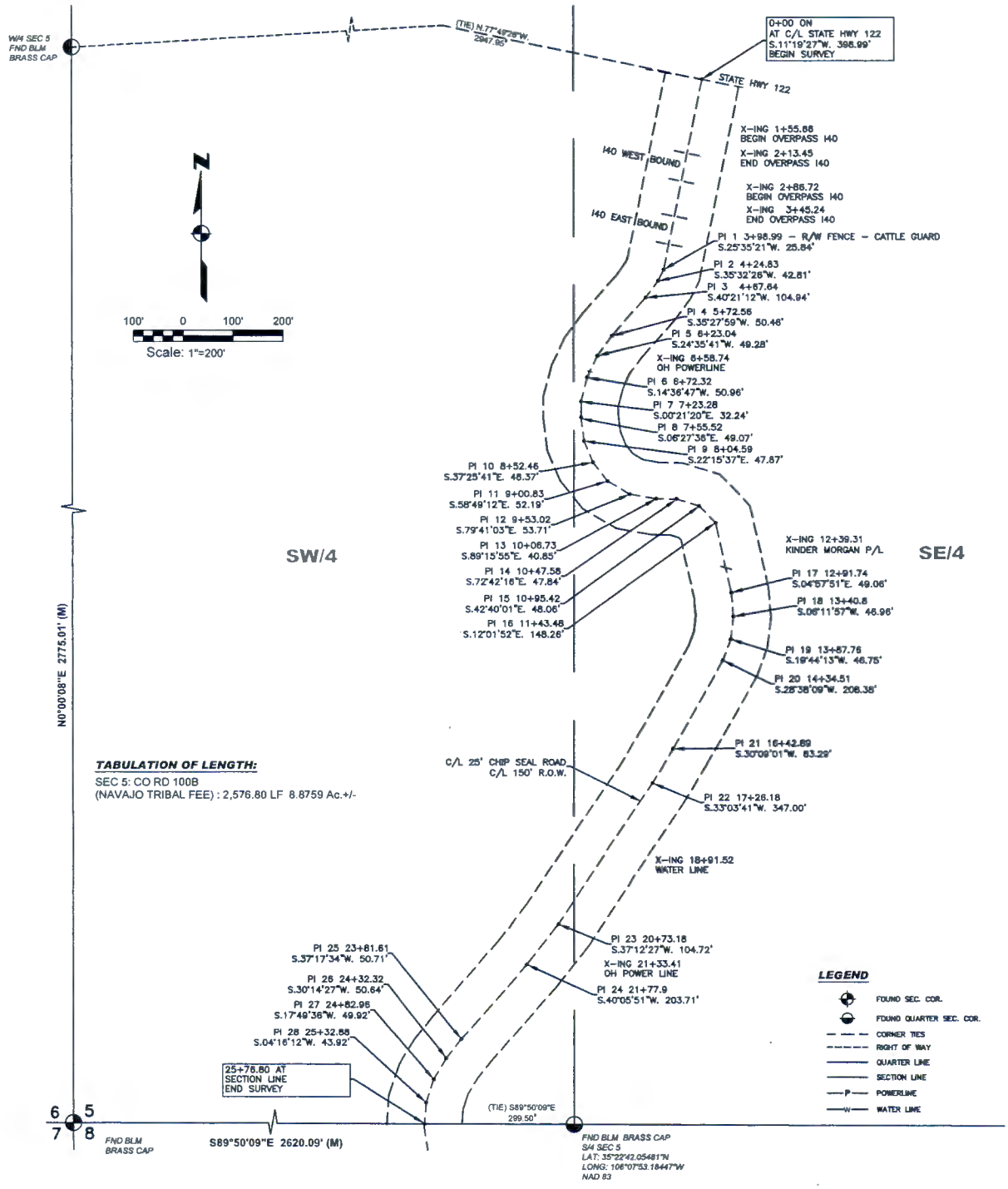
SURVEYED:	KWSr
DWN. BY:	KWsr
CHKD. BY:	WEM
JOB #:	ESI201701
DATE:	1/31/17
SCALE:	1"=200'
DWG. NO.	ESI201701

REVISIONS

NO.	DATE	BY	DESCRIPTION

Red Skies Surveying & Mapping, Inc.
A Native American Owned Company
210 W. Main Suite B
Bloomfield, NM 87413
Telephone (505) 632-3863 Cell: 793-5325

McKINLEY COUNTY ROAD RIGHT-OF-WAY SURVEY
Woodview Drive (Co Rd 100B)
S/2 SEC. 5 T13N, R12W, N.M.P.M.,
McKINLEY COUNTY, NEW MEXICO



CERTIFICATION:

I, WILLIAM E. MAHNKE II, DO HEREBY CERTIFY THAT THIS SURVEY WAS PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION AND IS CORRECT TO MY KNOWLEDGE AND BELIEF AND THAT THE SURVEY AND PLAT MEET THE MINIMUM STANDARDS FOR SURVEYING IN THE STATE OF NEW MEXICO.
I FURTHER CERTIFY THAT IS NOT A SUBDIVISION AS DEFINED IN THE NEW MEXICO SUBDIVISION ACT AND THAT THIS A SURVEY OF AN EXISTING ROAD

WILLIAM E. MAHNKE II NEW MEXICO # 8466 REGISTERED PROFESSIONAL LAND SURVEYOR

WILLIAM E. MAHNKE II P.L.S. 8466 DATE
STATE OF NEW MEXICO

BASIS OF BEARINGS:
THE NEW MEXICO COORDINATE SYSTEM WEST ZONE

PAGE 1 OF 2

SURVEYED:	KWSr
DWN. BY:	KWsr
CHKD. BY:	WEM
JOB #:	ESI201701
DATE:	1/30/17
SCALE:	1"=200'
DWG. NO.	ESI201701

REVISIONS

NO.	DATE	BY	DESCRIPTION

Red Skies Surveying & Mapping, Inc.
A Native American Owned Company
210 W. Main Suite B
Bloomfield, NM 87413
Telephone (505) 632-3863 Cell: 793-5325

Form 10/10/17
(State/County ROW-Fee Lands)

EXHIBIT
D

EXHIBIT "D"

NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS

McKINLEY COUNTY ROADS DEPARTMENT (GRANTEE)
(Woodview Road, County Roads 100B & 100C)

1. The term of the right-of-way shall be for twenty (20) years, beginning on the date the right-of-way is granted by the Navajo Nation.

2. Consideration for the right-of-way is assessed at $ 280,005.12. The Navajo Nation contributes this amount to the project to provide installation and maintenance of water distribution to Navajo homes.

3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of upgrading, maintaining and operating the existing roadway, culverts and ditches. 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. The approval of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation. The Grantee may not develop, use or occupy the right-of-way for any unlawful purpose.

4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:

   a. Title 25, Code of Federal Regulations, Part 169, subject to the terms of this right-of-way;

   b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices;

   c. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., and the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq.; and

   d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq., Grantee shall app
   applicable permits and information to the Navajo Nation Water Resources
   successor.

5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized
   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 co
   purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uproo
   accumulated during any surface disturbance activities.

7. The Grantee shall reclaim all surface lands disturbed related to the right-of-way, as outlined in a restoration and revegetation plan, which shall be approved by Navajo Nation Environmental Protection Agency (NNEPA) prior to any surface disturbance. The Grantee shall comply with all provisions of such restoration

I

and revegetation plan and shall notify the Director of the NNEPA immediately upon completion of the surface disturbance activities so that a site inspection be can made.

8. The Grantee shall at all times during the term of the right-of-way and at the Grantee's sole cost and expense, maintain the land subject to the right-of-way and all improvements located thereon and make all necessary and reasonable repairs.

9. The Grantee shall obtain prior written permission to cross existing rights-of-way, if any, from the appropriate parties.

10. The Grantee shall be responsible for and promptly pay all damages when they are sustained.

11. To the extent permitted by State Law, the Grantee shall indemnify and hold harmless the Navajo Nation and their respective authorized agents, employees, landusers and occupants, against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of right-of-way by the Grantee.

12. The Grantee shall not assign, convey, transfer or sublet, in any manner whatsoever, the right-of-way or any interest therein, or in or to any of the improvements on the land subject to the right-of-way, without the prior written consent of the Navajo Nation. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation.

13. The Navajo Nation may terminate the right-of-way for violation of any of the terms and conditions stated herein. In addition, the right-of-way shall be terminable in whole or part by the Navajo Nation for any of the following causes:

    a. Failure to comply with any terms and conditions of the grant or of applicable laws or regulations;

    b. A non-use of the right-of-way for the purpose for which it is granted for a consecutive two (2) year period;

    c. The use of the land subject to the right-of-way for any purpose inconsistent with the purpose for which the right-of-way is granted.

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

15. Holding over by the Grantee after the termination of the right-of-way shall not constitute a renewal or extension thereof or give the Grantee any rights hereunder or in to the land subject to the right-of-way or to any improvements located thereon.

16. The Navajo Nation shall have the right, at any reasonable time during the term of the right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any improvements located thereon.

17. Any action or proceeding brought by the Grantee against the Navajo Nation in connection with or arising out of the terms and conditions of the right-of-way shall be brought only in the Courts of the Navajo Nation, and

no such action or proceeding shall be brought by the Grantee against the Navajo Nation in any court of any state.

18. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

19. The law of the Navajo Nation shall govern the construction, performance and enforcement of the terms and conditions contained herein.

20. 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.

21. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the right-of-way and all lands burdened by the right-of-way, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the right-of-way; and the right-of-way and all lands burdened by the right-of-way shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.

22. The Navajo Nation reserves the right to grant rights-of-way within the right-of-way referenced herein for utilities, provided that such rights-of-ways do not unreasonably interfere with the Grantee's use of the right-of-way.

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

In witness whereof, the parties hereto have executed the grant of right-of-way this _____ day of _____, 2017

THE NAVAJO NATION

By: _____
Russell Begaye, President

_____

By: _____

_____**, General Manager**

EXHIBIT

E

THE NAVAJO NATION
HERITAGE & HISTORIC PRESERVATION DEPARTMENT
PO Box 4950, Window Rock, Arizona 86515
TEL: (928) 871-7198 FAX: (928) 871-7886

CULTURAL RESOURCE COMPLIANCE FORM

ROUTE COPIES TO:	NNHPD NO.: HPD-17-151
☑ CASA	OTHER PROJECT NO.: CASA 17-12

PROJECT TITLE: A Cultural Resource Inventory, McKinley County Road R-O-W Project, Woodview Drive, County Roads 100B and 100C, McKinley County, New Mexico.

