

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
OF THE 23rd NAVAJO NATION COUNCIL --- FIRST YEAR, 2015

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANTING OF A RIGHT-OF-WAY TO RESOLUTE ANETH, LLC, TO CONSTRUCT, OPERATE AND MAINTAIN A 69KV POWER LINE TO RESOLUTE RATHERFORD UNIT SUBSTATION TO MCELMO UNIT SUBSTATION ON, OVER AND ACROSS NAVAJO NATION TRUSTS LANDS (SAN JUAN COUNTY, UTAH)

BE IT ENACTED:

SECTION ONE. FINDINGS

- A. Pursuant to 2 N.N.C. Section 501 (B)(2)(a), the Resources and Development Committee of the Navajo Nation Council has authority to give final approval of rights-of-way on Navajo Nation lands and unrestricted (fee) land; and
- B. Resolute Aneth, LLC, 1675 Broadway, Suite 1950, Denver, Colorado 80202, has submitted a right-of-way application, attached as Exhibit A, to construct, operate and maintain the a 69kv power line to Resolute Ratherford Unit Substation to McElmo Unit Substation (San Juan County, Utah); and
- C. The proposed right-of-way is situated across Navajo Nation Trust Lands in Sections 1, 10, 11, 12, 15, and 16, Township 41 South, Range 24 East; Section 6, Township 41 South, Range 25 East; Section 31, Township 40 South, Range 25 East; Salt Lake Meridian, Aneth and Red Mesa Chapters, San Juan County, Utah. Said right of way will be 32,372.06 feet in length (40 feet final width plus 100 feet during construction) totaling ~ 75.38 acres in area (32.22 acres for electrical power line final width + 43.16 acres for temporary construction corridor). The location is more particularly described on the map attached hereto and incorporated herein as Exhibit B; and
- D. The Navajo Land Department staff of the Division of Natural Resources has obtained the necessary consents of the affected land users (grazing permittees) which are attached hereto as Exhibit C; and

E. The environmental studies and cultural resources inventories have been completed and are attached hereto and incorporated herein by this reference.

SECTION TWO. APPROVING THE GRANTING OF A RIGHT-OF-WAY TO RESOLUTE ANETH, LLC, TO CONSTRUCT, OPERATE AND MAINTAIN A 69KV POWER LINE TO RESOLUTE RATHERFORD UNIT SUBSTATION TO MCELMO UNIT SUBSTATION ON, OVER AND ACROSS NAVAJO NATION TRUSTS LANDS (SAN JUAN COUNTY, UTAH)

- A. The Navajo Nation Council's Resources and Development Committee hereby approves the granting of a right-of-way to Resolute Aneth, LLC, to construct, operate and maintain a 69kV power line on, over, and across Navajo Nation Trust Lands (San Juan County, Utah). The location is more particularly described on the survey map attached hereto as Exhibit B.
- B. The Navajo Nation Council's Resources and Development Committee hereby approves the granting of a right-of-way to Resolute Aneth, LLC, subject to but not limited to the terms and conditions contained in Exhibit D.
- C. The Navajo Nation Council's Resources and Development Committee hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to effectuate the intent and purpose of this resolution.

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at Peabody Western Coal Company Human Resources Building, Kayenta, (Arizona), at which quorum was present and that same was passed by a vote of 3 in favor, 0 opposed, 0 abstain this 14th day of July, 2015.



**Benjamin Bennett, Vice Chairman
Resources and Development Committee
Of the 23rd Navajo Nation Council**

**Motion: Honorable Davis Filfred
Second: Honorable Leonard Pete
Vote: 3-0 (Vice Chairman Not Voting)**

RIGHT-OF-WAY APPLICATION

COMES NOW THE APPLICANT Resolute Aneth, LLC of 1675 Broadway, Suite 1950, Denver CO 80202. This ____ day of February, 2014, who hereby petition(s) the Bureau of Indian Affairs and respectfully files under the terms and provisions of the Act of February 5, 1948 (62 Stat. L. 17-25 USC 323), and Departmental Regulations 25 CFR 169 an application for a term of 20 (twenty) years, right-of-way for the following purposes and reasons: Resolute's Ratherford Unit Substation to McElmo Unit Substation 69kV Power Line.

Across the following described land (Easement description) on Navajo Tribal Trust Land as shown on the attached plats.

Sections 1, 10, 11, 12, 15, and 16, T. 41 S., R. 24 E.; Section 6, T. 41 S., R. 25 E.; Section 31, T. 40 S., R. 25 E.; all SLM; all San Juan County, Utah

Said right-of-way to be 6.13 miles (32,372.06 feet or 1961.94 rods) long by 100' wide during construction and 40' after construction, plus anchors. Total Tribal land use to be 75.38 acres, of which 32.22 acres will be permanent and the remaining 43.16 acres will be temporary for the duration of construction.

Total land use inside the McElmo Creek Unit, for which authorization is being sought via an accompanying Sundry Notice, to be 2.863 miles (15,122.55 feet or 916.518 rods) long by 100' wide during construction and 40' after construction, plus anchors. Total land use inside of the McElmo Creek Unit = 35.178 acres, of which 15.011 acres will be permanent and the remaining 20.167 acres will be temporary for the duration of construction.

Total land use outside of the McElmo Creek Unit = 40.20 acres, of which 17.21 acres will be permanent, and the remaining 22.99 acres will be temporary for the duration of construction.

SAID APPLICANT DOES HEREBY UNDERSTAND AND EXPRESSLY AGREE AS FOLLOWS:

- (a) To construct and maintain the right-of-way in a workmanlike manner.
- (b) To pay promptly all damages and compensation, in addition to the deposit made pursuant to 169.4, determined by the Secretary to be due the landowners and authorized users and occupants of the land on account of the survey, granting, construction and maintenance of the right-of-way.
- (c) To indemnify the landowners and authorized users and occupants against any liability for loss of life, personal injury and property damage arising from the construction, maintenance, occupancy or use of the lands by the applicant, his employees, contractors and their employees, or subcontractors and their employees.
- (d) To restore the lands as nearly as may be possible to their original condition upon the completion of construction to the extent compatible with the purposes for which the right-of-way was granted.
- (e) To clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way; and dispose of all vegetative and other material cut, uprooted or otherwise accumulated during construction and maintenance of the project.
- (f) To take soil and resource conservation and protection measures, including weed control, on the land covered by the right-of-way.
- (g) To do everything reasonably within its power to prevent and suppress fires on or near the lands to be occupied under the right-of-way.
- (h) To build and repair such roads, fences and trails as may be destroyed or injured by construction work and to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the right-of-way.
- (i) That upon revocation or termination of the right-of-way, the applicant shall, so far as is reasonably possible, restore the land to its original conditions.
- (j) To at all times keep the Secretary informed of its address, and in case of corporations, of the address of its principal place of business and the names and addresses of its principal officers.
- (k) That the applicant will not interfere with the use of the lands by or under the authority of the landowners for any purpose not inconsistent with the primary purpose for which the right-of-way is granted.

SAID APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

To conform to and abide by all applicable requirements with respect to the right-of-way herein applied for. Applicant agrees to conform to and abide by the rules, regulations, and requirements contained in 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.

DATED: 2/27/14

ATTEST: [Signature]

[Signature]
(APPLICANT)

SUPPORTING DOCUMENTS:

- 1. Written consent of landowners (one copy) *
- 2. Maps of definite location one (1) linen tracings, two (2) print copies.
(See 25 CFR 169.6, 169.7, 169.8, 169.9, 169.10, and 169.11.)
- 3. Corporate qualifications (see 169.4 and 169.5).
- 4. Evidence of Officers to Execute Form (Forms 1-154d) (Corporate applicant only).
- 5. Tribal land — Resolution of Council

EXECUTIVE OFFICIAL REVIEW**DUPLICATE – First Packet Lost**Title of Document: ROW Resolute Ratherford/McElmo(69kv) Contact Name: DRAPER, HOWARDProgram/Division: DIVISION OF NATURAL RESOURCESEmail: howarddraper@frontiernet.net Phone Number: 928-871-6447☐ **Business Site Lease** Sufficient Insufficient

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

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

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

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

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

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

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

☐ **Lease Purchase Agreements**

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

☐ **Grant Applications**

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

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

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

☐ **Relinquishment of Navajo Membership**

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

DIVISION OF
NATURAL RESOURCES
JAN 0 2015

☐ **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: _____ ☐ ☐

☒ **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: 26 Sept. 14 ☒ ☐
2. F&W _____ Date: 9/30/14 ☒ ☐
3. HPD _____ Date: 10/9/14 ☒ ☐
4. Minerals _____ Date: 1-29-15 ☒ ☐
5. NNEPA _____ Date: 11-10-2014 ☒ ☐
6. DNR _____ Date: 1/30/15 ☒ ☐
7. DOJ _____ Date: 2/9/15 ☒ ☐
8. OPVP _____ Date: 2/19/15 ☒ ☐

☐ **OTHER:**


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

Ben Shelly
President

Rex Lee Jim
Vice-President

January 28, 2015

MEMORANDUM

TO: ALL CONCERNED
FROM: 
Evangeline Curley-Thomas,
Deputy Division Director
SUBJECT: Delegation of Authority

Be advised that Mr. Robert O. Allan, Principal Attorney, Division of Natural Resources, is hereby given the authority to oversee activities of the Division of Natural Resources on January 28, 2015, starting at 8:00 a.m. and ending on January 30, 2015, 5:00 p.m.

Mr. Allan is responsible for reviewing all documents and for directing and signing off on routine duties except for those that may need my personal attention.

Your cooperation with Mr. Allan is appreciated.

ACKNOWLEDGED:



Mr. Robert O. Allan, Principal Attorney
Division of Natural Resources

ENVIRONMENTAL ASSESSMENT
FOR

**RESOLUTE ANETH, LLC
1675 BROADWAY, SUITE 1950
DENVER, CO 80202
(303) 434-4600**

**RATHERFORD UNIT SUBSTATION TO M^cELMO UNIT
SUBSTATION 69 kV POWER LINE**

**BUREAU OF INDIAN AFFAIRS, SHIPROCK AGENCY
SECTIONS 1, 10, 11, 12, 15, and 16, T. 41 S., R. 24 E.;
SECTION 6, T. 41 S., R. 25 E.;
SECTION 31 T. 40 S., R. 25 E.
SAN JUAN COUNTY, UTAH**

MARCH 5, 2014

PREPARED BY:


PERMITS WEST.INC.