LEAD AGENCY: Navajo Nation

SPONSOR: Brian Wood, agent for McKinley County Permits West, 37 Verano Loop, Santa Fe, NM 87508.

PROJECT DESCRIPTION: The proposed undertaking will acquire legal Right-of-Way (ROW) along 2,576.80 ft. of Country Road 100B and 3,069.97 ft. of Country Road of 100C, Woodview Drive, in Baca, New Mexico. The total area of effect for Country Roads 100B and 100C is 19.4466 ac.

LAND STATUS:	Navajo Tribal Fee
CHAPTER:	Baca
LOCATION:	*T.* 13 *N., R.* 12 *W- Sec.* 05; Thoreau Quadrangle, McKinley County New Mexico NMPM
PROJECT ARCHAEOLOGIST:	Mary Errickson
NAVAJO ANTIQUITIES PERMIT NO.:	B17089
DATE INSPECTED:	02/15/17
DATE OF REPORT:	02/17/17
TOTAL ACREAGE INSPECTED:	32.4080 – ac
METHOD OF INVESTIGATION:	Class III pedestrian inventory with transects spaced 15 m apart.
LIST OF CULTURAL RESOURCES FOUND:	**(2) Isolated Occurrences (IOs)**
LIST OF ELIGIBLE PROPERTIES:	**None**
LIST OF NON-ELIGIBLE PROPERTIES:	**(2) IOs**
LIST OF ARCHAEOLOGICAL RESOURCES:	**None**

EFFECT/CONDITIONS OF COMPLIANCE: No historic properties affected.

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

FORM PREPARED BY: **Lukai Nez**
FINALIZED: April 26, 2017

Notification to Proceed Recommended	☑ Yes	☐ No
Conditions:	☐ Yes	☑ No

Richard M. Begay, Director/THPO
The Navajo Nation
Historic Preservation Office

Date 5/1/17

Appendix 5-1

EXHIBIT F

ARCHAEOLOGICAL INVENTORY REPORT DOCUMENTATION PAGE (HPD JAN/91)

1 **HPD REPORT NO.** 2 **(FOR HPD USE ONLY)** 3. **RECIPIENTS ACCESSION NO.**

4. **TITLE OF REPORT.** Cultural Resource Inventory McKinley County Road R-O-W Project, Woodview Drive, County Roads 100B and 100C, McKinley County New Mexico

5 **FIELDWORK DATES** 02/15/17

Author(s): Mary Errickson

6. **REPORT DATE** 02/17/17

7 **CONSULTANT NAME AND ADDRESS:**
Gen'l Charge: Mary Errickson
Org Name: Complete Archaeological Service Associates
Org. Address: P.O. Box 1777, Cortez CO 81321
Phone: (970) 565-9229

8. **PERMIT NO.** B17089

9. **CONSULTANT REPORT NO.** CASA 17-12

10. **SPONSOR NAME AND ADDRESS:**
Ind. Responsible: Brian Wood, agent for McKinley County
Org. Name: Permits West
Org. Address: 37 Verano Loop, Santa Fe, NM 87508
Phone: 505-466-8120

11. **SPONSOR PROJECT NO.** McKinley County Road 100B/100C

12. **AREA OF EFFECT:** 19.4466 ac
AREA SURVEYED: 32.4080 ac

13. **LOCATION** (MAP ATTACHED):
a. Chapter: Baca
b. Agency: Eastern
c. County: McKinley
d. State. New Mexico
e. Land Status Navajo Tribal Fee
f. UTM Center: Road 100B BOL: 12,760640mE/3919433mN
Road 100B EOL: 12,760495mE/3918783mN
Road 100C BOL: 12,760570mE/3919235mN
Road 100C EOL: 12,759774mE/3919207mN
g. Area: T 13N, R 12W, S 1/2 of Sec. 5, NM PM&B
h. 7.5' Map Name(s): Thoreau, NM 1980
i. Lead Agency: BIA

14. **REPORT /X/ OR SUMMARY (REPORT ATTACHED) / OR PRELIMINARY REPORT**
a. Description of Undertaking McKinley County is proposing to acquire legal Right-Of-Way (ROW) along 2,576.80 feet of County Road 100B and 3,069.97 feet of County Road 100C, Woodview Drive, in Baca, New Mexico (Figs 1-2; Attachment A). McKinley County is seeking a 150 foot-wide ROW along CR 100B (8.8759 ac) and CR 100C (10.5707 ac) which includes 75 feet on both sides of the existing road centerline A 250 foot-wide corridor (32 4080 ac) was inventoried for the 150 foot-wide ROW along County Road 100B (14 7888 ac) and County Road 100C (17.6192 ac). Total Area of Effect for County Roads 100B and 100C is 19.4466 ac.
b. Existing Data Review: 02/01 17 at NNHPD in Window Rock, see continuation sheet.
c. Area Environmental & Cultural Setting: see continuation sheet
d. Field Methods: A Class III inventory was conducted by Mary Errickson walking multiple transects spaced no more than 15 m apart.

15 **CULTURAL RESOURCE FINDINGS:**
a Location/Identification of Each Resource: 2 Isolated Occurrences (IOs)
b. Evaluation of Significance of Each Resource (above): The IOs are not eligible for nomination to the NRHP, ARPA, or AIRFA protection.

16 **MANAGEMENT SUMMARY** (RECOMMENDATIONS): A determination of "no historic properties affected" is recommended for the McKinley County Road R-O W Project, Woodview Drive, County Roads 100B and 100C at the locations described in this report

17 **CERTIFICATION.**
SIGNATURE: Mary Errickson DATE: 02 17 17
General Charge Name: Mary Errickson
SIGNATURE: Mary Errickson DATE: 02/17 17
Direct Charge Name: Mary Errickson

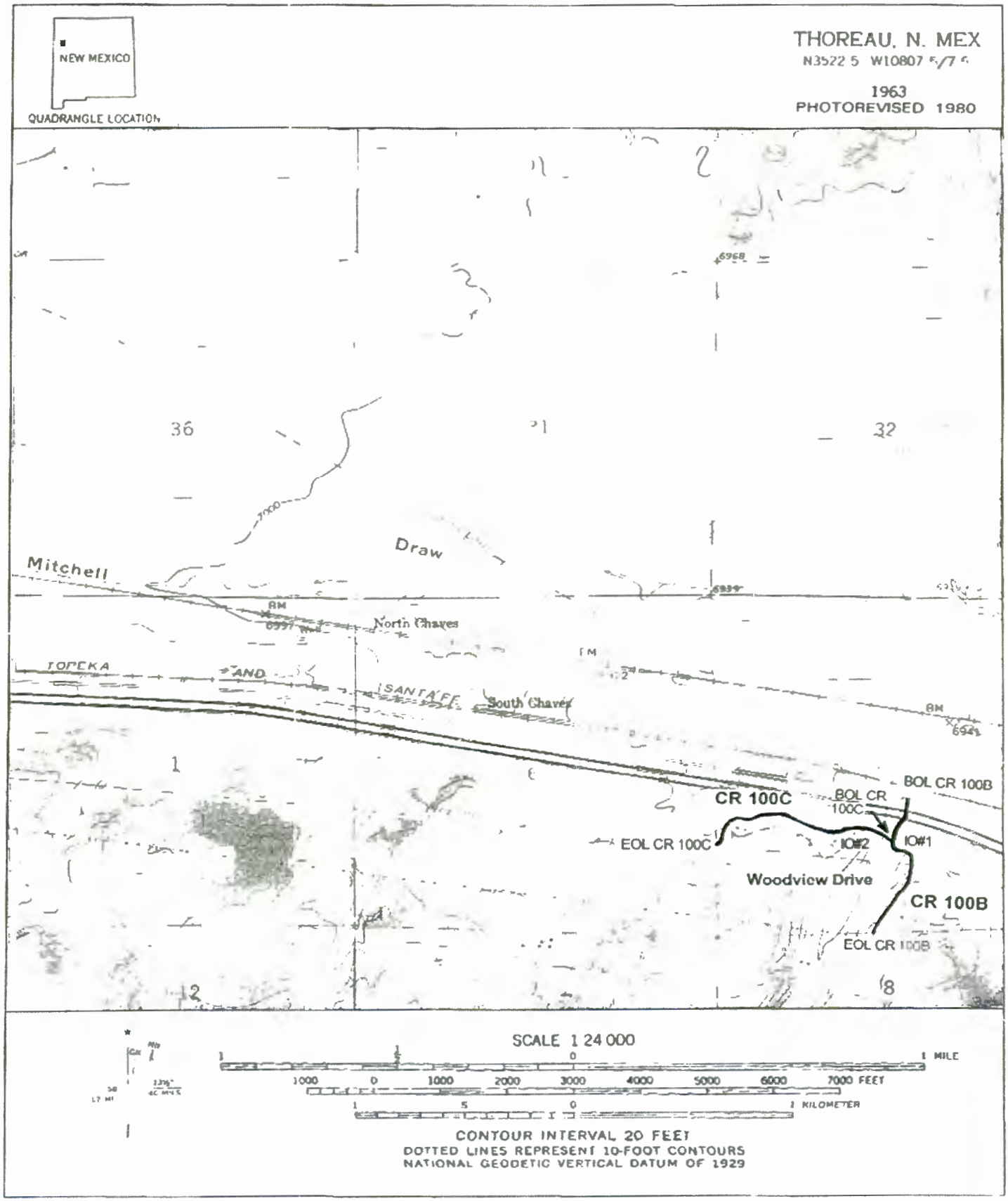


Figure 2. Location map, Woodview Drive, McKinley County Roads 100B and 100C, and IO#s 1 & 2.

15. Cultural Resource Findings. Two IOs were identified during the project.

IO No. 1:
UTM Location: Zone 12, 760623mE 3919202mN
Description: 1 Puerco B.w bowl sherd

IO No. 2:
UTM Location: Zone 12, 760386mE 3919272mN
Description: 2 corrugated and 2 plain white ware sherds

REFERENCES

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1990 The Ambrosia Lake Project: Archaeological Investigations of Three Small Sites Associated with the Southern Chacoan Outlier of Kin Nizhoni, McKinley County, New Mexico. Complete Archaeological Service Associates *CMTRA Archaeological Report* 53, Cortez.

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1993 Research Design and Data Recovery Plan for 4 Limited Activity Sites Adjacent to Homestake Mill Near Milan New Mexico SW 334 Southwest Archaeological Consultants, Inc., Albuquerque.

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1989 American Indian Land Use of El Malpais. *Zuni Archaeology Report* No. 302. Pueblo of Zuni

Marshall, Michael P., John R. Stein, Richard W. Loose, and Judith E. Novotny
1979 *Anasazi Communities of the San Juan Basin.* Historic Preservation Bureau, Santa Fe

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Tainter, Joseph A., and David A. Gillio
1980 *Cultural Resources Overview, Mt. Taylor Area, New Mexico.* USDA Forest Service, Southwest Region, Albuquerque, and Bureau of Land Management Office San a Fe

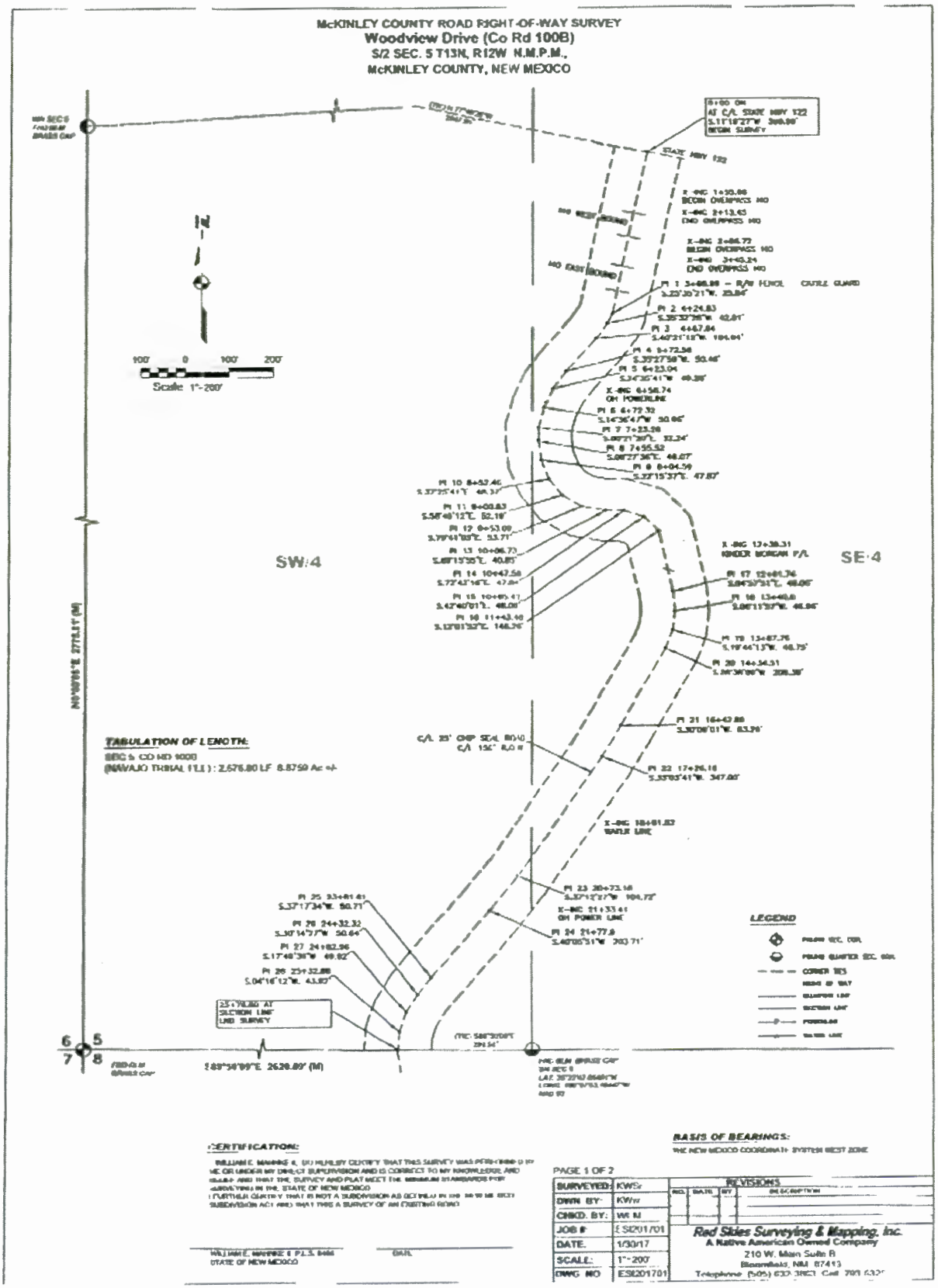

Figure A-1 Plat map, McKinley County Road 100B Woodview Drive

EXHIBIT
G

ENVIRONMENTAL ASSESSMENT

FOR

MCKINLEY COUNTY
RIGHT-OF-WAY ACQUISITION FOR
ROAD AND CULVERT REPAIR AND ONGOING MAINTENANCE FOR
THE EXISTING WOODVIEW ROAD
COUNTY ROAD 100B AND 100C

MCKINLEY COUNTY
P.O. BOX 70
GALLUP, NM

ON NAVAJO TRIBAL FEE LANDS IN
SECTION 5, T. 13 NORTH, R. 12 WEST N.M.P.M
MCKINLEY COUNTY, NM

June 7, 2017

Prepared by:

PERMITS WEST, INC.

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Appendix 3: Threatened, Endangered, and Special Status Wildlife Species Report
Appendix 4: Plant Survey Report
Appendix 5: Cultural Resources Compliance Form
Appendix 6: Biological Resources Compliance Form

Conference of State Historic Preservation Officers, and other applicable BLM handbooks (NHPA 1966).

The Navajo Nation Department of Fish & Wildlife (NNDFW) Natural Heritage Program has been consulted with respect to species of concern that are known to occur, or that have the potential to occur, within the area of the Proposed Action (Appendix 2). Species of concern listed by the NNDFW will be evaluated in Section 3 of this document and in the Wildlife and Plant Survey Reports attached as Appendices 3 and 4, respectively.

Complete Archeological Service Associates performed a Class III Cultural Resources Inventory of the Proposed Action area. A determination was made that no historic properties will be affected by the project. A request for archeological clearance was also submitted to the Navajo Nation Historic Preservation Department (NNHPD). The Cultural Resources Compliance Form is attached as Appendix 5.

Additionally, McKinley County is required to:

- Comply with all applicable federal, state, and local laws and regulations.
- Obtain the necessary permits for construction along the existing ROW.

2. Alternatives Including the Proposed Action

2.1 Alternative A - No Action

The BLM NEPA Handbook (H-1790-1) states that in EAs for externally initiated proposed actions, the No Action Alternative generally means that the proposed activity will not take place (USDI BLM 2008). This alternative would deny approval to improve, upgrade, and maintain Woodview Road, and the current status of the road's condition would remain. With the No Action Alternative, land and resource uses in the project area would continue to occur as they have been: un-impacted by road construction or maintenance. No mitigation measures would be required.

The No Action Alternative is presented for baseline analysis of resource impacts.

2.2 Alternative B - Proposed Action

McKinley County proposes to apply for a 20 year Right-of-Way in order to conduct general road maintenance and improvement operations along an approximate 1.07 mile length of the existing Woodview Road (CR 100C and 100B), in McKinley County, NM. The Woodview Road project area proposed Right-of-Way (ROW) in which the construction and maintenance projects would take place is **3,069.97 feet** long by 150 feet wide (CR 100C) and **2,576.80 feet** long by 150 feet wide (CR 100B). Total land use for the proposed ROW would be approximately **19.44** acres over **1.07** miles.

Road improvement construction within the proposed ROW will only be performed when the soil is dry enough to adequately support construction equipment and vehicles. When the soil is too wet (ruts more than six inches deep), construction will be postponed until conditions improve. Maintenance will be conducted along the proposed ROW as necessary.

2.3 Reclamation

Areas disturbed from construction within the proposed ROW will be restored as closely as possible to their original condition or be improved from their original condition (as in the cases of road improvement projects) upon completion of construction. Reclamation measures for natural areas (i.e., areas adjacent to the road way) within the proposed ROW will include ripping compacted and disturbed areas at least 12 inches deep on the contour, harrowing, applying a native seed mix as prescribed by the BIA or Navajo Nation, and mulching. Noxious weeds will be controlled in accordance with Navajo Nation Environmental Protection Agency (EPA) requirements.

2.4 Alternatives Considered But Not Analyzed In Detail

No other alternatives were considered for the proposed Woodview Road ROW other than the No Action alternative. The No Action alternative would mean that no road improvement or maintenance projects would be conducted by McKinley County along Woodview Road within the proposed ROW.

No significant issues were identified for the present location of the Proposed Action during the following activities:

- on-site inspections;
- Cultural Resources Inventory;
- Threatened, Endangered, and Special Status Species Survey; and
- a review of NNDFW species of concern that are known to occur in or with the potential to occur in the 7.5-Minute Thoreau, NM Quadrangle.

Therefore, no further alternatives other than the No Action Alternative were considered.

3. Description of Affected Environment

This section describes the environment that would be affected by implementation of the alternatives described in Section 2. Aspects of the affected environment described in this section focus on the relevant major resources or issues. Certain critical and noncritical environmental components require analysis under BIA policy. These items are included in Tables 3.0a and

Wild Horse and Burros		X		None present in the vicinity of the project
Recreation		X		The Proposed Action is not located in a designated recreation area.
Visual Resources	X		X	
Public Health and Safety	X		X	
Noise	X		X	

3.1 Air Resources

The proposed project is located in McKinley County, NM on Navajo Tribal Fee land. The US Environmental Protection Agency (USEPA), Region 9, and the Navajo Nation Environmental Protection Agency Air Quality Control Program are responsible for administering air quality regulations on Navajo lands in New Mexico. The Navajo Nation Air Quality Control Program (NNAQCP) is responsible for the implementation and enforcement of the Navajo Air Pollution Prevention and Control Act (NAPPCA) (Navajo Nation Council 2004). In addition, the project area lies within the USEPA's designated Four Corners Interstate Air Quality Control Region (USEPA 1971).