TABLE OF CONTENTS

1.	Introduction.....	5
1.1	Purpose and Need	5
1.2	Conformance with Applicable Land Use Plans and Other Environmental Assessments.....	5
1.3	Federal, State, or Local Permits, Licenses, or Other Consultation Requirements.....	5
2.	Alternatives Including the Proposed Action	6
2.1	Alternative A - No Action.....	6
2.2	Alternative B - Proposed Action.....	6
2.2.1	Power Line Construction	7
2.2.2	Reclamation	8
2.3	Alternatives Considered But Not Analyzed In Detail.....	8
3.	Description of Affected Environment.....	9
3.1	Air Resources.....	10
3.1.1	No Action Alternative.....	12
3.1.2	Proposed Action.....	13
3.2	Cultural Resources	13
3.2.1	No Action Alternative.....	13
3.2.2	Proposed Action.....	14
3.3	Environmental Justice.....	14
3.3.1	No Action Alternative.....	15
3.3.2	Proposed Action.....	15
3.4	Floodplains.....	15
3.4.1	No Action Alternative.....	15
3.4.2	Proposed Action.....	16
3.5	Invasive, Non-native Species.....	16
3.5.1	No Action Alternative.....	16
3.5.2	Proposed Action.....	16
3.6	Threatened or Endangered Species.....	17
3.6.1	No Action Alternative.....	17
3.6.2	Proposed Action.....	18
3.7	Wastes, Hazardous or Solid.....	18
3.7.1	No Action Alternative.....	18
3.7.2	Proposed Action.....	18
3.8	Water Quality – Surface/Ground	19
3.8.1	No Action Alternative.....	19
3.8.2	Proposed Action.....	20
3.9	Wetlands/Riparian Zones.....	20
3.9.1	No Action Alternative.....	20
3.9.2	Proposed Action.....	21
3.10	General Topography/Surface Geology	21
3.10.1	No Action Alternative.....	21

3.10.2	Proposed Action.....	21
3.11	Land Use	22
3.11.1	No Action Alternative.....	22
3.11.2	Proposed Action.....	22
3.12	Livestock Grazing.....	22
3.12.1	No Action Alternative.....	23
3.12.2	Proposed Action.....	23
3.13	Mineral Resources	23
3.13.1	No Action Alternative.....	23
3.13.2	Proposed Action.....	24
3.14	Noise	24
3.14.1	No Action Alternative.....	24
3.14.2	Proposed Action.....	25
3.15	Public Health and Safety.....	25
3.15.1	No Action Alternative.....	25
3.15.2	Proposed Action.....	25
3.16	Soils/Watershed /Hydrology.....	26
3.16.1	No Action Alternative.....	27
3.16.2	Proposed Action.....	27
3.17	Special Status Species.....	27
3.17.1	No Action Alternative.....	28
3.17.2	Proposed Action.....	28
3.18	Vegetation, Forestry.....	28
3.18.1	No Action Alternative.....	29
3.18.2	Proposed Action.....	29
3.19	Visual Resources.....	30
3.19.1	No Action Alternative.....	30
3.19.2	Proposed Action.....	31
3.20	Wildlife	31
3.20.1	No Action Alternative.....	31
3.20.2	Proposed Action.....	31
3.21	Cumulative Effects.....	32
3.21.1	No Action Alternative.....	32
3.21.2	Proposed Action.....	32
4.	Consultation/Coordination.....	33
5.	Contact Information	33
6.	References	34

Tables

Table 2.1: Proposed Reclamation Seed Mixture.....8
 Table 3.1: Critical Elements of the Affected Environment9
 Table 3.2: Non-Critical Elements of the Affected Environment 10
 Table 4.1: Project Interdisciplinary Team 33

Appendices

Appendix 1: Overview Map
 Appendix 2: Right-of-Way Application
 Appendix 3: Cultural Resources Compliance Form
 Appendix 4: Biological Resources Compliance Form
 Appendix 5: Threatened, Endangered, And Special Status Wildlife Species Report
 Appendix 6: Plant Survey Report
 Appendix 7: Navajo Fish & Wildlife Correspondence Letter
 Appendix 8: Preliminary Wetland Delineation and Jurisdictional Determination

1. Introduction

Resolute Aneth LLC (Resolute), a wholly owned subsidiary of Resolute Natural Resources Company, proposes to construct a 69 kV power line from its proposed Ratherford Unit (RU) Substation to the McElmo Creek Substation. The project is located three miles east of the town of Montezuma Creek, Utah in San Juan County. The project will be constructed on Navajo Nation Tribal Trust land. This Environmental Assessment (EA) is being developed to address site-specific resources and/or impacts on Navajo Nation Tribal Trust land as required by the Bureau of Indian Affairs (BIA).

1.1 Purpose and Need

The enhanced oil recovery process in the Aneth Oil Field has exceeded the current power supply and requires additional power to continue operations. The purpose of the Proposed Action is to construct a 69 kV power line to accommodate the power needs of enhanced oil recovery (water alternating with gas, or “WAG”) activities in the Aneth Oil Field. Approval of the Proposed Action will allow Resolute to continue to develop mineral resources in the Aneth Oil Field.

1.2 Conformance with Applicable Land Use Plans and Other Environmental Assessments

This EA addresses the potential impacts imposed on surrounding resources by the Proposed Action. Impacts are presented on a site-specific basis as required by the National Environmental Policy Act (NEPA), as amended (1969). The proposed project will not be in conflict with any local, county, or state plans. NEPA requires federal agencies to consider the potential environmental consequences of proposed actions and to enhance the environment through well-informed federal decisions. Resolute will file a right-of-way (ROW) application with the Bureau of Indian Affairs (BIA) and the tribe. The proposed project will not be in conflict with any local, county, or state plans.

1.3 Federal, State, or Local Permits, Licenses, or Other Consultation Requirements

The Federal Water Pollution Control Act (Clean Water Act) has been amended to provide that certain storm water discharges from field activities or operation, including construction associated with oil and gas exploration, production, processing, or treatment operation or transmission facilities, are exempt from National Pollutant Discharge Elimination System (NPDES) permit requirements (NPDES 2006). The action encourages voluntary application of Best Management Practices (BMPs) for oil and gas field activities and operation to minimize the discharge of pollutants in storm water runoff and protect water quality (NPDES 2006). This action applies to all states, federal lands, and Indian Country

regardless of whether the Environmental Protection Agency (EPA) or a state is the NPDES permitting authority. States have the authority to regulate any discharges, pursuant to state law, through a non-NPDES permit program.

Section 106 consultation (36 CFR 800) with the Utah State Historic Preservation Office (SHPO) and the Navajo Tribal Historic Preservation Office (THPO) under the National Historical Preservation Act (NHPA) is required unless the agency determines that the project is the type of activity that has “No potential to cause effects” to a historic property (36CFR 800.3(a) (1)) (BIA 2012). To ensure compliance with the NHPA, a cultural resources survey and report were prepared and delivered to the SHPO and Navajo THPO for review.

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 6). 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 4 and 5, respectively.

Additionally, Resolute is required to:

- Comply with all applicable federal, state, and local laws and regulations.
- Obtain the necessary permits for constructing the project.

2. Alternatives Including the Proposed Action

2.1 Alternative A - No Action

The BIA NEPA Guidebook states that for EAs, the No Action Alternative can either be no change from the current management practices, or a description of what is reasonably foreseeable if the proposed action does not take place (BIA 2012). This alternative would deny approval to build the power line and the current land and resource uses would continue to occur in the proposed project area. No mitigation measures would be required.

In this case, the No Action Alternative is presented for baseline analysis of resource impacts.

2.2 Alternative B - Proposed Action

Resolute’s project consists of constructing a power line from the proposed RU Substation to its McElmo Unit Substation. The RU Substation is a separate project under consideration by the BIA for construction and the McElmo Unit Substation is existing. The power line runs in an almost straight line northeast, from substation to substation. The proposed power line begins at the proposed RU Substation in the SW/4 SW/4 of Section 16 in T. 41 N., R.

24 E. It heads east and then turns northeast, crossing the gravel San Juan River Road, the San Juan River, and paved Utah Highway 262. The line turns north, then east and ends at the existing McElmo Creek Unit Substation in the SE/4 SE/4 of Section 31 in T. 40 S., R. 25 E.

The Proposed Action is located three miles east of the town of Montezuma Creek, Utah. It is located in Sections 1, 10, 11, 12, 15, and 16 in T. 41 S., R. 24 E.; Section 6 in T 41 S., R. 25 E.; and Section 31 in T. 40 S., R. 25 E, as indicated in Appendix 1.

Proposed structures on Navajo Nation Tribal Trust will include 51 above ground wooden structures (poles) and several associated guy anchors. Poles will range in height from 46.5 ft to 87 ft and all pole structures will include either two or three wooden poles. The estimated duration of the project is approximately three months.

2.2.1 Power Line Construction

Resolute will construct an overhead, raptor-safe, 69 kV power line to accommodate the power needs of enhanced oil recovery activities in the Aneth Oil Field. The maximum capacity of the proposed power line will be 69,000 volts. Usage will depend on demand, but will occur year-round. Intensified development (e.g., horizontal wells have led to greater fluid volumes that must be pumped) has increased demand beyond what can be supplied by Rocky Mountain Power's existing 69 kV power line in the Ratherford and McElmo Creek Units of the Aneth Oil Field. Rocky Mountain's structures are not sufficiently strong or high enough to support a second or new set of heavier conductors (wires).

The power line will traverse 32,372.06 feet (6.13 miles) along a temporary 100-foot-wide corridor for a total of 75.38 construction use acres. The right-of-way (ROW) for the remainder of the lease term after construction will be 40 feet except where additional ROW is required for guy anchors, totaling 32.22 permanent use acres.

The project will make use of 43.16 temporary acres to allow trucks to access and drive around structures during construction. Since most of the route crosses open, gently rolling terrain, trucks will be able to travel cross-country to access the power line during construction without removal of soil or construction of new roads. To accommodate poles or anchors, the top six inches of topsoil will be scraped, stockpiled, and then reseeded.

Construction 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 as necessary.

General construction Best Management Practices (BMPs) will be implemented to prevent erosion and off-site migration of soils and other materials.

2.2.2 Reclamation

Reclamation will begin once each phase of construction or use is completed. With the exception of small pockets for anchors or poles, all affected lands will be seeded to reestablish a viable replacement plant community and control erosion. A qualified botanist will monitor the community annually for a period of three years to check erosion, revegetation success, and noxious weeds. A seed mix will be drilled as prescribed by the Navajo Nation, BIA, or BLM (Table 2.2). If seed is broadcast rather than drilled, rates will be doubled and the seed will be covered using some type of drag. Weeds will be controlled in accordance with Navajo Nation EPA requirements.

Table 2.1: Proposed Reclamation Seed Mixture

Common Name	Variety	Pure Live Seeds (lbs/acre)
four wing saltbush	<i>Atriplex canescens</i>	2
shadscale	<i>Atriplex confertifolia</i>	1
winterfat	<i>Eurotia lanata</i>	2
alkali sacaton	<i>Sporobolus airoides</i>	3
Indian ricegrass	<i>Oryzopsis hymenoides</i>	3
galleta grass	<i>Hilaria jamesii</i>	3
scarlet globemallow or Cicer milkvetch	<i>Sphaeralcea coccinea</i> or <i>Astragalus sabulosus</i>	1

2.3 Alternatives Considered But Not Analyzed In Detail

Two alternatives were considered. The first was to run the power line straight from the Greater Aneth Substation, past the Aneth Substation, to the McElmo Creek Unit Substation. This alternative would have been shorter, but it would have run through a band of Navajo Tribal Trust land occupied by residences, which is already heavily burdened by a number of power lines. Although the chosen route is longer, it is less populated and more agreeable to the home owners. The second alternative considered was to run the power line route from the Rutherford Unit Substation directly to the McElmo Creek Unit Substation in a straight line. It was identified early on that this route would run through multiple archaeological sites. So, the route was modified to avoid these sites. No other significant issues were identified for the present location of the Proposed Action during the following activities:

1. on-site inspections;

2. Cultural Resources Inventories;
3. Threatened, Endangered, and Special Status Species Surveys; and the
4. review of Navajo Nation Department of Fish and Wildlife species of concern known to occur or with the potential to occur in the 7.5-Minute White Mesa Village, Aneth, and Navajo Canyon, UT Quadrangles.

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 Proposed Action. Aspects of the affected environment described in this section focus on the relevant major resources or issues. Certain critical environmental components require analysis under BLM policy. These items are included below in Table 3.1. Non-critical elements of the affected environment are included in Table 3.2. Following the tables, only the aspects of the affected environment that are potentially impacted are described.

Table 3.1: Critical Elements of the Affected Environment

Resources	Located in Project Area	Not Located in Project Area	Further Analysis Presented in Text	Basis for No Further Analysis
Air Resources	X		X	
Areas of Critical Environmental Concern (ACEC)		X		The Proposed Action is not within an ACEC. The Closest ACEC is the Hovenweep ACEC approximately 18 miles northeast of the Proposed Action.
Cultural Resources	X		X	
Native American Religious Concerns		X		The site-specific Class III survey identified no known remains that fall within the purview of the National American Graves Protection and Repatriation Act (1990) or the American Indian Religious Freedom Act (1978).
Environmental Justice	X		X	
Farmlands, Prime or Unique		X		All visual and site surveys indicated that no prime or unique farmlands are present; however, past farming has taken place south of the San Juan River.
Floodplains		X	X	
Invasive, Non-native Species	X		X	
Threatened or Endangered Species	X		X	
Wastes, Hazardous or Solid	X		X	

Water Quality – Surface/Ground	X		X	
Wetlands/Riparian Zones	X		X	
Wild and Scenic Rivers		X		The Proposed Action is not within or adjacent to any areas designated as a wild and scenic river.
Wilderness		X		The Proposed Action is not within or adjacent to any designated wilderness areas.