Air resources include air quality and climate. The USEPA has the primary responsibility for regulating air quality, including seven nationally regulated ambient air pollutants. Air quality is determined by atmospheric pollutants and chemistry, dispersion meteorology, and terrain; and also includes applications of noise, smoke management, and visibility. Greenhouse gas (GHG) emissions, such as carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), water vapor, and several trace gases, can affect air quality (USEPA April 2013).

Climate is the composite of generally prevailing weather conditions of a particular region throughout the year, averaged over a series of years. GHGs also affect climate. Through complex interactions on a global scale, GHG emissions may cause a net warming effect of the atmosphere, primarily by decreasing the amount of heat energy radiated by the earth back into space. Although GHG levels have varied for millennia (along with corresponding variations in climatic conditions), industrialization and the burning of fossil carbon sources have caused GHG concentrations to measurably increase, and have contributed to overall climatic changes, typically referred to as global warming (NRC 2010). GHGs are not regulated by the USEPA. However, climate is important to consider because it has the potential to influence renewable and non-renewable resource management.

Air Quality

The primary sources of air pollution in the project area are dust from blowing wind on disturbed or exposed soil and exhaust emissions from motorized equipment.

3.1.1 No Action Alternative

3.1.1.1 Direct and Indirect Effects

Under the No Action Alternative, the ROW application for Woodview Road would not be approved and no road improvement activities would occur along the ROW. No direct or indirect impacts to air resources from project development would occur.

3.1.2 Proposed Action

3.1.2.1 Direct and Indirect Effects

Air Quality

1. During road improvement activities within the proposed ROW, there would be short-term (approximately two days to four weeks, for each project, depending on project scope) increases in dust during each construction project within the Proposed Action area. This impact would subside as disturbed areas are reclaimed.
2. There will be minor, short-term increases during project activity in local combustive emissions from operating vehicles and earth moving equipment.
3. There will be a minor long-term (20 years) impact to air quality from motorized vehicles and equipment performing periodic maintenance.
4. There will be minor and sporadic, long-term (over 20 years) fugitive dust creation during maintenance activities within the ROW.

Climate

No quantifiable impacts to the climate are anticipated as a result of the Proposed Action.

3.1.2.2 Mitigation

McKinley County will apply water for dust control, if necessary.
Surface disturbance and vehicular traffic will be limited to the approved locations on the ROW to reduce combustive emissions and dust. McKinley County will comply with U.S. Environmental Protection Agency's Clean Air Act, and all applicable state and local regulations.

3.3.1.1 Direct and Indirect Effects

Under the No Action Alternative, the ROW application for Woodview Road would not be approved and no road improvement activities would occur along the ROW. No direct or indirect impacts to environmental justice would occur.

3.3.2 Proposed Action

3.3.2.1 Direct and Indirect Effects

The purpose of the Proposed Action is to provide a ROW access so that McKinley County can improve and maintain Woodview Road. This would be an overall positive effect for residents that live in the vicinity of the Proposed Action. Negative direct effects to minority or low-income populations would include an increase in construction and maintenance activities, increased traffic, and noise disturbance within the ROW over a 20 year period.

3.3.2.2 Mitigation

Mitigation for construction and maintenance activities within the proposed ROW that would reduce negative impacts to low income or minority populations living in the project area include watering roads to reduce dust, notifying residents of pending construction activities, providing appropriate signage and traffic direction during construction activities, and identifying and directing motorists to alternate routes when necessary. Regarding an increase in noise disturbance, see Section 3.8.

3.4 Floodplains

According to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map, the Proposed Action does not cross a floodplain (FEMA 2010). There are no perennial or intermittent streams, riparian areas, or wetlands in the project area (USFWS 2017).

3.4.1 No Action Alternative

3.4.1.1 Direct and Indirect Effects

There are no direct or indirect effects to any floodplains from the No Action alternative because floodplains are not located within the project area.

3.5.2.2 Mitigation

1. Surface disturbance and vehicular traffic will be limited to areas approved within the proposed ROW.
2. Disturbed areas will be reclaimed pursuant to Section 2.3. Reseeding will help prevent soil loss and seed bank disturbance/loss. Successful reclamation will take two to three years.
3. Best Management Practices (BMPs) including sediment barriers, rip/rap, hay bales, or other protections to reduce erosion and soil losses will be implemented during construction and maintenance activities. Road improvement construction within the proposed ROW will only be performed when the soil is dry enough to adequately support construction equipment and vehicles. When the soil is too wet (ruts more than six inches deep), construction will be postponed until conditions improve.

3.6 Soils

Soils in the project area are composed of Celvar-Atarque complex, 1-8 percent slopes; Fikel-Venzuni complex, 1-6 percent slopes; and Rock outcrop-Tuces complex 20-70 percent slopes. The Celvar-Atarque soils are found on stream terraces, alluvial fans, and fan remnants. Parent material is derived from fan alluvium over stream alluvium derived from sandstone and shale. This complex is well drained and consists of silt loams and silty clay loams in the A-Btk1 (0-12 inch horizons). Run off class is high to very high; depth to restrictive feature is more than 80 inches. The capacity of the most limiting layer to transmit water (Ksat) is high to moderately high (NRCS 2017).

The Fikel-Venzuni complex is found on fan remnants, stream terraces, and valley sides and floors. Parent material is stream and fan alluvium derived from sandstone and shale. This complex is well drained and consists of clay loams and clay in the soil horizons 0-14 inches. Run off class is low to medium; depth to restrictive feature is more than 80 inches. The capacity of the most limiting layer to transmit water (Ksat) is moderately low to moderately high (NRCS 2017).

The Rock outcrop-Tuces complex complex is found on escarpments and cuestas. Parent material is slope alluvium and colluvium derived from sandstone over residuum weathered from shale. This complex is well drained and consists of extremely gravelly clay loam and clays in the soil horizons 0-24 inches. Run off class is very high; depth to restrictive feature is 20-40 inches. The capacity of the most limiting layer to transmit water (Ksat) is very low to moderately high (NRCS 2017).

3.6.1 No Action Alternative

3.7.1 No Action Alternative

3.7.1.1 Direct and Indirect Effects

Under the No Action Alternative, the proposed ROW would not be approved and no new direct or indirect impacts from invasive or non-native species would occur. The current condition of invasive species present within the project area would remain the same.

3.7.2 Proposed Action

3.7.2.1 Direct and Indirect Effects

Invasive weeds are already established in the project area. These weeds may spread and new invasive weeds may become established in disturbed areas within the Proposed Action area as a result of construction or maintenance activities. Bare soils are vulnerable to invasive or noxious weed species establishment.

3.7.2.2 Mitigation

1. Any disturbed areas will be reclaimed and seeded with a BIA approved seed mix.
2. McKinley County will make every effort to ensure that invasive weeds do not spread over disturbed areas. If invasive weeds become established within the Proposed Action area, McKinley County will notify Navajo Nation for recommendations on treatment and/or follow those specific treatments outlined in the *Navajo Nation Integrated Weed Management Plan, Appendix E, Best Weed Control Methods for Invasive Weeds of Concern* (BIA 2013).

3.8 Land Use

The Proposed Action is located on Navajo Tribal Fee land. Current land uses include residential living, grazing, dispersed recreation, hunting, and wood gathering. There are no farmlands in the Proposed Action area.

3.8.1 No Action Alternative

3.8.1.1 Direct and Indirect Effects

Under the No Action Alternative, the proposed ROW would not be approved or constructed and no direct or indirect impacts to current land uses would occur.

residences are located within 500 feet of the proposed ROW. Maintenance and construction activities near these homes may cause some high-level noise.

3.9.1 No Action Alternative

3.9.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect noise impacts would occur.

3.9.2 Proposed Action

3.9.2.1 Direct and Indirect Effects

1. Noise will be generated as part of construction and maintenance activities associated with the proposed ROW.
2. Occasional maintenance vehicles will travel to and within the project area over a period of approximately 20 years.

3.9.2.2 Mitigation

1. Construction will be conducted during daylight hours (7 a.m. to 5 p.m.) and will be limited to approved locations within the proposed ROW.
2. Vehicular traffic will be restricted to approved areas within the ROW and will not exceed what is necessary for the construction and maintenance.
3. Noise associated with construction activities will cease after construction is completed (approximately two days to two weeks, depending on project scope). Once construction is complete, noise will return to background level except during periodic maintenance activities.

3.10 Public Health and Safety

The proposed ROW occurs along a moderately traveled paved road accessing residences. During construction, residents and road users in the vicinity of construction activity may be subject to safety concerns, including increased construction traffic, temporary detours, and changing road conditions.

3.10.1 No Action Alternative

3.10.1.1 Direct and Indirect Effects

No plant species of concern to the Navajo Natural Heritage Program or the United States Fish and Wildlife Service will be impacted by the proposed project.

Reports addressing threatened and endangered wildlife and plant surveys are attached as Appendices 3 and 4.

3.11.1 No Action Alternative

3.11.1.1 Direct and Indirect Effects

Under the No Action Alternative, the ROW would not be approved and no road improvement projects along Woodview Road would occur. There would be no direct or indirect impacts to threatened, endangered, or special status species.

3.11.2 Proposed Action

3.11.2.1 Direct and Indirect Effects

1. The removal of vegetation from areas proposed for construction improvements may impact nesting migratory birds within the project area and will remove potential nesting or foraging habitat.
2. The MBTA protects migratory birds from a "take". Take is defined as "to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or any attempt to carry out these activities". A "take" does not include habitat destruction or alteration, as long as there is not a direct taking of birds, nests, eggs, or parts thereof. Nesting migratory birds could be adversely impacted by a potential take.

3.11.2.2 Mitigation

1. Construction should not take place during migratory bird nesting season, which is generally May 1 -August 30 for the project area. If construction activities must occur during this period, surveys for nests should be conducted beforehand to identify any nests that may be impacted by construction activities.
2. McKinley County should avoid shrub removal and damage to vegetation as much as possible, cleaning up and removing any spills and/or trash from construction, and using only authorized rights-of-way and roads for construction and installation.
3. McKinley County should minimize soil disturbance during construction to reduce impacts to small mammals and reptiles.

designed to maintain or enhance visual qualities and describe different degrees of modification to the landscape. There are four VRM classes (Classes I through IV), which identify suggested degrees of allowed human modification to a landscape. Class I allows the least modification and Class IV allows the most (USDI BLM 2003).