Table 3.2: Non-Critical Elements of the Affected Environment

Resources	Located in Project Area	Not Located in Project Area	Further Analysis Presented in Text	Basis for No Further Analysis
General Topography/Surface Geology	X		X	
Land Use	X		X	
Livestock Grazing	X		X	
Mineral Resources	X		X	
Noise	X		X	
Paleontology		X		The site-specific Class III survey identified no paleontological resources in the Proposed Action area.
Public Health and Safety	X		X	
Recreation		X		The Proposed Action is not located in or near a designated recreation area.
Soils/Watershed/Hydrology	X		X	
Special Status Species	X		X	
Vegetation, Forestry	X		X	
Visual Resources	X		X	
Wild Horse and Burros		X		There are no known wild horses or burros in the Proposed Action area.
Wildlife	X		X	

3.1 Air Resources

The proposed project is located in San Juan County, Utah on Navajo Tribal Trust land. There are no air quality compliance regulations defined by the Navajo Nation. However, the BLM MFO has published general information on air quality regulations and guidance in its Record of Decision and Approved RMP (USDI, BLM November 2008).

In addition to the air quality information in the



2008 RMP, new information about greenhouse gases (GHGs), and their effects on national and global climate conditions has emerged. On-going scientific research has identified the potential impacts of GHG emissions such as carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), water vapor, and several trace gases, on global 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 burning of fossil carbon sources have caused GHG concentrations to increase measurably, and may contribute to overall climatic changes, typically referred to as global warming.

Alongside the increase in GHG concentrations, there has been a tightening of regulations. On October 17, 2006, the EPA issued a final ruling on the lowering of the National Ambient Air Quality Standard (NAAQS) for particulate matter that is 2.5 microns in diameter (PM_{2.5}) or smaller in size. This ruling became effective on December 18, 2006, stating that the 24-hour standard for PM_{2.5} was lowered to 35 ug/m³ from the previous standard of 65 ug/m³. This revised PM_{2.5} daily NAAQS was promulgated to better protect the public from short-term particle exposure. (EPA 2006)

Regarding air quality decisions, the 2008 RMP defers to either the State of Utah or the EPA. Air resources include air quality and climate, which are subdivided into applications, activities, and management. The EPA has the primary responsibility for regulating air quality, including seven nationally regulated ambient air pollutants. Regulation of air quality is also delegated to some states, of which Utah is one. Air quality is determined by atmospheric pollutants and chemistry, dispersion meteorology, and terrain; and also includes applications of noise, smoke management, and visibility. Climate is the composite of generally prevailing weather conditions of a particular region throughout the year, averaged over a series of years. Greenhouse gases and the potential effects of GHG emissions on climate are not regulated by the EPA, 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 are dust from blowing wind on disturbed or exposed soil, and exhaust emissions from motorized equipment.

Air quality in the area near the proposed project is generally good and is not located in any of the areas designated by the EPA as “non-attainment areas” for any listed pollutants regulated under the Clean Air Act.

The EPA’s Inventory of US Greenhouse Gas Emissions and Sinks found that total U.S. GHG emissions were over 6.7 billion metric tons and that total U.S. GHG emissions have increased by 8.4% from 1990 to 2011. Emissions decreased from 2010 to 2011 by 1.6% (108.0 million metric tons CO₂ Eq.). The decrease was due to a decrease in carbon intensity

of fuels consumed to generate electricity (due to a substitution of coal use by natural gas and an increase in hydropower use), and relatively mild winter conditions. (EPA 2013)

Since 1990, U.S. emissions have increased at an average annual rate of 0.4 percent (EPA 2013). It is likely, then, that levels of these GHGs will continue to increase. But, it is hoped that the rate of increase will continue to slow as greater awareness of the potential environmental and economic costs associated with increased levels of GHG's result in behavioral and industrial adaptations.

Other factors that currently affect air quality in the area include dust from livestock, dust from recreational use, dust from vehicular traffic on disturbed or unpaved surfaces, and emissions from oil and gas production activities.

Climate

The average global temperature has risen about 1.4°F (0.8°C) from 1880 to 2012. The continued increase in GHG levels in Earth's atmosphere assures a long-term rise in global temperatures. On the current course of GHG increases, scientists expect each successive decade to be warmer than the previous one. (National Aeronautics and Space Administration [NASA] 2013)

In 2007, the Intergovernmental Panel on Climate Change (IPCC) predicted a warming of about 0.2°C per decade for the next two decades, and then a further warming of about 0.1°C per decade (IPCC 2007). The National Academy of Sciences (NAS) believes that the need for urgent action to address climate change is now indisputable and it has called on the G8+5 nations to seize all opportunities to coordinate their simultaneous work on the climate and economic agendas (NAS 2009).

A report on climate change by the U.S. Government Accountability Office (GAO) found that, "federal land and water resources are vulnerable to a wide range of effects from climate change, some of which are already occurring. These effects include, among others: 1) physical effects such as droughts, floods, glacial melting, and sea level rise; 2) biological effects, such as increases in insect and disease infestations, shifts in species distribution, and changes in the timing of natural events; and 3) economic and social effects, such as adverse impacts on tourism, infrastructure, fishing, and other resource uses" (GAO 2007). It is not, however, possible to predict with any certainty regional or site-specific effects on climate relative to the proposed action and subsequent actions.

3.1.1 No Action Alternative

3.1.1.1 Direct and Indirect Effects

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

3.1.2 Proposed Action

3.1.2.1 Direct and Indirect Effects

Air Quality

There would be a short-term (approximately three months) increase in dust during construction of the Proposed Action. This impact would subside as disturbed areas are reclaimed.

1. There will be a minor, short-term increase (approximately three months) in local combustive emissions from operating vehicles and earth moving equipment.
2. There will be a minor long-term impact to air quality from motorized vehicles performing periodic maintenance of the power line.
3. There will be minor and sporadic, long-term fugitive dust creation during maintenance of the power line.

Climate

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

3.1.2.2 Mitigation

1. Resolute will apply water for dust control, if necessary.
2. Surface disturbance and vehicular traffic will be limited to the approved locations to reduce combustive emissions and dust.
3. Resolute will comply with the EPA's Clean Air Act and all applicable state and local regulations.

3.2 Cultural Resources

Complete Archaeological Service Associates performed a Class III archaeological survey in the project area. A determination of "no historic properties affected" was made with stipulations for avoidance, construction fencing, and monitoring. The Cultural Resources Compliance Form is attached as Appendix 3.

3.2.1 No Action Alternative

3.2.1.1 Direct and Indirect Effects

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

3.2.2 Proposed Action

3.2.2.1 Direct and Indirect Effects

The archaeological survey identified three new sites, UT-C-54-381, UT-C-55-226, and UT-C-55-227 that are recommended as eligible for nomination to the National Register of Historic Places (NRHP) and eligible for protection under the Archaeological Resources Protection Act (ARPA). If these three sites are not protected, the potential exists to impact them.

The potential also exists to impact undiscovered or improperly inventoried cultural resources that may be discovered during construction of the Proposed Action.

3.2.2.2 Mitigation

1. For all three sites:
 - prior to construction flag and temporarily fence all boundaries under the supervision of a qualified archaeologist;
 - do not place any vehicular traffic, poles, or guy wires in these areas;
 - hand-carry all wires within these areas and within the 50-foot buffer zones; and
 - a qualified archaeologist will monitor all construction within 50 feet of these sites.
2. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered during the Proposed Action by Resolute, or any person working on their behalf, will be immediately reported to the Navajo Nation Historic Preservation Department (NNHPD) at (928) 871-7148 and any other necessary agencies. Resolute will suspend all operations in the immediate area of such discovery until approval to proceed is issued by NNHPD. An evaluation of the discovery will be made by the NNHPD archaeologist to determine appropriate action to prevent the loss of significant cultural or scientific values.

3.3 Environmental Justice

Executive Order 12898 requires federal agencies to assess projects to ensure there are no disproportionately high or adverse environmental, health, or safety effects on minority and low-income populations (1994). Minorities comprise greater than half of the population residing in San Juan County (USDI, BLM August 2008).

3.3.1 No Action Alternative

3.3.1.1 Direct and Indirect Effects

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

3.3.2 Proposed Action

3.3.2.1 Direct and Indirect Effects

There are no residences within the project area and very few residences near the project area. The nearest residence is approximately one-third of a mile from the power line. The Proposed Action is not located on public lands and the area is not used for wood gathering or hunting. There are grazing permits in the area. Indirect effects could include positive effects due to increased employment opportunities in the oil and gas, and service support industry in the region as well as the economic benefits to state and county governments related to royalty payments and severance taxes. Direct effects to minority or low-income populations include a slight increase in activity and noise disturbance.

3.3.2.2 Mitigation

Regarding an increase in activity and noise disturbance, see Section 3.14 Noise, below.

3.4 Floodplains

The permit activity is in an area that has not been delineated on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map for the 100-year floodplain (FEMA 2010). Impacts on floodplains typically occur when the topography within a floodplain is substantially modified either by placement or removal of materials within the floodplain.

3.4.1 No Action Alternative

3.4.1.1 Direct and Indirect Effects

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

3.4.2 Proposed Action

3.4.2.1 Direct and Indirect Effects

Because this is a power line, the permit activity will not substantially modify topography in the permit activity area. Therefore, no impacts to floodplains are anticipated. Additional information on floodplains is covered under Section 3.16 Soils/Watershed/Hydrology, below.

3.4.2.2 Mitigation

No mitigation is required.

3.5 Invasive, Non-native Species

There are seventeen species listed on the BIA Navajo Noxious Weed List (USDI, OSM 1999). Three species, halogeton (*Halogeton glomeratus*), Russian knapweed (*Acroptilon repens*), and Canada thistle (*Cirsium arvense*), are present. All of these species are classified as "Priority B", indicating that they are new noxious weeds known to have invaded isolated locales on tribal lands. Emphasis is placed on immediate control, prevention of seed spread, and eradication. The halogeton was observed as scattered plants in areas of clay soil south of the San Juan River. The Russian knapweed and Canada thistle were observed as understory plants in the floodplain on the southern side of the San Juan River. Russian knapweed is very common; Canada thistle is occasional. See Appendix 5 for the full Plant Survey Report.

3.5.1 No Action Alternative

3.5.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to invasive, non-native species would occur.

3.5.2 Proposed Action

3.5.2.1 Direct and Indirect Effects

Noxious weeds may become established in disturbed areas within the Proposed Action.

3.5.2.2 Mitigation

1. All disturbed areas will be seeded with an approved seed mix.
2. Resolute will make every effort to ensure that noxious weeds do not spread over disturbed areas. If noxious weeds become established within the Proposed Action area, Resolute will contact the Navajo Nation EPA Pesticides Program for a list of approved herbicides and applicators.

3.6 Threatened or Endangered Species

On August 22 and 23, 2012, and in the spring and early summer of 2013, wildlife biologists conducted pedestrian surveys of the project area to inspect for the potential presence of threatened, endangered, or special status species.

Two Navajo Nation Endangered Species were observed during the surveys: the southwestern willow flycatcher (*Empidonax trailii extimus*), and the yellow warbler (*Setophagus petechia*).

Although not observed during the surveys, the project area provides potential habitat for the golden eagle (*Aquila chrysaetos*) and the peregrine falcon (*Falco peregrinus*). Wintering or migratory bald eagles (*Haliaeetus leucocephalus*) may also occasionally occur in the area. These are all Navajo Nation Endangered Species and are all protected by the Migratory Bird Treaty Act (MBTA). Since these species may only occasionally forage in or occur in the project area, they should not be adversely impacted by the proposed project. The full Threatened, Endangered, and Special Status Wildlife Species Report is attached as Appendix 4.

No threatened or endangered plant species were observed or have appropriate habitat in the Proposed Action area.

3.6.1 No Action Alternative

3.6.1.1 Direct and Indirect Effects

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

3.6.2 Proposed Action

3.6.2.1 Direct and Indirect Effects

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.

3.6.2.2 Mitigation

Perform construction activities outside of the breeding season of the southwestern willow flycatcher and yellow warbler (May 1 – August 31). This will protect nesting migratory birds from a potential take.

3.7 Wastes, Hazardous or Solid

As a result of the construction of the Proposed Action, solid waste materials will be generated. These materials may include typical field waste such as charts and plats, welding rods, excess conductor wire, bent anchors, anchor line spools, broken insulators, damaged bolts and fittings, broken poles and cross arms, scrap lumber, laths, stakes, flagging, nylon rope, lunch trash, and cardboard. Generation of hazardous waste is not expected. If hazardous waste were inadvertently generated, the proper authorities would be consulted regarding the disposal of such waste.

3.7.1 No Action Alternative

3.7.1.1 Direct and Indirect Effects

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

3.7.2 Proposed Action

3.7.2.1 Direct and Indirect Effects

Trash and unwanted materials will be generated by construction.

3.7.2.2 Mitigation

All trash will be placed in a portable trash cage and hauled to the county landfill. There will be no burial or burning of trash. Human waste will be disposed of in chemical toilets and hauled to an approved dump station off of the reservation.

3.8 Water Quality – Surface/Ground

The Proposed Action is located in a depression known as the Paradox Basin. The flows associated with ephemeral drainage in the project area are classified as calcium sulfate and sodium sulfate water. Predominate ions are sodium (Na) and sulfates (SO₄) with increasing concentrations as the flow moves downstream. Salinity (salt) concentrations also increase as the water flows downstream, especially where it flows in close proximity to salty evaporite deposits. Water quality in the Paradox Basin is largely controlled by frequency and distribution of these evaporite deposits, porous sandstone, inter-bedded shale, and dissolved solids, which are inorganic ions of sodium, potassium, calcium, magnesium, bicarbonate, chloride, and sulfates.

Recharge from precipitation is the primary source of groundwater in the project area. The project area receives approximately 7.84 inches of annual precipitation (WRCC 2012). Permeability can be low, reducing yields depending on the location in the Paradox Basin.

The power line corridor drains into the San Juan River.

The groundwater zones present beneath the project area are the Dakota-Glen Canyon and the Coconino-De Chelly (Allen 2011). The Dakota-Glen Canyon aquifer system is the shallower of the two aquifers underlying the project area. The closest groundwater wells are a mile downstream (west) of the project area. In general, most diversions (surface and groundwater) are located along the San Juan River.

3.8.1 No Action Alternative

3.8.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to water quality – surface/ground would occur.

3.8.2 Proposed Action

3.8.2.1 Direct and Indirect Effects

1. A direct effect is the increased sediment loading to the adjacent surface drainages through runoff of disturbed soils.
2. Although no hazardous substances as defined by the Comprehensive Environmental Response, Compensation, and Liability Act will be used, 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.

3.8.2.2 Mitigation

The following actions will be taken to protect surface and groundwater resources:

1. Any spilled contaminants will be cleaned up as soon as possible to prevent run-off of contaminants into surface hydrology or infiltration into groundwater.
2. The Proposed Action will be reclaimed as outlined in Section 2.2.2. Re-seeding will reduce sediment loading by stabilizing the soil. Successful reclamation is expected to take two to three years.

3.9 Wetlands/Riparian Zones

In the Proposed Action area there are 3.03 acres of Other Waters of the U.S. (WoUS). The project footprint will impact approximately 0.17 acres of these WoUS at two wetland areas, located near the power line's Structures #87 and #88. The full Preliminary Wetland Delineation and Jurisdictional Determination is attached as Appendix 7.

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 impacts to wetlands/riparian zones would occur.

3.9.2 Proposed Action

3.9.2.1 Direct and Indirect Effects

The project footprint will impact approximately 0.17 acres of WoUS.

3.9.2.2 Mitigation

The power line poles were shifted to minimize the project footprint impacting WoUS.

3.10 General Topography/Surface Geology

The elevation at the southwestern end of the project area is approximately 4715 feet. The land drops down to approximately 4430 feet at the San Juan River and rises back to approximately 4735 feet at the northeastern end of the project area. Drainage in the project area varies, but ultimately all drainages flow to the San Juan River. The underlying bedrock is predominantly the Morrison Formation (Hintze, 1980).

Disturbances in the project area include the existing McElmo Creek Unit Substation, power lines, both buried and surface pipelines, a paved highway with cleared right-of-way corridors, gravel, dirt and two-track roads, and grazing by horses, sheep, and cattle.

3.10.1 No Action Alternative

3.10.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to general topography and surface geology would occur.

3.10.2 Proposed Action

3.10.2.1 Direct and Indirect Effects

1. A direct effect to the natural topography will result from leveling the area for construction activities.
2. An indirect effect to natural drainage patterns will result from leveling the natural topography.
3. The indirect effect of disturbance and loss to soil and seed banks will result from leveling the natural topography.

3.10.2.2 Mitigation

1. Surface disturbance and vehicular traffic will be limited to approved locations to reduce the area of disturbance.
2. Disturbed areas will be reclaimed pursuant to Section 2.2.2. Reseeding will help prevent soil loss and seed bank disturbance/loss. Successful reclamation will take two to three years.
3. Use of BMPs listed in Section 2.2.

3.11 Land Use

The Proposed Action is located on Navajo Tribal Trust land. Current land uses include grazing, and oil and gas development.

3.11.1 No Action Alternative

3.11.1.1 Direct and Indirect Effects

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

3.11.2 Proposed Action

3.11.2.1 Direct and Indirect Effects

Short-term impacts will come from clearing the land for power line construction. Long-term impacts will come from small pockets of the land remaining cleared anchors or poles.

3.11.2.2 Mitigation

Reclamation of the Proposed Action as stated in Section 2.2.2 will replace, and may even enhance, vegetative cover removed for construction by replacing shrubs with grass. Successful reclamation is expected to take at least two to three years.

3.12 Livestock Grazing

The Proposed Action is located on Navajo Tribal Trust land. Land in the project area is currently grazed by several permittees.

3.12.1 No Action Alternative

3.12.1.1 Direct and Indirect Effects

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

3.12.2 Proposed Action

3.12.2.1 Direct and Indirect Effects

Short-term impacts will come from clearing the land for power line construction (approximately three months). Long-term impacts will come from small pockets of the land remaining cleared for anchors or poles. Temporary use land (43.16 acres) will only be required during construction and will be entirely reclaimed and seeded following completion. The proposed action will also require the permanent use of 32.22 acres of land. Following reclamation, most permanently affected lands will be returned to their prior condition. Permanently affected lands will contain the overhead conductors (wires), power poles, and other necessary infrastructure within an easement as outlined in the Proposed Action.

3.12.2.2 Mitigation

A process is underway to gain written permission from grazing permittees for Resolute's proposed use of Navajo Tribal Trust lands as part of this project. Once all grazing permittees have been signed, the Navajo Nation will supply Resolute with a surface damages compensation letter specifically outlining the payees and amounts for disbursement of damages.

3.13 Mineral Resources

The Proposed Action is located in the historic Aneth Oil Field, which has been a source for petroleum extraction since the 1950's (McPherson).

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. The indirect impact of this would be that without increased power, mineral resources would be extracted from the Aneth Oil Field at their

current rate, meaning that depletion of these resources would occur more slowly than under the Proposed Action alternative.

3.13.2 Proposed Action

3.13.2.1 Direct and Indirect Effects

A long-term indirect effect of the power line is the increased rate of extraction of oil and gas resources from the Aneth Oil Field that will be enabled by construction of the Proposed Action.

3.13.2.2 Mitigation

The Navajo Nation will be compensated through royalty payments for the use of the land for the Proposed Action.

3.14 Noise

Noise is not currently regulated or managed by the Navajo Nation. The Proposed Action is in a rural location and is not near any designated Noise Sensitive Area (NSA). The nearest residence to the proposed power line is approximately one-third of a mile away. Low level noises are emitted from the residents, traffic on roadways, and operation of wells and infrastructure in the Aneth Oil Field. The most likely receptors of noise generated from the Proposed Action would be those traveling to the area for work activities and persons in nearby residences.

3.14.1 No Action Alternative

3.14.1.1 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.

3.14.2 Proposed Action

3.14.2.1 Direct and Indirect Effects

1. Noise will be generated as part of construction activities associated with the Proposed Action. Noise will occur for a period of approximately three months. Once construction is complete and operation begins, noise levels will return to background levels.
2. Occasional maintenance and/or monitoring vehicles will travel to and within the project area during normal operations.

3.14.2.2 Mitigation

1. Construction will be conducted during daylight hours and will be limited to approved locations.
2. Vehicular traffic will be restricted to approved areas and will not exceed what is necessary for the construction and maintenance of the Proposed Action.

3.15 Public Health and Safety

There are a few residences near the project area with the nearest home approximately one-third of a mile from the power line. Most activity in the project area is from oil and gas industry workers and a few residences. Resolute employees are the most likely persons to be in the vicinity of the Proposed Action.

3.15.1 No Action Alternative

3.15.1.1 Direct and Indirect Effects

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

3.15.2 Proposed Action

3.15.2.1 Direct and Indirect Effects

Risks to the public associated with the construction of a power line include wildfire, increased traffic on public roads, fire and explosion, spills of vehicular fluids or water, and potential air emission exposure.

3.15.2.2 Mitigation

1. Only approved areas will be used during construction to minimize hazards to workers and the general public.
2. All applicable laws, regulations, and policies will be followed during construction and maintenance activities, or while responding to any emergency.
3. BMPs and appropriate Occupational Safety and Health Administration standards and guidelines will be implemented to minimize negative effects to public health and safety.

3.16 Soils/Watershed /Hydrology

Soils

The soils in the Paradox Basin were formed primarily in two kinds of parent material, alluvial sediment and sedimentary rock. The alluvial sediment is material that was deposited in river valleys and on mesas, plateaus, and ancient river terraces. The material has been mixed and sorted in transport and has a wide range in mineralogy and particle size. There are three distinct soil types in the project area. They include:

- Aneth-Sheppard association rolling;
- Badland-Typic Torrifluvents association, steep;
- Aquic Ustifluvents-Typic Fluvaquents association, gently sloping;

(SoilWeb Earth, 2013).

Watershed

The Paradox Basin consists of broad mesas interspersed with several deep canyons with steep canyon walls, dry washes, entrenched narrow valleys, alluvial fans, and floodplains drained by the San Juan River. The elevation at the southwestern end of the project area is approximately 4715 feet. The land drops down to approximately 4430 feet at the San Juan River and rises back to approximately 4735 feet at the northeastern end of the project area. The proposed project is within the San Juan River watershed. The portion south of the San Juan River is also in the Sahgzie Creek watershed, while the portion north of the San Juan River is also in the Allen Canyon watershed.

Hydrology

Hydrology of the project area is directly affected by the stream flow regimes of the San Juan River. The hydrologic setting of the project area is characterized by several ephemeral drainages filled with alluvium. Ephemeral flow is the principle source of groundwater recharge. Surface flows are associated with small ephemeral flows from snowmelt and summer thunderstorms. Drainages in the project area are categorized as sandy, silty, clayey, or gravelly sediment on the floodplain or streambeds. The alluvial cover usually conceals

evidence of discharge, and small field springs are often the only surface expression of groundwater discharge. Most discharge to alluvial channels is lost by evapotranspiration. However, some water also moves as subsurface flow.

Drainage in the project area is toward the San Juan River. The San Juan River is the closest perennial surface water to the project area.

3.16.1 No Action Alternative

3.16.1.1 Direct and Indirect Effects

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

3.16.2 Proposed Action

3.16.2.1 Direct and Indirect Effects

1. Soils will be structurally reduced and mixed, exposed to the elements of wind and water erosion, and compacted.
2. Due to wind and water, the soils will be subject to an undetermined amount of erosion until vegetation is established.
3. Construction will temporarily disturb lands and create new alignments that will require earthwork.
4. Natural drainage patterns will be disrupted for construction of the Proposed Action.

3.16.2.2 Mitigation

1. Successful reclamation of the Proposed Action outlined in Section 2.2.2 will reduce long-term negative impacts to soils, watershed, and hydrology. Re-seeding will reduce sediment loading by stabilizing the soil. Successful reclamation is expected to take two to three years.
2. Use of BMPs will reduce impacts to soils, watershed, and hydrology.

3.17 Special Status Species

On August 22 and 23, 2012, and in the spring and early summer of 2013, wildlife biologists conducted pedestrian surveys of the project area to inspect for the potential presence of threatened, endangered, or special status species.