Due to the presence of I-40 and State Highway 122, as well as multiple, scattered residences, the project area most likely falls into a BLM Class IV area. Class IV areas are permitted to implement major modifications of the existing character of the landscape. The level of change to the characteristic landscape can be high. These management activities may dominate the view and be the major focus of viewer attention. However, every attempt should be made to minimize the impact of these activities through careful location, minimal disturbance, and repeating the basic elements of the landscape (USDI BLM 2003).

In any case, improvements to wash crossings and roads will likely enhance Visual Resources along Woodview Road rather than negatively impact them.

3.13.1 No Action Alternative

3.13.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to visual resources would occur.

3.13.2 Proposed Action

3.13.2.1 Direct and Indirect Effects

Short-term impacts to visual resources could come from demolition of road and culverts, increased vehicle traffic, and placement of heavy equipment during construction.

3.13.2.2 Mitigation

Short-term impacts to visual resources from construction will cease after approximately two to six weeks depending on which project is occurring within the proposed ROW. All construction and equipment will be limited to approved locations within the ROW.

3.14 Wastes, Hazardous and Solid

As a result of the construction within the Proposed Action area, solid waste materials will be generated. These materials may include typical field waste such as charts and plats, excess

3.15.1 No Action Alternative

3.15.1.1 Direct and Indirect Effects

Under the No Action Alternative, the proposed ROW would not be approved and no road improvement construction projects would occur along Woodview Road.

3.15.2 Proposed Action

3.15.2.1 Direct and Indirect Effects

1. A direct effect from construction is the increased sediment loading to the adjacent surface drainages through runoff of disturbed soils.
2. Natural surficial drainage patterns may be slightly disrupted by construction within the proposed ROW.
3. Although no hazardous substances as defined by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) will be used during construction activities, and no Resources Conservation and Recovery Act-defined hazardous wastes will be generated during construction or operation, construction equipment could experience a spill of on-board fluids and/or materials that could potentially get into the surface or groundwater system.

3.15.2.2 Mitigation

1. BMPs in Section 2.2 will be implemented to prevent erosion and off-site migration of soils and other materials, and to reduce impacts to watershed and hydrology.
2. Any spilled contaminants will be cleaned up as soon as possible to prevent run-off of contaminants into surface waters or infiltration into groundwater.
3. Construction areas within the proposed ROW will be reclaimed as outlined in Section 2.3. Re-seeding will reduce sediment loading by stabilizing the soil. Successful reclamation is expected to take two to three years.

3.16 Wildlife

Wildlife species occurring in the project area are typical of arid grasslands of the Great Basin Desert. Representative mammals include ground squirrels *(Spermophilus* spp.) and desert cottontails (*Sylvilagus audubonii*). Common summer resident bird species include

3.17 Cumulative Effects

3.17.1 No Action Alternative

Under the No Action Alternative, the Woodview Road ROW would not be approved and McKinley County would not be performing road improvement projects within the ROW.

3.17.2 Proposed Action

The Proposed Action will affect up to 19.44 acres on Navajo Tribal Fee lands. Reasonably foreseeable future development in the project area may include more residences, more traffic, businesses, and perhaps more road development and/or improvement projects. These installations would add to the cumulative disturbance in the area.

4. Consultation/Coordination

This section identifies the interdisciplinary team that participated in the development of this document.

Table 4.1: Interdisciplinary Project Team

Member	Title	Organization	Onsite Inspection	Date of Inspection
Celia Cook	Consultant/Author	Permits West, Inc.	yes	09/22/2016
Celia Cook	Wildlife Biologist	Permits West, Inc.	yes	09/22/2016
Robyn Tierny	Botanist	Permits West, Inc.	no	-
Mary Errickson	Archaeologist	Complete Archeological Services Associates, Inc.	yes	02/17/2017

Navajo Nation Council. Navajo Nation Air Pollution Prevention and Control Act. Fort Defiance, AZ, 22 Apr. 2004.

Prall, Dexter. March 25, 2016. Navajo Endangered Species List (NESL). *Correspondence with Permits West Inc.* Navajo Department of Fish and Wildlife, Navajo Natural Heritage Program (16Perm104) P. O. Box 1480, Window Rock, AZ.

Robson, S. G. and E. R. Banta. 1995. Groundwater Atlas of the United States, Arizona, Colorado, New mexico, Utah. HA 730-C. Web. http://pubs.usgs.gov/ha/ha730/ch_c/.

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U.S. Department of the Interior. Bureau of Land Management, Farmington Field Office. *Farmington Proposed Resource Management Plan and Final Environmental Impact Statement.* Farmington, NM, Mar. 2003.

Cultural Resource Inventory

McKinley County Road R-O-W Project
Woodview Drive, County Roads 100B and 100C
McKinley County, New Mexico

Prepared by

Mary Errickson
Complete Archaeological Service Associates
P.O. Box 1777
Cortez, Colorado 81321

CASA 17-12

ATTACHMENT B

TCP RECORD SEARCH

Permit

NNCRIP B17089

THE NAVAJO NATION
HERITAGE & HISTORIC PRESERVATION DEPARTMENT
PO Box 4950, Window Rock, Arizona 86515
TEL: (928) 871-7198 FAX: (928) 871-7886

CULTURAL RESOURCE COMPLIANCE FORM

ROUTE COPIES TO:	NNHPD NO.: HPD-17-151
☑ CASA	OTHER PROJECT NO.: CASA 17-12

PROJECT TITLE: A Cultural Resource Inventory, McKinley County Road R-O-W Project, Woodview Drive, County Roads 100B and 100C, McKinley County, New Mexico.

LEAD AGENCY: Navajo Nation

SPONSOR: Brian Wood, agent for McKinley County Permits West, 37 Verano Loop, Santa Fe, NM 87508.

PROJECT DESCRIPTION: The proposed undertaking will acquire legal Right-of-Way (ROW) along 2,576.80 ft. of Country Road 100B and 3,069.97 ft. of Country Road of 100C, Woodview Drive, in Baca, New Mexico. The total area of effect for Country Roads 100B and 100C is 19.4466 ac.

LAND STATUS:	Navajo Tribal Fee
CHAPTER:	Baca
LOCATION:	*T.* 13 *N., R.* 12 *W- Sec.* 05; Thoreau Quadrangle, McKinley County New Mexico NMPM
PROJECT ARCHAEOLOGIST:	Mary Errickson
NAVAJO ANTIQUITIES PERMIT NO.:	B17089
DATE INSPECTED:	02/15/17
DATE OF REPORT:	02/17/17
TOTAL ACREAGE INSPECTED:	32.4080 – ac
METHOD OF INVESTIGATION:	Class III pedestrian inventory with transects spaced 15 m apart.
LIST OF CULTURAL RESOURCES FOUND:	**(2) Isolated Occurrences (IOs)**
LIST OF ELIGIBLE PROPERTIES:	**None**
LIST OF NON-ELIGIBLE PROPERTIES:	**(2) IOs**
LIST OF ARCHAEOLOGICAL RESOURCES:	**None**

EFFECT/CONDITIONS OF COMPLIANCE: No historic properties affected.

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

FORM PREPARED BY: **Lukai Nez**
FINALIZED: April 26, 2017

Notification to Proceed Recommended ☑ Yes ☐ No

Conditions: ☐ Yes ☑ No

Richard M. Begay, Director/THPO
The Navajo Nation
Historic Preservation Office

5/1/17
Date

Appendix 5-1

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Daniella Roth. 2001. Taxon report for *Astragalus naturitensis*, Naturita milkvetch http://nmrareplants.unm.edu/rarelist_single.php?SpeciesID=30

Daniella Roth. 1999. Taxon report for *Erigeron acomanus*, Acoma fleabane http://nmrareplants.unm.edu/rarelist_single.php?SpeciesID=73

Charlie McDonald. 1999 (last updated 2006). Taxon report for *Erigeron rhizomatus*, Zuni fleabane http://nmrareplants.unm.edu/rarelist_single.php?SpeciesID=75

Phil Tonne. 1999. Taxon report for *Erigeron sivinskii*, Sivinski's fleabane http://nmrareplants.unm.edu/rarelist_single.php?SpeciesID=78

Robert Sivinski. 2000. (updated 2006). Taxon report for *Physaria navajoensis*, Navajo bladderpod http://nmrareplants.unm.edu/rarelist_single.php?SpeciesID=112

Charlie McDonald. 1999. Taxon report for *Puccinellia parishii*, Parish's alkali grass http://nmrareplants.unm.edu/rarelist_single.php?SpeciesID=156

Prall, Dexter. 2017. Navajo Endangered Species List (NESL) Information for: Project: County Road 100 McKinley County. Navajo Natural Heritage Program, Navajo Nation Department of Fish and Wildlife. Letter of May 23, 2017 (File#17perm 103) to Mike Deutsch, Permits West, Inc., Santa Fe, NM.

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Sivinski, R. and P. Tonne. 1999. Section 6 progress report: Zuni fleabane (*Erigeron rhizomatus*). Submitted to U.S. Fish & Wildlife Service, Region 2, Albuquerque, NM.

Sivinski, R. and P. Tonne. 2004. Section 6 progress report: Zuni fleabane (*Erigeron rhizomatus*). Submitted to U.S. Fish & Wildlife Service, Region 2, Albuquerque, NM.

U.S. Fish and Wildlife Service (USFWS), New Mexico Ecological Services Field Office. 2007. Zuni Fleabane (*Erigeron rhizomatus*) 5-Year Review: Summary and Evaluation. Albuquerque, New Mexico

Krascheninnikovia lanata	Winterfat
Artemisia filifolia	Sand sage brush
Lycium sp.	Wolfberry
Gutierrezia sarothrae	Broom snakeweed
Grasses and Grass-like Plants	
Pleuraphis jamesii	Galleta
Aristida purpurea	Purple threeawn
Bouteloua gracilis	Blue grama
Pascopyrum smithii	Western wheatgrass
Sporobolus airoides	Alkali sacaton
Forbs	
Bassia scoparia	Kochia
Descurainia sophia	Flixweed
Machaeranthera bigelovii	Bigelow's tansy aster
Salsola tragus	Russian-thistle
Mirabilis multiflora	Wild four o'clock
Sphaeralcea sp.	Globemallow
Eriogonum sp.	Buckwheat
Chenopodium sp.	Goosefoot
Xanthia strumarioum	Cockelbur
Ambrosia sp.	Ragweed
Astragalus sp.	Milkvetch
Asclepias sp.	Milkweed

REFERENCES

Christy, K. 2004. Erigeron rhizomatus – Survey and Status Report. Unpublished report prepared for the Navajo Nation. http://www.nndfw.org/nnhp/Plants/errh.pdf, accessed May 2017.