Twenty-seven bird species observed during the wildlife surveys are protected under the MBTA. If the listed mitigation measures are followed, these species should not be adversely impacted by the Proposed Action. The full Threatened, Endangered, and Special Status Wildlife Species Report is attached as Appendix 4.

No wildlife species listed as “sensitive” by the Utah Division of Wildlife were observed during the surveys.

One sensitive plant species was observed in the project area. Cutler’s milkweed (*Asclepias cutleri*) is scattered through several dunal areas on the southern side of the San Juan River. This plant is listed as sensitive by the NNHP (NNHP, 2008b). Sensitive species should be avoided when possible, but are not protected under Navajo Nation laws (Roth, 2008). Due to the widely scattered spacing of the plants, avoidance is not determined to be feasible. The full Plant Survey Report is attached as Appendix 5.

3.17.1 No Action Alternative

3.17.1.1 Direct and Indirect Effects

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

3.17.2 Proposed Action

3.17.2.1 Direct and Indirect Effects

In general, animals could be directly impacted by spilled contaminants or falling into open cavities. They could be indirectly impacted by loss of vegetative cover.

3.17.2.2 Mitigation

1. Promptly clean up any spilled contaminants.
2. Cover any open cavities with mesh to keep animals out.
3. Use effective reclamation methods, as described in Section 2.2.2.

3.18 Vegetation, Forestry

The project area is located in the Aneth Oil Field. It is comprised of unmanaged riparian woodland and sagebrush scrub habitat that is currently utilized for livestock range, and oil and gas field development. The overall project area is previously disturbed from

construction of well pads, roads, water diversion/flood control structures, and industrial development.

The habitat in the project area is generally a desert shrub or dunal plant community. South of the San Juan River, the dominant plants in the shrub community are blackbrush, sand buckwheat (*Eriogonum leptocladon*), and resinbush (*Vanclevea stylosa*). North of the river, the dominant shrubs change to blackbrush, Bigelow's rabbitbrush, and snakeweed (*Gutierrezia sarothrae*) with scattered four-wing saltbush (*Atriplex canescens* var. *canescens*). The dunal areas are predominantly south of the river and are dominated by Cutler's ephedra (*Ephedra viridis* var. *viscida*), Bigelow's rabbitbrush, resinbush, broom snakeweed, and sandhill muhly (*Muhlenbergia pungens*), with areas of narrow-leaf yucca (*Yucca* sp.). Cutler's milkweed is scattered throughout the dunal areas. Areas with more clayey or salty soil are dominated by blackbrush, shadscale (*Atriplex confertifolia*), broom snakeweed, Torrey's ephedra (*Ephedra torreyana*), Rusby's goldenbush (*Haplopappus rusbyi*), and galleta (*Hilaria jamesii*). The larger drainages support Rusby's goldenbush, tamarisk (*Tamarix chinensis*), and desert saltgrass (*Distichlis spicata*).

The floodplain along the San Juan River has a more developed plant community along the southern side, with tamarisk becoming quite dense at the river, and occasional Russian olive (*Elaeagnus angustifolia*) and Fremont's cottonwoods (*Populus fremontii*). Russian knapweed (*Centaurea repens*) is common in the understory. On the northern side of the river there is a narrow band of Russian olive and tamarisk along the river at the base of a steep cobble bank. Russian thistle (*Salsola tragus*) occurs in most of the disturbed areas, particularly along the dirt roads and at the location of the proposed Rutherford Unit Substation. There are no forestry resources in the project area. A complete inventory of plant species can be found in Appendix 5.

3.18.1 No Action Alternative

3.18.1.1 Direct and Indirect Effects

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

3.18.2 Proposed Action

3.18.2.1 Direct and Indirect Effects

The Proposed Action will disturb a total of 75.38 acres of during construction and will permanently disturb 32.22 acres.

3.18.2.2 Mitigation

Reclamation, as outlined in Section 2.2.2, will mitigate impacts to vegetation from the construction of the Proposed Action. Reseeding will replace vegetation removed during construction. Successful reclamation is expected to take two to three years.

3.19 Visual Resources

Visual resources are not currently inventoried or managed by the Navajo Nation. However, the BLM has developed a Visual Resource Management (VRM) classification system 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 November 2008).

The nearest designated VRM area is near the Greater Aneth Substation on BLM land, west of the town of Montezuma Creek. It is designated as VRM Class III. Projects constructed in Class III areas must partially retain the existing character of the landscape. The level of change to the characteristic landscape should be moderate. Management activities may attract attention, but should not dominate the view of the casual observer. Changes should repeat the basic elements found in the predominant natural features of the characteristic landscape (USDI, BLM November 2008).

3.19.1 No Action Alternative

3.19.1.1 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.

3.19.2 Proposed Action

3.19.2.1 Direct and Indirect Effects

1. Short-term impacts to visual resources could come from dust, truck traffic, placement of heavy equipment during construction (approximately two months), and clearing of vegetation for the power line route.
2. Changes in contrast, color, and line of the project area will result from the general removal of vegetation from the power line route. Also, the power line itself will interrupt the line of sight and introduce vertical elements to the landscape.

3.19.2.2 Mitigation

Reclaiming the project area as outlined in Section 2.2.2 will reduce impacts to visual resources by reestablishing a viable plant community.

3.20 Wildlife

Wildlife occurring in the area is typical of arid grasslands and shrublands and degraded riparian corridors of the Great Basin Desert. This includes passerines such as horned larks (*Eremophila alpestris*), black-throated sparrows (*Ampisiza bilineata*), and yellow-breasted chat (*Icteria virens*), as well as black-tailed jackrabbits (*Lepus californicus*), kangaroo rats (*Dipodomys spp.*) and whiptail lizards (*Aspidoscelis spp.*). A complete inventory of observed species is included in Appendix 4.

3.20.1 No Action Alternative

3.20.1.1 Direct and Indirect Effects

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

3.20.2 Proposed Action

3.20.2.1 Direct and Indirect Effects

The wildlife that uses the site may die or be displaced during construction. Removal of vegetation for construction of the Proposed Action may reduce wildlife forage and cover in the area.

3.20.2.2 Mitigation

1. Reclamation of the Proposed Action as outlined in Section 2.2.2 will reduce the long-term impacts to wildlife that use the area. Reseeding disturbed areas will replace vegetation removed during construction. In some instances, there may be a benefit from successful reclamation due to an increase in vegetative cover and wildlife forage. Successful reclamation is expected to take two to three years.
2. Heavy, earth-moving equipment will be restricted to existing roads and the proposed power line route to reduce impacts to ground dwelling wildlife at the project site.

3.21 Cumulative Effects

3.21.1 No Action Alternative

Under the No Action Alternative, this project would not be approved or constructed. However, without this project, it is likely that other development of oil wells, water injection wells, power lines, and associated facilities on public and Tribal lands in the Aneth Oil Field will continue to occur. The most likely cumulative effects of the No Action Alternative continuing with reasonably foreseeable future development is habitat fragmentation for wildlife and plants, disturbance of soils resulting in potential reductions in air quality, and increased traffic from construction and maintenance of future facilities.

3.21.2 Proposed Action

The Proposed Action will disturb a total of 75.38 acres during construction and 32.22 permanent acres on Navajo Tribal Trust land, adding to the disturbance already existing in the general area. The Proposed Action is located in the Aneth oil field. There are approximately two water wells, 73 injection wells, 94 oil wells, and 45 plugged wells within a mile of the Proposed Action. Analysis of cumulative impacts for reasonably foreseeable future development of new oil wells, water injection wells, power lines, and associated facilities on public and Tribal lands in the Aneth Oil Field is expanding and will continue to occur. The most likely cumulative effects from the Proposed Action coupled with reasonably foreseeable future development is accelerated habitat fragmentation for wildlife and plants, disturbance of soils resulting in potential reductions in air quality, and increased traffic from construction and maintenance of future facilities.

The lack of scientific tools designed to predict climate change on regional or local scales limits the ability to quantify potential cumulative impacts of the proposed project. However, potential impacts to natural resources and plant and animal species

due to climate change are likely to be varied, including those in the southwestern United States. For example, if global climate change results in a warmer and drier climate, increased particulate matter impacts could occur due to increased windblown dust from drier and less stable soils. Cool season plant species' spatial ranges are predicted to move north and to higher elevations, and extinction of endemic threatened and endangered plants may be accelerated.

4. Consultation/Coordination

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

Table 4.1: Project Interdisciplinary Team

Member	Title	Organization	Onsite Inspection	Date of Inspection
Liz Berdugo	Consultant/Author	Permits West, Inc.	no	n/a
Charles Black, Cindy Lawrence, Geoff Carpenter	Wildlife Biologist	Permits West, Inc.	yes	8/22-23/2012, 5/30/13, 6/5/13, 6/22/13, 7/2/13, 7/17/13
Marian Rohman	Field Botanist	Permits West, Inc.	yes	9/4/2012, 10/19/2012
Curtis Pattillo	Principal Biologist	Southwest Environmental, Inc.	yes	7/16/13
Mary Errickson, Laurens Hammack	Archaeologist	Complete Archaeological Services Associates	yes	7/9/13 – 10/15/13

5. Contact Information

Permits West, Inc.
37 Verano Loop
Santa Fe, NM87508
505-466-8120
FAX: 505-466-9682

Dwight E. Mallory
Resolute Aneth, LLC
1675 Broadway, Suite 1950
Denver, CO 80202
(303) 434-4600

6. References

American Indian Religious Freedom Act. Public Law 95-341, 42 USC 1996, 1978.

Allen, Eric. 2011. Colorado Plateaus Aquifers. Available:
<http://academic.emporia.edu/schulmem/hydro/TERM%20PROJECTS/2007/Allen/Aquifer.html> and http://pubs.usgs.gov/ha/ha730/ch_c/jpeg/C107.jpeg

Bureau of Indian Affairs (BIA). 2012. Division of Environmental and Cultural Resources Management. Indian Affairs National Environmental Policy Act Guidebook. 59 IAM 3-H.

Executive Order 12898, 59 Fed. Reg. 7629, February 11, 1994.

Federal Emergency Management Agency Map Service Center. 2010. Map Service Center, Flood Maps. Accessed May 2013. Available: <https://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1>

Hintze, Lehi F., compiler. 1980. Geologic Map of Utah. Utah Geological and Mineral Survey. Salt Lake City, Utah.

Intergovernmental Panel on Climate Change. 2007. *Fourth Assessment Report: Climate Change 2007 (AR4)*.

McPherson, Robert S. *The History of San Juan County*. Available:
http://historytogo.utah.gov/utah_chapters/utah_today/anethoilfield.html

National Academy of Sciences. May 2009. *G8+5 Academies' Joint Statement: Climate Change and the Transformation of Energy Technologies for a Low Carbon Future*.

National Aeronautics and Space Administration, Goddard Institute for Space Studies. Surface Temperature Analysis. January 2013. Available:
<http://www.giss.nasa.gov/research/news/20130115/>

National Environmental Policy Act. Public Law 91-90, 42 USC 4321 et seq., 1969.

National Pollutant Discharge Elimination System. Federal Register, Volume 71, Page 33628 - 33640. 2006.

Native American Graves Protection and Repatriation Act, Title 25 U.S. Code, Sec. 3001 et seq., 1990. Available: <http://www.nps.gov/nagpra/mandates/>

SoilWeb Earth, 2013. California Soil Resource Lab. Accessed September 2013.
http://casoilresource.lawr.ucdavis.edu/soil_web/ssurgo.php

U.S. Environmental Protection Agency. April 2013. *Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990-2011*. Washington, D.C.

U.S. Environmental Protection Agency. October 17, 2006. *National Ambient Air Quality Standards for Particulate Matter; Final Rule*. Washington, D.C.

U.S. Department of the Interior, Bureau of Land Management, Monticello Field Office. August 2008. *Proposed Resource Management Plan and Final Environmental Impact Statement*. Monticello, Utah.

U.S. Department of the Interior, Bureau of Land Management, Monticello Field Office. November 2008. *Record of Decision and Approved Resource Management Plan*. Monticello, Utah.

U.S. Department of the Interior, Bureau of Land Management. January 2008. NEPA Handbook (H-1790-1).

United States Department of the Interior, Office of Surface Mining (OSM). 1999. *A Guide to Noxious Weeds of the Navajo Reservation*. U.S. Department of the Interior.

U.S. Government Accountability Office. August 7, 2007. *Climate Change: Agencies Should Develop Guidance for Addressing the Effects on Federal Land and Water Resources* (GAO-07-863).

Western Regional Climate Center (WRCC), 2012. Aneth Plant, Utah (420157)
Period of Record Monthly Climate Summary; Period of Record: 5/3/1900 to 2/29/2008.
Available: <http://www.wrcc.dri.edu/cgi-bin/cliMAIN.pl?ut0157>

PROPOSED RATHERFORD UNIT TO McELMO CREEK UNIT 69 KV POWER LINE



RIGHT-OF-WAY APPLICATION

COMES NOW THE APPLICANT Resolute Aneth, LLC of 1675 Broadway, Suite 1950, Denver CO 80202. This _____ day of February, 2014, who hereby petition(s) the Bureau of Indian Affairs and respectfully files under the terms and provisions of the Act of February 5, 1948 (62 Stat. L. 17-25 USC 323), and Departmental Regulations 25 CFR 169 an application for a term of 20 (twenty) years, right-of-way for the following purposes and reasons: Resolute's Ratherford Unit Substation to McElmo Unit Substation 69kV Power Line.

Across the following described land (Easement description) on Navajo Tribal Trust Land as shown on the attached plats.

Sections 1, 10, 11, 12, 15, and 16, T. 41 S., R. 24 E.; Section 6, T. 41 S., R. 25 E.; Section 31, T. 40 S., R. 25 E.; all SLM; all San Juan County, Utah

Said right-of-way to be 6.13 miles (32,372.06 feet or 1961.94 rods) long by 100' wide during construction and 40' after construction, plus anchors. Total Tribal land use to be 75.38 acres, of which 32.22 acres will be permanent and the remaining 43.16 acres will be temporary for the duration of construction.

Total land use inside the McElmo Creek Unit, for which authorization is being sought via an accompanying Sundry Notice, to be 2.863 miles (15,122.55 feet or 916.518 rods) long by 100' wide during construction and 40' after construction, plus anchors. Total land use inside of the McElmo Creek Unit = 35.178 acres, of which 15.011 acres will be permanent and the remaining 20.167 acres will be temporary for the duration of construction.

Total land use outside of the McElmo Creek Unit = 40.20 acres, of which 17.21 acres will be permanent, and the remaining 22.99 acres will be temporary for the duration of construction.

SAID APPLICANT DOES HEREBY UNDERSTAND AND EXPRESSLY AGREE AS FOLLOWS:

- (a) To construct and maintain the right-of-way in a workmanlike manner.
- (b) To pay promptly all damages and compensation, in addition to the deposit made pursuant to 169.4, determined by the Secretary to be due the landowners and authorized users and occupants of the land on account of the survey, granting, construction and maintenance of the right-of-way.
- (c) To indemnify the landowners and authorized users and occupants against any liability for loss of life, personal injury and property damage arising from the construction, maintenance, occupancy or use of the lands by the applicant, his employees, contractors and their employees, or subcontractors and their employees.
- (d) To restore the lands as nearly as may be possible to their original condition upon the completion of construction to the extent compatible with the purposes for which the right-of-way was granted.
- (e) To clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way; and dispose of all vegetative and other material cut, uprooted or otherwise accumulated during construction and maintenance of the project.
- (f) To take soil and resource conservation and protection measures, including weed control, on the land covered by the right-of-way.
- (g) To do everything reasonably within its power to prevent and suppress fires on or near the lands to be occupied under the right-of-way.
- (h) To build and repair such roads, fences and trails as may be destroyed or injured by construction work and to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the right-of-way.
- (i) That upon revocation or termination of the right-of-way, the applicant shall, so far as is reasonably possible, restore the land to its original conditions.
- (j) To at all times keep the Secretary informed of its address, and in case of corporations, of the address of its principal place of business and the names and addresses of its principal officers.
- (k) That the applicant will not interfere with the use of the lands by or under the authority of the landowners for any purpose not inconsistent with the primary purpose for which the right-of-way is granted.

SAID APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

To conform to and abide by all applicable requirements with respect to the right-of-way herein applied for. Applicant agrees to conform to and abide by the rules, regulations, and requirements contained in 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.

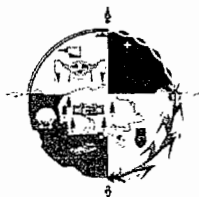
DATED: 2/27/14

ATTEST: [Signature]

[Signature]
(APPLICANT)

SUPPORTING DOCUMENTS:

- 1. Written consent of landowners (one copy) *
- 2. Maps of definite location one (1) linen tracings, two (2) print copies.
(See 25 CFR 169.6, 169.7, 169.8, 169.9, 169.10, and 169.11.)
- 3. Corporate qualifications (see 169.4 and 169.5).
- 4. Evidence of Officers to Execute Form (Forms 1-154d) (Corporate applicant only).
- 5. Tribal land — Resolution of Council



THE NAVAJO NATION
HISTORIC PRESERVATION DEPARTMENT
PO Box 4950, Window Rock, Arizona 86515
TEL: (928) 871-7198 / 7147 FAX: (928) 871-7886

CULTURAL RESOURCE COMPLIANCE FORM

ROUTE COPIES TO:	NNHPD NO.: HPD-14-036
<input checked="" type="checkbox"/> DCRM	OTHER PROJECT NO.: CASA 13-45

PROJECT TITLE: Cultural Resources Inventory, Resolute Natural Resources McElmo Unit 69Kv Supply Line Project, San Juan County, Utah

LEAD AGENCY BIA/NR

SPONSOR: Brian Wood, Permits West, 37 Verano Loop, Santa Fe, NM 87508

PROJECT DESCRIPTION: Resolute Natural Resources will construct 32,372.06 feet (6.131 miles) of new 69Kv powerline from the new Ratherford Unit substation to the McElmo Creek Unit substation near Montezuma Creek, Utah. Powerline structures, consisting of sets of one, two, or three wooden poles, will be constructed within a 100 foot-wide ROW. After completion, the ROW width will be 40 feet for the duration of the term lease except where additional ROW is required for guy wire anchors. Total Area of Effect for the powerline and guy anchors is 75.387 ac. A total of 157.628-acres were inventoried for the project. The types of disturbance expected include minimal surface blading along the ROW corridor, drilling at the designated single/multi-pole and guy wire anchor locations, and surface disturbance from rubber-tired vehicles used in stringing powerline cables. Disturbance, both surface and subsurface with heavy equipment, will be extensive and intensive.

LAND STATUS: Navajo Tribal Trust

CHAPTERS: Aneth, Red Mesa

LOCATION: T.41S, R.24E - Sec. 1, 10, 11, 12, 15, 16

T.41S, R.25E - Sec. 6

T.40S, R.25E, Sec. 31

Aneth, Navajo Canyon, and White Mesa Village Quadrangles, San Juan County, Utah SLP

PROJECT ARCHAEOLOGIST: Mary Errickson

NAVAJO ANTIQUITIES PERMIT NO.: B13502

DATE INSPECTED: 07/09/13 - 10/15/13

DATE OF REPORT: 01/13/14

TOTAL ACREAGE INSPECTED: 157.628 - ac

METHOD OF INVESTIGATION: Class III pedestrian inventory with transects spaced no more than 15 m apart.

LIST OF CULTURAL RESOURCES FOUND: (3) Sites (UT-C-54-381, UT-C-55-226, UT-C-55-227, (1) Isolated Occurrences (IO)

LIST OF ELIGIBLE PROPERTIES: (3) Sites (UT-C-54-381, UT-C-55-226, UT-C-55-227)

LIST OF NON-ELIGIBLE PROPERTIES: (1) IO

LIST OF ARCHAEOLOGICAL RESOURCES: (3) Sites (UT-C-54-381, UT-C-55-226, UT-C-55-227)

EFFECT/CONDITIONS OF COMPLIANCE: No historic properties will be affected with the following conditions:

Sites UT-C-54-381, UT-C-55-226, UT-C-55-227:

1. Site boundaries will be flagged by a qualified archaeologist prior to all construction activities.
2. Sites will be avoided by spanning the powerline extension; a) all power poles will be placed outside of the flagged site boundaries; b) all electrical wires will be hand-carried across the sites; c) all construction traffic should be confined to the existing road and 30-ft wide right-of-way.
3. Once construction is completed, sites will continue to be avoided by routine maintenance activities by using established drive-arounds.

Appendix 3-1

HPD-14-036 / CASA 13-45

Page 2, continued

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

FORM PREPARED BY: Tamara Billie

FINALIZED: January 31, 2014

Notification to Proceed
Recommended

☒ Yes ☐ No

Conditions:

☒ Yes ☐ No

 2-3-14

The Navajo Nation
Historic Preservation Office
Date

Navajo Region Approval

☒ Yes ☐ No

 2/13/14

Acting BIA - Navajo Regional Office
Date

Tm 2.12.14

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.: Ratherford Unit Substation to McElmo Unit Substation 69kV Power Line

DESCRIPTION: Resolute proposes to construct an overhead, raptor-safe, 69kV power line from the proposed RU Substation to the McElmo Creek Substation to accommodate the power needs of enhanced oil recovery activities in the Aneth Old Field. The proposed power line would be 32,372.06 ft. in length with a 100-ft. wide temporary construction corridor. Permanent ROW will be 40 ft. except where additional ROW width is required for guy anchors, totaling 32.22 acres.

LOCATION: Sections 1, 10, 11, 12, 15, & 16, T41S, R24E; Section 6, T41S, R25E; and Section 31, T40S, R25E, Red Mesa & Aneth Chapters, San Juan County, Utah

REPRESENTATIVE: Kitty Wood, Permits West, Inc. for Resolute Aneth, LLC

ACTION AGENCY: Navajo Nation and Bureau of Indian Affairs

B.R. REPORT TITLE / DATE / PREPARER: Ratherford Unit Substation to McElmo Unit Substation 69kV Power Line/05 MAR 2014/Permits West, Inc.

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3. [1] Raptor Sensitive Area (RSA) onsite; [2] Sufficient habitat is present for EMTREX at floodplain of the San Juan River.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: [1] *Aquila chrysaetos* (Golden Eagle), G3, GBENPR, REPR, BGEPA, MBTA; [2] *Haliaeetus leucocephalus* (Bald Eagle), G2, GBENPR, REPR, BGEPA, MBTA; [3] *Dendroica petechia* (Yellow Warbler), G4, MBTA;

FEDERALLY-LISTED SPECIES AFFECTED: [1] *Empidonax traillii extimus* (Southwestern Willow Flycatcher), G2, Endangered, MBTA.

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: [1] The NNDFW does not concur with the seasonal avoidance date in Section 8.0, Appendix 4-7. See Conditions of Compliance below.

CONDITIONS OF COMPLIANCE*: [1] Power line construction must avoid the north and south flood plain of the San Juan River during 01 APR-31 AUG. This includes the area 0.4 km (¼ mi) outside the flood plain of the river, north and south, to ensure that there are no impacts to all migratory bird species that have suitable nesting habitat within the river corridor; [2] The proposed power line is located in a Raptor Sensitive Area (RSA) for nesting and

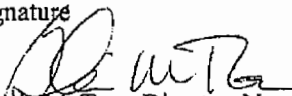
foraging. The power line shall be constructed with a raptor-safe power pole design per Raptor Electrocution Prevention Regulations (REPR). All guy wires shall be marked with highly visual daytime markers to prevent collisions within the RSA.