Erigeron rhizomatus Zuni fleabane USFWS Threatened NESL Group 2	Species is found on nearly barren detrital clay hillsides with soils derived from shales of the Chinle or Baca formations (often seleniferous); most often on north or east-facing slopes in open piñon-juniper woodlands at 7,300-8,000 ft. (NMRPTC 1999, Sivinski and Lightfoot Sivinski and Tonne 1991, Sivinski and Tonne 2004, USFWS 2007, Knight 1988, Christie 2004).	**No appropriate habitat**: there are no barren detrital clay hillsides with soils derived from Chinle or Baca shale formations in the project area. (NP)
Erigeron sivinskii Sivinski's fleabane NESL Group 4	Chinle shale in piñon-juniper woodland and Great Basin desert scrub; 6,100-7,400 ft. (NMRPTC 1999).	**No appropriate habitat**: there is no Chinle shale formation in the project area. (NP)
Lesquerella navajoensis Navajo bladderpod NESL Group 3	Mesa rims of Todilto limestone in sparse piñon-juniper woodland; 7,200-7,600 ft. (NMRPTC 1999).	**No appropriate habitat**: there are no mesa rims of Todilto limestone in the project area. The project area is below the known elevation range of the species. (NP)
Puccinellia parishii Parish's alkali grass NESL Group 4	The species requires continuously damp soils during its late winter to spring growing period and is found near white-crusted akaline springs, seeps, and seasonally wet areas that occur at the heads of drainages or on gentle slopes at 2,600-7,200 ft. range-wide (Detsoi 2014; NMRPTC 1999).	**No appropriate habitat**: there are no white-crusted alkaline springs, seeps, or seasonally wet areas in the project area. (NP)

Status USFWS – U.S Fish and Wildlife Service (ECOS, 2014)

Endangered – An animal or plant species in danger of extinction throughout all or a significant portion of its range.

Threatened – An animal or plant species likely to become endangered within the foreseeable future throughout all or a significant portion of its range.

NESL – Navajo Endangered Species List (NNHP, 2008)

Group 2 (G2) and Group 3 (G3) – Endangered: A species or subspecies whose prospects of survival or recruitment within the Navajo Nation are in jeopardy or are likely within the foreseeable future to become so.

Group 4 – Any species or subspecies for which the Navajo Nation Department of Fish and Wildlife (NNDFWL) does not currently have sufficient information to support their being listed in G2 or G3 but has reason to consider them.

Potential to Occur

K – Known, documented observation within project area.

S – Habitat suitable and species suspected to occur within the project area.

NS – Habitat suitable but species is not suspected to occur within the project area.

NP – Habitat not present and species unlikely to occur within the project area

Soils in the project area are composed of Celvar-Atarque complex, 1-8 percent slopes; Fikel-Venzuni complex, 1-6 percent slopes; and Rock outcrop-Tuces complex 20-70 percent slopes. The Celvar-Atarque soils are found on stream terraces, alluvial fans, and fan remnants. Parent material is derived from fan alluvium over stream alluvium derived from sandstone and shale. This complex is well drained and consists of silt loams and silty clay loams in the A-Btk1 (0-12 inch horizons). Run off class is high to very high; depth to restrictive feature is more than 80 inches. The capacity of the most limiting layer to transmit water (Ksat) is high to moderately high (NRCS 2017).

The Fikel-Venzuni complex is found on fan remnants, stream terraces, and valley sides and floors. Parent material is stream and fan alluvium derived from sandstone and shale. This complex is well drained and consists of clay loams and clay in the soil horizons 0-14 inches. Run off class is low to medium; depth to restrictive feature is more than 80 inches. The capacity of the most limiting layer to transmit water (Ksat) is moderately low to moderately high (NRCS 2017).

The Rock outcrop-Tuces complex complex is found on escarpments and cuestas. Parent material is slope alluvium and colluvium derived from sandstone over residuum weathered from shale. This complex is well drained and consists of extremely gravelly clay loam and clays in the soil horizons 0-24 inches. Run off class is very high; depth to restrictive feature is 20-40 inches. The capacity of the most limiting layer to transmit water (Ksat) is very low to moderately high (NRCS 2017)..

Existing disturbances within the project area include paved roads, culverts, pastures, fencing, home sites, and vacant lots. Domestic dogs and livestock move freely through the project area.

Elevation within the project area is ranges from approximately 6980 to 7075 feet.

The project area is designated by NNHP as an Area 3 *Less Sensitive Area* for wildlife resources under the Navajo Biological Resource Land Use Clearance Policies and Procedures (Prall 2017).

METHODOLOGY

A data request was made to the Navajo Natural Heritage Program (NNHP) for Navajo Nation endangered species known to occur, or with the potential to occur, on the 7.5-Minute *Thoreau, NM* Quadrangle. A reply (Prall 2017, File#17perm103) to the request was received on May 23, 2017.

The proposed Woodview Road right-of-way corridor was surveyed on September 22, 2016, by biologist Celia Cook. Weather during surveys was partly cloudy and windy, with temperatures in the mid-70s (^{o}F) and winds at 15-20 miles per hour. Sensitive plant species listed by the Navajo Natural Heritage Program (NNHP) and the U.S. Fish and Wildlife Service (IPaC 2017) are identified in Table 1 and were the focus of the survey. The pedestrian survey was conducted as a zigzag transect along each side of the right-of-way centerline, covering both 150 foot- width of the corridor and a buffer zone of 50 feet on each side of the proposed right-of-way. The purpose of the survey was to inspect for and identify species of concern. Most plants observed in the project area were identified in order to provide a more complete description of the project area environment. A list of the plants observed in the project area is included at the end of this report.

Navajo Natural Heritage Program-Navajo Fish and Wildlife Department (NNHP-NNFWD). 2008. Navajo Nation Division of Natural Resources Department of Fish and Wildlife Endangered Species List, September 10, 2008. P.O. Box 1480, Window Rock, Arizona, 86515.

U. S. Fish and Wildlife Service Environmental Conservation Online System (ECOS). 2017. Critical Habitat Mapper. Web. May 2017. https://ecos.fws.gov/ecp/report/table/critical-habitat.html

--Information, Planning, and Conservation (IPaC). Trust Resources Report Accessed May 16, 2017.

--Migratory Bird Program. Birds of Conservation Concern. 2008. Web. http://www.fws.gov/birds/management/managed-species/birds-of-conservation-concern.php

Signature of Author:

Celia A. Cook
Wildlife Biologist
Permits West, Inc.
37 Verano Loop
Santa Fe, NM 87508
(505) 466-8120

extimus	MBTA	and rivers, wetlands and marshes	
Peregrine falcon *Falco peregrinus*	NESL Group 4 MBTA	Open landscapes with cliffs; along coasts, lakes, and rivers.	NP. Closest suitable cliff habitat more than 1.0 mile from project area.
Mexican spotted owl *Strix occidentalis lucida*	NESL Group 3 Federal T MBTA	In New Mexico, steep, forested, canyon habitats, often with riparian component.	NP. No suitable habitat.
Yellow-billed cuckoo *Coccyzus americanus*	NESL Group 2 Federal T MBTA	Mature closed canopy riparian woodlands with dense under stories, also orchards adjacent to river bottoms.	NP. No suitable habitat.

Status*
Federal Status: E = Endangered; T= Threatened; C= Candidate; EPA = Eagle Protection Act; MBTA= Migratory Bird Treaty Act
Tribal Status: NESL = Navajo Endangered Species List Group 1-4 *(NNHP, 2008)*
Presence**
K= Known, documented observation within project area.
S =Habitat suitable and species suspected to occur within or near the project area.
NS= Habitat suitable but species is not suspected to occur within the project area.
NP= Habitat not present and species unlikely to occur within the project area.

Migratory Birds

Protections for migratory birds are provided by the federal Migratory Bird Treaty Act (MBTA). Birds protected under the Act include all common songbirds, waterfowl, shorebirds, hawks, owls, eagles, ravens, crows, native doves and pigeons, swifts, martins, swallows and others, including their body parts (feathers, plumes etc.), nests, and eggs. The Act protects migratory birds from a "take". Take is defined as "to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or any attempt to carry out these activities". A "take" does not include habitat destruction or alteration, as long as these is not a direct taking of birds, nests, eggs, or parts thereof.

Several species of migratory birds were observed during the survey and are likely breeders in the project area. These species are listed in Section 6.0.

Critical Habitat

No federally designated critical habitat is located within the project area. The closest designated critical habitat is approximately 8 miles south of the project area (ECOS, 2017).

5.0 RESULTS

Listed Species:

No NESL listed or federally listed species presented in Table 1 were observed during the September 22, 2016 wildlife surveys. No habitat for any listed species is present within or adjacent to the Woodview Road ROW.

WILDLIFE SURVEY REPORT
FOR
MCKINLEY COUNTY
WOODVIEW ROAD (CR300)
RIGHT-OF-WAY

SECTION 14, T. 15 NORTH, R. 17 WEST
MCKINLEY COUNTY, NEW MEXICO

1.0 INTRODUCTION

Threatened, endangered and special status wildlife surveys were conducted September 22, 2016 at the location of McKinley County's proposed Woodview Road Right-of-Way (ROW). The proposed ROW would be necessary for upcoming road improvement projects at specific locations along Woodview Road. The proposed ROW is approximately is 5646.77 feet (1.07 miles) in length and 150 feet wide. The proposed ROW crosses Navajo Tribal Fee lands in Section 5, T. 13 North, R. 12 West, McKinley County, New Mexico. The project location is south of State Highway 122 and Interstate 25 between Thoreau and Prewitt, NM. The ROW term would be 20 years. The total land use for the proposed ROW is approximately 19.44 acres.

2.0 METHODS

The Navajo Department of Fish and Wildlife's Navajo Natural Heritage Program (NNHP) was consulted to obtain information on Navajo Endangered Species List (NESL) species, Biological Resource Land Use Policies and Procedures Area designations, and federally listed species (Prall 2017, 17perm103). Additional information on the potential for listed or special status wildlife species to occur in the project area was obtained from the U.S. Fish and Wildlife Service's Information, Planning, and Conservation website (IPaC, 2017).

Permits West, Inc. wildlife biologist, Celia Cook, conducted a pedestrian survey of the proposed Woodview Road ROW September 22, 2016. The purpose of the survey was to inspect for the potential presence of listed or special status wildlife species and evaluate existing habitat conditions.

Weather during surveys was partly cloudy and windy, with temperatures in the mid-70s (°F) and winds at 15-20 miles per hour.

The surveyed area consisted of the proposed 5646.77 ft. x 150 ft. ROW, including the existing footprint of Woodview Road. Additional areas beyond this boundary were surveyed as needed. A 0.5-mile radius around the project area was surveyed with binoculars, and in some areas on foot, for structures or land formations that would support raptor nests and other unique habitat elements that would benefit listed or special status species and wildlife in general.

6. Personnel Contacts

Wildlife Manager
Sam Diswood
928.871.7062
sdiswood@nndfw.org

Zoologist
Chad Smith
928.871.7070
csmith@nndfw.org

Botanist
Nora Talkington
ntalkington@nndfw.org

Biological Reviewer
Pamela Kyselka
928.871.7065
pkyselka@nndfw.org

GIS Supervisor
Dexter D Prall
928.645.2898
prall@nndfw.org

Wildlife Tech
Sonja Detsoi
928.871.6472
sdetsoi@nndfw.org

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

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

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

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

these species during surveys and inform the NNDFW of observations. Reported observations of these species and documenting them in project planning and management is important for conservation and may contribute to ensuring they will not be up listed in the future.

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

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

Species

AQCH = Aquila chrysaetos / Golden Eagle NESL G3
ERSI = Erigeron sivinskii / Sivinski's Fleabane NESL G4

2. Potential Species

Species

AQCH = Aquila chrysaetos / Golden Eagle NESL G3
ATCU = Athene cunicularia / Burrowing Owl NESL G4
CHMO = Charadrius montanus / Mountain Plover NESL G4
ERAC = Erigeron acomanus / Acoma Fleabane NESL G3
ERRH = Erigeron rhizomatus / Rhizome Fleabane/zuni Fleabane NESL G2 FT
ERSI = Erigeron sivinskii / Sivinski's Fleabane NESL G4
FAPE = Falco peregrinus / Peregrine Falcon NESL G4
LENA = Lesquerella navajoensis / Navajo Bladderpod NESL G3
LIPI = Lithobates pipiens / Northern Leopard Frog NESL G2

3. Quadrangles (7.5 Minute)

Quadrangles

Thoreau (35108-D2) / NM

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

SITE	EO1MI	EO3MI	QUAD	MSO	POTS	AREAS
Woodview Dirve West	None	AQCH, ERSI	Thoreau (35108-D2) / NM	None	LIPI, FAPE, CHMO, AQCH, LENA, ERSI, ERRH, ERAC	Area 3
Woodview Drive East	None	ERSI	Thoreau (35108-D2) / NM	None	LIPI, FAPE, CHMO, ATCU, AQCH, LENA, ERSI, ERRH, ERAC	Area 3

McKinley County
Woodview Drive
Field Survey Map

Section 5
Township 13N, Range 12W
County Road 100B & 100C
Prewitt, McKinley County, New Mexico

Project Area

1:24,000

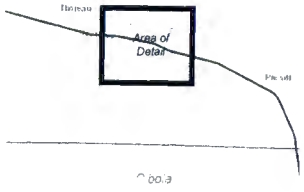
0 0.5 1
Miles

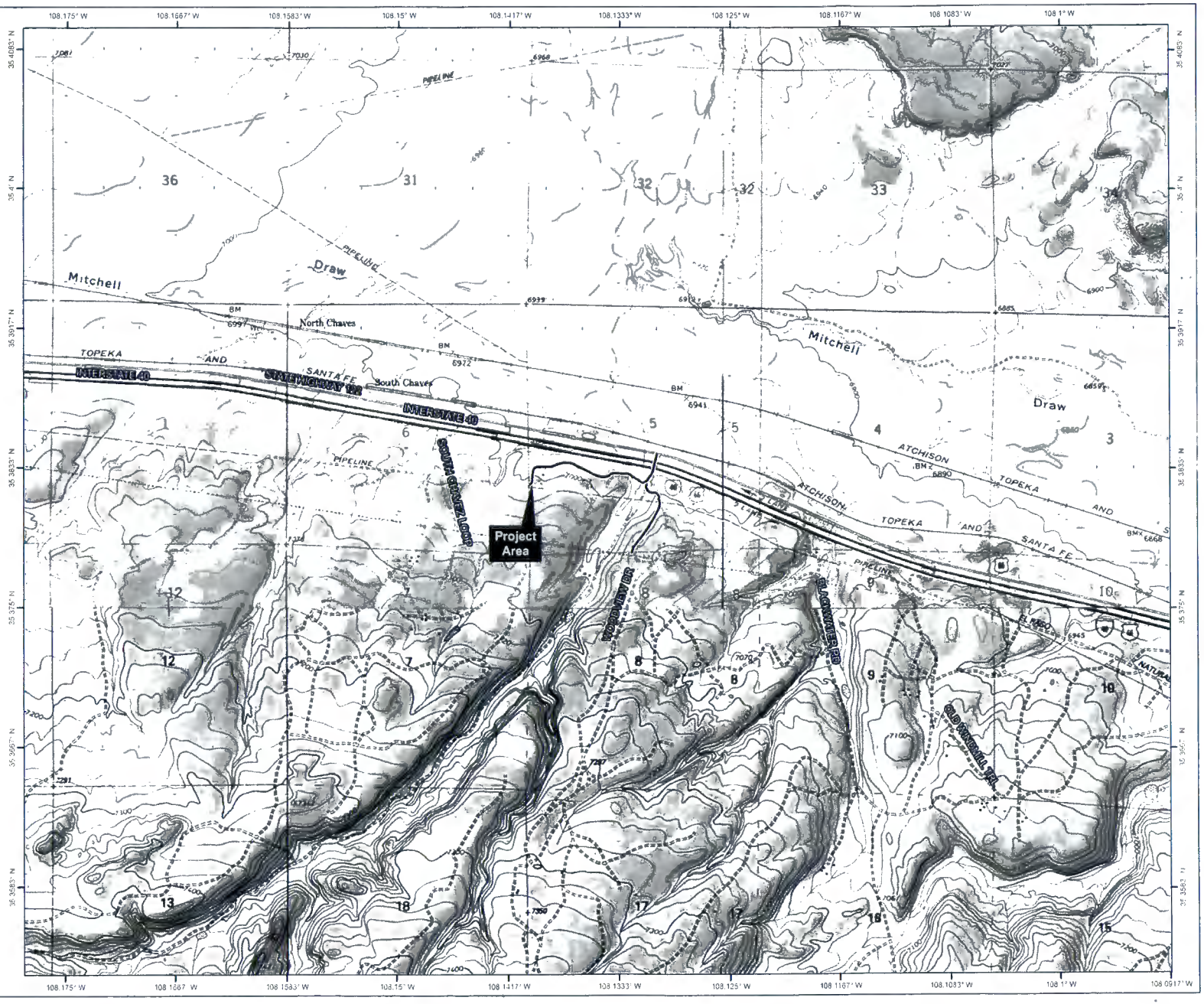
NAD 1983 New Mexico State Plane West
FIPS 3003 Meters

N

PERMITS WEST

Prepared by Permits West, Inc., May 23, 2017
for McKinley County, New Mexico





Appendix 1-1

EXHIBIT

H

NNDFW Review No. 17perm103

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

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

PROJECT NAME & NO.: Woodview Drive (County Road 100B & 100C) Right-of-way Acquisition

DESCRIPTION: McKinley County will apply for a 20-year ROW for CR100B and CR100C for routine maintenance and improvements on Woodview Drive. CR100B ROW is 2,576.80 ft. in length and CR100C ROW is 3,069.97 ft. in length, both 150-ft. wide totaling approximately 1.07 miles in length. Final ROW for both roads is 19.44 acres on Navajo Tribal Fee land.

LOCATION: Section 5 T13N R12W, Baca/Prewitt Chapter, McKinley County, New Mexico

REPRESENTATIVE: Mike Deutsch, Permits West, Inc.

ACTION AGENCY: Bureau of Indian Affairs and Navajo Nation

B.R. REPORT TITLE / DATE / PREPARER: EA-McKinley County ROW Acquisition for Road and Culvert Repair and Ongoing Maintenance for the Existing Woodview Road County Road 100B and 100C, Appendices 3 & 4/07 JUN 2017/Permits West, Inc.

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: The NNDFW concurs with the mitigation measures outlined in the EA Section 3.11.2.2 and 3.16.2.2 and Wildlife Survey Report, Section 6.0

CONDITIONS OF COMPLIANCE*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/15 JUN 2017

COPIES TO: (add categories as necessary)

☐ _____ ☐ _____

2 NTC § 164 Recommendation:	Signature	Date
☒Approval ☐Conditional Approval (with memo) ☐Disapproval (with memo) ☐Categorical Exclusion (with request letter)	Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife	6/16/17

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NNDFW –B.R.C.F.: FORM REVISED 12 NOV 2009

Appendix 6-1

EXHIBIT I

Document No. 008372 Date Issued: 07/14/2017

EXECUTIVE OFFICIAL REVIEW

Title of Document: McKinley County, ROW Woodview Road Contact Name: YAZZIE, ELERINA B

Program/Division: DIVISION OF NATURAL RESOURCES

Email: michellehoskie@frontier.com Phone Number: 928-871-6447

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

Pursuant to 2 N.N.C. § 164 and Executive Order Number 07-2013

☐ **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:	☐	☐

MPH ☒ **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)	√ Blackhat	Date: 10/23/17	☒	☐
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

RECEIVED OCT 11 2017 DEPARTMENT OF JUSTICE RECEPTIONIST DESK

DOJ
10-11-17 @ 258p
DATE / TIME
☐ 7 Day Deadline
DOC #: 008372 #2
SAS #:
UNIT: NRL

☒ RESUBMITTAL (Sept 2017)

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

CLIENT TO COMPLETE

DATE OF REQUEST:	10/11/2017	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: Mckinley County ROW Woodview Road

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 10.11.17 3:30p REVIEWING ATTORNEY/ADVOCATE: Annie Chee 10.20.17

DATE TIME OUT OF UNIT: 10/23/17 3:31 dm

DOJ ATTORNEY / ADVOCATE COMMENTS

Document is legally sufficient.