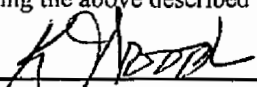
FORM PREPARED BY / DATE: Pamela A. Kyselka/20 MAY 2014

COPIES TO: (add categories as necessary)

☒ BIA

☐

2 NTC § 164 Recommendation: <input type="checkbox"/> Approval <input checked="" type="checkbox"/> Conditional Approval (with memo) <input type="checkbox"/> Disapproval (with memo) <input type="checkbox"/> Categorical Exclusion (with request letter) <input type="checkbox"/> None (with memo)	Signature  Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife	Date 5/20/14
--	---	------------------------

*I understand and accept the conditions of compliance, and acknowledge that lack of signature may be grounds for the Department not recommending the above described project for approval to the Tribal Decision-maker.	
Representative's signature 	Date 5/22/14



**PRESIDENT
BEN SHELLEY
VICE PRESIDENT
REX LEE JIM**

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

20 May 2014

12PERM-27pl

Kitty Wood
Permits West, Inc.
37 Verano Loop
Santa Fe, New Mexico 87508

Dear Kitty,

The Navajo Nation Department of Fish and Wildlife (NNDFW) reviewed the Environmental Assessment for the proposed **Ratherford Unit Substation to McElmo Unit Substation 69kV Power Line** project located east of Montezuma Creek, Utah. The purpose of this letter is to inform you that we are granting the proposed project a Conditional Approval. The project is approved with the following conditions:

[1] Power line construction must avoid the north and south flood plain of the San Juan River during 01 APR-31 AUG. This includes the area 0.4 km (¼ mi) outside the flood plain of the river, north and south, to ensure that there are no impacts to all migratory bird species that have suitable nesting habitat within the river corridor.

[2] The proposed power line is located in a Raptor Sensitive Area (RSA) for nesting and foraging. The power line shall be constructed with a raptor-safe power pole design per Raptor Electrocutation Prevention Regulations (REPR). All guy wires shall be marked with highly visual daytime markers to prevent collisions within the RSA.

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

Sincerely,

Pamela A. Kyselka, Wildlife Biologist
Navajo Natural Heritage Program

CONCURRENCE

Gloria Tom, Director
Department of Fish and Wildlife

5/21/14
Date

xc: CONS-100-14
BIA

**THREATENED, ENDANGERED, AND SPECIAL STATUS
WILDLIFE SPECIES REPORT
FOR RESOLUTE ANETH LLC'S PROPOSED RATHERFORD UNIT SUBSTATION
TO McELMO CREEK UNIT SUBSTATION 69 kV POWER LINE,
SAN JUAN COUNTY, UTAH**

1.0 Introduction

Threatened, endangered and special status wildlife species surveys were conducted for the proposed Ratherford Unit Substation to McElmo Creek Unit Substation 69kV Power Line. The project site is located in NE/4 SE/4 Section 16, NE/4, W/2 Section 15, SE/4 Section 10, NE/4 Section 11, NW/4 Section 12, S/2 Section 1, Township 41 South, Range 24 East; W/2 Section 6, Township 41 South, Range 25 East; and S/2 Section 31, Township 40 South, Range 25 E. The proposed power line route is 32,372.06 feet in length. The project site is located on Navajo Nation Tribal Trust lands.

2.0 Methods

On August 22-23, 2012, and in the spring and early summer of 2013, Wildlife Biologists Geoff Carpenter, Cindy Lawrence, and Charles Black conducted pedestrian surveys of the project area to inspect for the potential presence of threatened, endangered, or special status species. Weather during the 2012 surveys was warm, with an 85° F high afternoon temperature. It was breezy with gusts on the 22nd and cooler, with high temperatures in the low 70s° F, and partly overcast with rains in the afternoon and evening on the 23rd. The surveyed area consisted of the proposed 32,372.06-foot long 69 kV power line route between the Ratherford Unit Substation and the McElmo Creek Unit Substation, a project buffer of 100 feet around all existing facilities, and a 50-foot buffer on either side of the proposed power line and access routes. Habitat and existing conditions were evaluated. A half-mile radius around the project area was surveyed for raptor nests. An additional one-mile line-of-sight survey was conducted from the project area for raptor nests. The surveyors used 10 x 40 and 8 x 50 binoculars.

Prior to the survey, a data request was made to the Navajo Natural Heritage Program for Navajo Nation endangered species known to occur, or with the potential to occur, on the 7.5-Minute White Mesa Village, UT; Aneth, UT; and Navajo Canyon, UT quadrangles. The request reply was received on September 26, 2012.

Based on habitat evaluation, it was determined that sufficient habitat for the southwestern willow flycatcher (*Empidonax trailii extimus*) exists where the proposed power line crosses the floodplain of the San Juan River. Formal flycatcher surveys were conducted at the site during the spring and early summer of 2013. These surveys followed U. S. Fish and Wildlife Service (USFWS) protocol, both surveyors attended a Southwestern Willow Flycatcher Survey Protocol Training on May 15, 2013, and both were permitted by the USFWS to conduct surveys. For further details of the survey methodology, see Section 6.0 of this report.

Appendix 5-1

3.0 Description of Existing Habitat

The project area is located south and east of the town of Montezuma Creek in San Juan County, Utah. Terrain in the project area varies from rugged and broken containing hills, mesas, and shale and sandstone outcroppings, to fairly flat. The power line route crosses the San Juan River and numerous ephemeral drainages.

Vegetation throughout the majority of the project area is dominated by arid shrubland with a high percentage of bare ground. Grass cover is very sparse. Dominant shrubs include shadscale (*Atriplex confertifolia*), blackbrush (*Coleogyne spp.*), rabbitbrush (*Chrysothamnus spp.*), Mormon tea (*Ephedra spp.*), and big sagebrush (*Artemisia tridentata*). A large amount of Russian thistle (*Salsola spp.*) is present in areas of heavy disturbance.

The riparian corridor along the San Juan River where it is crossed by the power line route is dominated by dense stands of Russian olive (*Elaeagnus angustifolia*) with some salt cedar (*Tamarix spp.*). On the north side of the river, there are significant stands of sandbar or coyote willow (*Salix exigua*). The site contains no cottonwood (*Populus spp.*) overstory or canopy.

Wildlife occurring in the area is typical of arid grasslands and shrublands and degraded riparian corridors of the Great Basin Desert. This includes passerines such as horned larks (*Eremophila alpestris*), black-throated sparrows (*Ampisiza bilineata*), and yellow-breasted chat (*Icteria virens*), as well as black-tailed jackrabbits (*Lepus californicus*), kangaroo rats (*Dipodomys spp.*) and whiptail lizards (*Aspidoscelis spp.*).

4.0 Threatened, Endangered, and Special Status Wildlife Species

According to the September 26, 2012 correspondence from the Navajo Natural Heritage Program, the following species have the potential to occur in the 7.5-Minute White Mesa Village, UT; Aneth, UT; and Navajo Canyon, UT quadrangles.

For the species listed below, the following tribal and federal statuses are indicated: the Navajo Endangered Species List (NESL), the federal Endangered Species Act (ESA), the Migratory Bird Treaty Act (MBTA) and the Eagle Protection Act (EPA). No legal protection is afforded species with only ESA candidate or NESL group 4 status.

Species	Status	Habitat	Habitat Suitability in the Project Area
Golden eagle (<i>Aquila chrysaetos</i>)	NESL Group 3, MBTA, EPA	A wide variety of open habitats; typically nests in steep cliffs > 30 m in height	See discussion, below
Ferruginous hawk (<i>Buteo regalis</i>)	NESL Group 3, MBTA	Open grasslands and deserts, typically nests atop rocky pinnacles, small buttes, and cliffs	NP
Bluehead sucker (<i>Catostomus discobolus</i>)	NESL Group 4	Small perennial headwater streams in montane areas, larger streams and rivers	NP

Appendix 5-2

Belted kingfisher (<i>Ceryle alcyon</i>)	NESL Group 4, MBTA,	A variety of wetland habitats	See discussion, below
Yellow-billed cuckoo (<i>Coccyzus americanus</i>)	NESL group 3, MBTA, ESA-C	Mature cottonwood riparian corridors	See discussion, below
Mountain plover (<i>Charadrius montanus</i>)	NESL Group 4, MBTA, ESA- Proposed T	Seeks dry, disturbed, or intensively grazed, open, flat tablelands. Bare ground, short vegetation, and flat topography are indicators of ideal habitat.	NP
American dipper (<i>Cinclus mexicanus</i>)	NESL Group 3, MBTA	Found along swift flowing free- stone streams and rivers in montane areas	NP
Mottled sculpin (<i>Cottus bairdi</i>)	NESL Group 4	Bottom dwelling, living beneath rocks in cool streams and occasionally lakes	NP
Yellow warbler (<i>Setophagus petechia</i>)	NESL Group 4, MBTA	Cottonwood-willow habitats within perennial riparian areas	See discussion, below
Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>)	NESL Group 2, MBTA, ESA-E	Cottonwood-willow habitats within perennial riparian areas	See discussion, below
Peregrine falcon (<i>Falco peregrinus</i>)	NESL Group 4, MBTA	Nests in sheer cliff faces typically > 30 m in height, usually near water or mesic canyons. In migration, occurs in a variety of lowland, wetland habitats	See discussion, below
Roundtail chub (<i>Gila robusta</i>)	NESL Group 2	Pools and rapids of moderate to large rivers	NP
Bald eagle (<i>Haliaeetus leucocephalus</i>)	NESL -Sensitive Species)\ MBTA, EPA, ESA-T	Winters along lakes and rivers with large trees	See discussion, below
Black-footed ferret (<i>Mustela nigripes</i>)	NESL Group 2, ESA-E	Grassland or shrubby habitats where large, densely populated prairie dog towns are present	NP
Colorado pikeminnow (<i>Ptychocheilus lucius</i>)	NESL Group 2, ESA-E	Turbid, deep, strong-flowing currents in large rivers	NP
Northern leopard frog (<i>Rana pipiens</i>)	NESL Group 2	Wetlands with permanent water and aquatic vegetation	NP
Razorback sucker (<i>Xyrauchen texanus</i>)	NESL Group 2, ESA-E	Strong currents and backwaters of large rivers	NP

Status*

E Endangered

T Threatened

C Candidate

Presence**

K Known, documented observation in the project area.

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

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

NP Habitat not present and species unlikely to occur in the project area.

Appendix 5-3

Section 5.0 gives information regarding the species that have the potential to occur within or near the project area.

5.0 Results

Two Navajo Nation Endangered Species were observed during surveys. These are the NESL Group 4 yellow warbler and the southwestern willow flycatcher (see discussion below). No other NESL species were recorded.

Golden Eagle

The area offers potential foraging habitat for the golden eagle. This raptor requires steep cliffs that are typically greater than 30 m in height (Mikesic 2005). No active eagle nests were observed during surveys. Golden eagles occasionally forage in the project area. This species should not be adversely impacted by the proposed project.

Bald Eagle

The majority of the site offers poor foraging habitat for wintering or migrant bald eagles due to a lack of prey base. Large cottonwood snags along the San Juan River are completely absent from the project area. Wintering or migratory eagles may occasionally occur in this area. Because no impact to riparian habitat along the San Juan is anticipated from the proposed project, and given the uncommon occurrence of bald eagles in the area, this species should not be adversely impacted by the proposed project.

Belted Kingfisher

No kingfishers were detected in the project area despite intensive riparian surveys along the San Juan River in the spring and early summer of 2013. There seems to be a lack of nest structures for the kingfisher, such as exposed earthen banks, old cottonwood snags, etc. This species appears to be absent from the river in the project area. This species should not be adversely impacted by the proposed project.

Southwestern Willow Flycatcher

See Section 6.0, below.

Peregrine Falcon

The area is potential foraging and migrational habitat for the peregrine falcon. This raptor requires steep cliffs that are typically more than 30 m in height (Mikesic 2005). No active raptor nests were observed during surveys. Peregrine falcons could occasionally occur in the project area during migration. This species should not be adversely impacted by the proposed project.

Yellow-billed Cuckoo

Riparian habitat near the project area is degraded and lacking in mature stands of native riparian vegetation. This rapidly declining, riparian obligate species requires a continuous, mature cottonwood canopy for nesting. There are no mature cottonwoods in the floodplain where the proposed action is located. The project area lacks suitable habitat for this species.

Appendix 5-4

Yellow Warbler

This species was found to be a summer resident and presumed nesting species along the riparian corridor of the San Juan River. At least three singing male warblers were observed during southwestern willow flycatcher surveys in June and July of 2013. These observations were generally in areas where significant stands of sandbar willow are present.