REVIEWED BY: (*Print*)	Date / Time	SURNAMED BY: (*Print*)	Date / Time
Timmy ~~Chase~~	10/23/17	VBlackhat	10/23/17 3:01pm

DOJ Secretary ~~Called~~ emailed Michelle Hoskie for Document Pick Up on 10/23/17 at 4:22 By: dm

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

called unavailable

NNDOJ/DRRF-July 2013

NAVAJO NATION DEPARTMENT OF JUSTICE

☐ RESUBMITTAL

DOCUMENT REVIEW REQUEST FORM

RECEIVED SEP 26 2017 DEPARTMENT OF JUSTICE RECEPTIONIST DESK

DOJ
9-26-17 1107am
DATE / TIME
☐ 7 Day Deadline
DOC #: 008372
SAS #:
UNIT: ANRU

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

CLIENT TO COMPLETE

DATE OF REQUEST:	9/26/2017	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: MCKINLEY COUNTY ROW WOODVIEW ROAD

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 9.26.17 1115am

REVIEWING ATTORNEY/ADVOCATE: Irvin Chee 10.5.17

DATE TIME OUT OF UNIT:

DOJ ATTORNEY / ADVOCATE COMMENTS

-Doc. Rtd. to GLDD Dc. to make Corrections to the ROW T&C for NN Fee lands & to get Field Clearance doc. from Dist. Land Board or Dist. Grazing Committee indicating in a statement whether or not, there are grazing permittees.

REVIEWED BY: (*Print*)	Date / Time	SURNAMED BY: (*Print*)	Date / Time
I Rime Chee	10/10/17		

DOJ Secretary Called: **for Document Pick Up on** **at** **By:**

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

NNDOJ/DRRF-July 2013

10/10/17

Stevie,
- Please retype the T&C that I drafted up for State/County/ROW - for Fee lands dated 10/10/17 for our use from here on after.
- Please make correction to the T&C that I made corrections to.
- Also, please have DGC/DLB indicate that there are land users or there are no land users. We need a statement from him/her to indicate that.
Thx, - I Rime / DOJ

.RTMENT OF JUSTICE

RECEIVED
SEP 26 2017
DEPARTMENT OF JUSTICE
RECEPTIONIST DESK

DOJ
9-26-17 11:07 am
DATE / TIME
☐ 7 Day Deadline
DOC #: 008372
SAS #:
UNIT: ASLU

M. VARIATIONS OF THIS FORM WILL NOT BE ACCEPTED. ***

COMPLETE

DIVISION:	Division Natural Resources
DEPARTMENT:	General Land Development Department
E-MAIL:	michellehoskie@frontier.com

DVIEW ROAD

TO COMPLETE

G ATTORNEY/ADVOCATE: Irmin Chee 10.5.17

VOCATE COMMENTS

- Doc. Rtd. to GLDD Dc. to make Corrections to the ROW T&C for Fee lands & to get field Clearance doc. from Dist. Land Board or Dist. Grazing Committee indicating in a statement whether or not, there are grazing permittees.

NN

REVIEWED BY: (*Print*)	Date / Time	SURNAMED BY: (*Print*)	Date / Time
I Rime Chee	10/10/17		

DOJ Secretary Called: for Document Pick Up on at By:

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

NNDOJ/DRRF-July 2013

Draft 10-9-2012

RIGHT-OF-WAY
CHECK LIST

SAS NO. 008372

[✓] 1. Terms & Conditions: (a) General [✓]
(b) BIA Roads [ ]
(c) IHS/PHS [ ]

Check to see if ROW terms and conditions form contains standard provisions.

EXAMPLES:
(a) compliance with Navajo and federal laws
(b) no waiver of sovereign immunity
(c) consent to Navajo Nation jurisdiction

Note! NTUA rights-of-way do not generally require compensation to the Navajo Nation unless it serves a commercial purpose. If the terms and conditions provide for compensation make sure that the grantee provides the BIA with a copy (proof) of any payment to the Navajo Nation within at least five days of payment.

[✓] 2. Term -- twenty (20) years or less.

EXCEPTIONS:

(a) IHS P.L. 86-121 projects can be perpetual
(b) BIA roads 75 years
(c) N.M./AZ State roads can be perpetual ie. as long as it is used for state highway
(d) If an applicant is seeking longer than a twenty (20) year term, the applicant must explain why in writing in order that the Navajo Nation can make an informed decision whether to recommend it, unless a longer term is preauthorized.

[ ] 3. Variation on standard terms and conditions.

(a) other roads
(b) electric transmission
(c) gas pipeline
(d) other

[✓] 4. Resources and Development Committee Resolution.

Resources and Development Committee has final approval authority -- Naa bik iyati

Resolution not necessary where right-of-way is sought by another governmental entity.

EXCEPTIONS:

(a) IHS P.L. 86-121 rights-of way do not need a Resources and Development Committee Resolution - see Resolution RCF-41-95. NLD can give consent if terms similar to approved form

(b) NTUA rights-of-way do not need Resources and Development Committee approval The NLD has been delegated the authority to consent on behalf of the Navajo Nation provided that the right-of-way terms and conditions are consistent with the approved **standard form** and the application is supported by:

1. Letter of application
2. Legal description
3. Right-of-way location maps
4. Biological Resources Compliance Form
5. Cultural Resources Compliance form
6. Field Clearance Documents
7. Chapter Resolution
8. Environmental Assessment (EA) and/or Addendum
9. Other pertinent documents if required

See RCD-104-10

☑ 5. Check exhibits for land user/permittee consent * No land user's consent is required since this is a ROW for operation & maintenance of Existing County Road.

(a) trust land needs grazing permittees' consents
(b) fee land does not
(c) If some permittees consent and others do not then this must be explained in the resolution/legislation
(d) check to see if surface damages, if sought, has been placed in an escrow account
(e) grazing official sign off if trust land
(f) NAPI consent if the proposed right-of-way is within NAPI lands.

☑ 6. Check to see if all required Divisions, Departments, etc., have reviewed and surnamed the SAS package.

Approved — (a) Project Review Office/Navajo Land Department
" — (b) Fish & Wildlife Department
" — (c) Historic Preservation Department
" — (d) Navajo Environmental Protection Agency
" — (e) Minerals

Approved (g) Division of Natural Resources

☑ 7. If additional terms and conditions are suggested by NNEPA, Fish & Wildlife Department or others, try to determine if they are necessary. The concerns may already be covered by the general terms and conditions, BIA required stipulations or 25 C.F.R. § 169.

— None

☑ 8. Check the content of proposed resolution or legislation to ensure it expressly incorporates in a Resolved Clause the right-of-way terms and conditions. — Resln, N/A.

☑ 9. Check to see if there is a legal description and whether it appears to be accurate.

10. Check to see if all documents are attached:

☑ (a) Environmental Assessment (EA) unless categorical exclusion applies (IHS projects)

☑ (b) Archaeological Clearance / Inventory

☑ (c) Cultural Resources Compliance Form

☐ (d) Threatened and Endangered Species/Biological Survey

☐ (e) Letter from the Fish & Wildlife Department or an EA indicating that a biological survey is not necessary i.e. (the project will not have a significant impact).

☑ (f) Biological Resources Compliance Form.

10/23/17
Date

Reviewed by

AA/10-9-2012

Tier 1 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Eugenia Quintana EPA (Navajo Land Title Data System - Windowrock AZ)	Air and Toxics - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. No comments.	1. *No Reply*	09-Aug-2017	
Lee Anna Martinez EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. CONDITIONAL: Please contact our office concerning the crossing of the unnamed ephemeral wash. See memo attached. Thank you.	1. *No Reply*	18-Aug-2017	
Najamh Tariq (Navajo Land Title Data System - Windowrock AZ)	Approver	Department of Water Resources	Approved	*no comments*	*No Reply*	04-Aug-2017	
Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. #17perm103	1. *No Reply*	04-Aug-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*	03-Aug-2017	
Patrick Antonio EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Supervisor	Navajo Nation Environmental Protection Agency	Approved	1. CONDITIONAL: Land surface disturbance in excess of 1.0 acre requires coverage 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 submittal.	1. *No Reply*	02-Aug-2017	

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. Please note that the correct uploaded terms and conditions referenced in Steve Prince's note are terms and conditions for FEE land. Thank you.	1. *No Reply*	25-Sep-2017	
Richard Begay NNHP (Navajo Land Title Data System - Windowrock AZ)	Navajo Nation Historic Preservation Officer	Historic Preservation Department	Approved	*no comments*	*No Reply*	18-Aug-2017	
Ronnie Ben EPA (Navajo Land Title Data System - Windowrock AZ)	Underground Injection Control - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. Conditional Approval contingent on compliance with all NNEPA and EPA environmental laws.	1. *No Reply*	28-Aug-2017	
Sam Diswood (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	*no comments*	*No Reply*	18-Aug-2017	
Steven Prince MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	1. This vote contingent on the uploaded Terms & Conditions document being permanently included as part of the overall approval package. slp	1. *No Reply*	18-Aug-2017	
W. Mike Halona (Navajo Land Title Data System - Windowrock AZ)	Manager III Navajo Land Department	NLD Administration	Approved	*no comments*	*No Reply*	23-Aug-2017	

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

August 18, 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. 8372

The Navajo Nation Environmental Protection Agency Water Quality Program (NNEPA WQ) has reviewed the 164 Document No. 8372: also referenced as McKinley county ROW Woodview Road, Near Prewitt, New Mexico. This project will provide roadway improvement for the Navajo Nation Community of near Prewitt, NM. It is suggested that a Clean Water Act Section 401 consultation be submitted to our office regarding this upcoming transportation project. The information that was provided in the Document No. 8372; informed an large unnamed ephemeral wash would be crossed. Please submit a consultation to our office that includes a detailed scope of work for the project, along with a description of what will be placed in the ephemeral waterway, and 1:24,00 topographic maps of the project line. 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.

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