This species is an NESL group 4 species. Navajo Nation Zoologist, Chad Smith, was consulted on this matter on July 23, 2013. He indicated that no formal mitigation for this species would be required, other than a seasonal avoidance for construction activities. Measures outlined in the MBTA will be sufficient to ensure that this species will not be adversely impacted by the Proposed Action. See Section 8.0 Recommendations, below, for details.

Migratory Birds

Migratory birds are protected under the 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.

Twenty-seven bird species observed during the wildlife surveys are protected under the MBTA (see the species list in Section 7.0 below). If measures in Section 8.0 of this report are followed, this species should not be adversely impacted by the proposed project.

6.0 Southwestern Willow Flycatcher Surveys

Because significant patches of sandbar willow were found along the north bank of the San Juan River at the proposed power line crossing, it was determined that formal southwestern willow flycatcher surveys would be conducted at the site. The survey area is located in the NW/4 of Section 11. In accordance with the USFWS survey protocol, all areas with suitable or potential nesting habitat within a quarter-mile radius of the proposed action were surveyed for the presence of flycatcher nesting. Five separate survey sessions were conducted in association with the proposed project between May 29 and July 17, 2013. Surveys were conducted between 0530 and 1100 each morning. For this project, survey efforts were divided into two separate sites, and were labelled as Ratherford Unit to McElmo Creek Unit South (RU-MCU South) and Ratherford Unit to McElmo Creek Unit North (RU-MCU North) (see Appendix 1).

RU-MCU South

Habitat at RU-MCU South is generally poor, with little to no potential for flycatcher nesting. The site is dominated by dense, mature Russian olive thickets. Riparian vegetation at this site is well above the water level of the river, and there is no sign of inundation or saturated soils. There is a small, temporary island located just west of the power line route, with an intermittent slough that fills in when water levels are high. This area offers the best potential habitat within the site.

Appendix 5-5

This site was surveyed on May 30, June 5, June 22, July 2, and July 17, 2013.

One willow flycatcher detection was made at this site on June 2 (see Appendix 1). This was assumed to be a migrant as it was in poor habitat, and the bird was not seen again in later surveys at the site.

RU-MCU North

Habitat at the RU-MCU North site has better potential for flycatcher nesting. The west side of this site has no riparian vegetation. The east side of the site has significant stands of fairly dense sandbar willow along with what appears to be an old river channel. Russian olive is also present at this site, but it is not dominant. The survey route through this site winds from the power line crossing 0.25 miles eastward. Habitat at this site appears to be suitable for flycatcher nesting, although encroachment by cattle seems to be degrading the habitat. This site was surveyed on May 29, June 15, June 23, July 1, and July 17, 2013.

On May 29, two flycatchers were detected here (see Appendix 1). On June 15, one flycatcher was detected. All of these birds appear to have been migrants of other *trillii* subspecies. No flycatchers were detected here during June 23, July 1, and July 17 surveys.

Riparian habitat along the San Juan River within the quarter-mile species buffer for the proposed power line does provide migratory habitat for willow flycatchers of subspecies other than *extimus*. This is particularly true in areas where sandbar willow is present. It appears that riparian habitat in the area is too degraded for nesting southwestern willow flycatchers, or perhaps, the San Juan River in the Four Corners region is not within the breeding range of this subspecies. Encroachment by cattle and the spread of exotic riparian vegetation seem to be the main limiting factors for nesting southwestern willow flycatchers in the area.

7.0 Species Observed During the Survey

Avian species observed:

Mallard (*Anas platyrhynchos*)
Great Blue Heron (*Ardea herodias*)
Red-tailed hawk (*Buteo jamaicensis*)
American kestrel (*Falco sparverius*)
Turkey vulture (*Cathartes aura*)
Spotted sandpiper (*Actitis macularius*)
Killdeer (*Charadrius vociferus*)
Mourning dove (*Zeida macroura*)
Warbling vireo (*Vireo gilvus*)
Common raven (*Corvus corax*)
Cliff Swallow (*Petrochelidon pyrronota*)
Western kingbird (*Tyrannus verticalis*)
Willow flycatcher (*Empidonax trillii*)- migrants of other subspecies (not *extimus*)
Western wood-pewee (*Contopus sordidulus*)
Say's phoebe (*Sayornis saya*)

Appendix 5-6

Northern mockingbird (*Mimus polyglottus*)
Rock wren (*Salpinctus obsoletus*)
Yellow warbler (*Setophagus petechia*)
Yellow-rumped warbler (*Setophagus coronata*)
Wilson's warbler (*Wilsonia pusilla*)
Yellow-breasted chat (*Icteria virens*)
Black-headed grosbeak (*Pheucticus melanocephalus*)
Spotted Towhee (*Pipilo maculatus*)
Black-throated Sparrow, (*Amphispiza bilineata*)
Black-headed grosbeak (*Guiraca caerulea*)
House finch (*Carpodacus mexicanus*)
Brown-headed cowbird (*Molothrus ater*)

Mammalian species observed:

Kangaroo rat (*Dipodomys spp.*)
Antelope ground squirrel (*Ammospermophilus leucurus*)
Red fox (*Vulpes vulpes*)
Coyote (*Canis latrans*)
Desert cottontail (*Sylvilagus audubonii*)
Black-tailed jackrabbit (*Lepus californicus*)

Reptilian species observed:

Plateau lizard (*Sceloporus tristricus*)
Western whiptail (*Aspidoscelis tigris*)
Plateau striped whiptail (*Aspidoscelis velox*)
Side-blotched lizard (*Uta stansburiana*)
Red-spotted toad (*Bufo punctatus*)
Common garter snake (*Thamnophis sirtalis*)

Mammalian observations are generally from tracks, scat, and other sign.

8.0 Recommendations

Construction activities associated with this project should take place outside of the breeding season of the southwestern willow flycatcher, yellow warbler, yellow-billed cuckoo and belted kingfisher (May 1-August 31). The avoidance of construction activities during these species' nesting season will also protect nesting migratory birds from potential take by construction activities associated with this project.

9.0 References

- Mikesic, D. G. and J. R. Nystedt. 2001. Species Accounts for *Empidonax trailii extimus*.
Updated 15 February 2005. Navajo Natural Heritage Program. P. O. Box
1480. Window Rock, Arizona 86515.
- Mikesic, D. G. and J. R. Nystedt. 2001. Species Accounts for *Aquila chryaetos*.
Updated 15 February 2005. Navajo Natural Heritage Program. P. O. Box
1480. Window Rock, Arizona 86515.
- Mikesic, D. G. and J. R. Nystedt. 2001. Species Accounts for *Falco peregrinnus*.
Updated 15 February 2005. Navajo Natural Heritage Program. P. O. Box
1480. Window Rock, Arizona 86515.
- Smith, Chad. Navajo Nation Zoologist. July 23, 2013. Personal Phone Consultation regarding
the Presence of Nesting Yellow Warblers (*Setophagus petchia*).
- Sogge, M.K., Ahlers, Darrell, and Sferra, S.J., 2010, A Natural History Summary and Survey
Protocol for the Southwestern Willow Flycatcher: U.S. Geological Survey.

**RESOLUTE ANETH, LLC
PROPOSED RATHERFORD UNIT SUBSTATION TO
McELMO CREEK UNIT SUBSTATION 69 kV POWER LINE**

**Section 31, T. 40 S., R. 25 E.
Sections 1, 10, 11, 12, 15, & 16, T. 41 S., R. 24 E.
Section 6, T.41 S., R. 25 E.
San Juan County, Utah**

PLANT SURVEY REPORT

This report discusses the potential for disturbance to plant species listed as Species of Concern by the Navajo Natural Heritage Program (NNHP) and the United States Fish and Wildlife Service (USFWS) that could occur in the project area. Cronquist's milkvetch (*Astragalus cronquistii*) is known to occur within three miles of the project site (Detsoi, 2012). In addition, potential habitat for Parish's alkali grass (*Puccinellia parishii*) needs to be evaluated if wetland conditions exist that contain white alkaline crust (Detsoi, 2012). Navajo sedge (*Carex specuicola*) is listed as threatened by the USFWS and reported to be present in the county (USFWS, 2013). Cutler's milkweed (*Asclepias cutleri*), a plant listed as sensitive by the NNHP (NNHP, 2008b), will also be discussed.

Cronquist's milkvetch is listed in Group 3 on the Navajo Endangered Species List, indicating that its prospects for survival or recruitment are likely to be in jeopardy in the foreseeable future. Parish's alkali grass is listed in Group 4. Group 4 species do not have sufficient information to support their being listed as endangered, but there is reason to consider them (NNHP, 2008a). Cutler's milkweed is listed as sensitive by the NNHP (NNHP, 2008b). Sensitive species should be avoided when possible, but are not protected under Navajo Nation laws. The NNHP would like data on their presence reported in order to analyze their distribution and abundance (Roth, 2008).

Cronquist's milkvetch is a medium-sized milkvetch that closely resembles, vegetatively, the more common Hopi milkvetch (*Astragalus fucatus*). It has pink-purple flowers with a pale keel and wing that are dispersed along the flowering stalk when blooming. The pods are uniformly green, narrow, and drooping, with a pronounced furrow separating the pod into two locules. The leaves have sheathing but not truly connate stipules. Hopi milkvetch has uniformly light pink flowers that are clustered near the top of the flowering stalk when first blooming. The stalk elongates as the flowers wilt and go to fruit. The pods are highly mottled, inflated, and unilocular. The leaves have minimally connate stipules (UNPS, 2003-2013; Roth, 2001a; personal observation). On the Navajo Nation, Cronquist's milkvetch flowers from late April to June and grows at elevations of 4600 to 5800 feet (Roth, 2001a; personal observation). On the Morrison Formation, it usually grows in open blackbrush-Bigelow's rabbitbrush communities (*Coleogyne ramosissima*-*Chrysothamnus nauseosus* var. *bigelovii*) on sandy clay loam soil,

often in transition areas between clay loam and sandy loam soils and frequently near rock outcrops (personal observation).

Parish's alkali grass is a short-lived winter or spring annual that is easily distinguished from its perennial relatives. It grows in alkaline springs, seeps, and seasonally wet areas, from elevations of 5000 to 7200 feet with flowers and fruits occurring from mid-April to early June (Roth, 2001c). A white alkaline crust along the edges of the habitat when wet, and covering the area when dry indicates sufficient alkalinity for the species (Detsoi, 2012; personal observation). Personal observations have placed this species as low as 4510 feet elevation

Navajo sedge is a perennial grass-like plant with leaves that are one-three mm wide and dry persistent leaf bases. The flowers are inconspicuous with the female flowers located above the males in two-four short spikelets clustered at the end of a long thin stalk. The perigynia are strongly flattened with broad hyaline margins on the pistillate scales. Navajo sedge is unusual in having both lenticular and trigonous achenes. Flowering and fruit set occur from spring to summer, but most of the reproduction appears to be vegetative. The plants are typically found in seeps and hanging gardens, on vertical sandstone cliffs and in alcoves from 4600 to 7200 feet (Roth, 2001b).

Cutler's milkweed is a small, delicate plant with narrow linear leaves and pink to dull purple flowers. The narrow fruits are generally pendulous. It grows on sand dunes and sandy or gravelly habitats in mixed desert shrub and piñon-juniper communities at 4200 to 4700 feet. (Utah Native Plant Society, 2003-2013; Welsh, et al., 2003; personal observation)

PROJECT DESCRIPTION

The project consists of the construction of a 69kV power line within Resolute's Ratherford and McElmo Creek Units. The proposed power line is 32,372.06 feet long within a 100-foot-wide corridor. The total construction land disturbance for the project is 75.38 acres, 43.16 of which are temporary and 32.22 of which are permanent. The project area is located on Navajo Tribal Trust land approximately 3.2 miles south-southeast to 5.5 miles east of the town of Montezuma Creek in San Juan County, Utah. It is located in Sections 1, 10, 11, 12, 15, and 16 in T. 41 S., R. 24 E.; Section 6 in T 41 S., R. 25 E.; and Section 31 in T. 40 S., R. 25 E.

The proposed power line begins at the proposed Ratherford Unit Substation in the SW/4 SW/4 of Section 16 in T. 41 N., R. 24 E. It heads east and then turns northeast, crossing the gravel San Juan River Road, the San Juan River, and paved Utah Highway 262. The line turns north, then east and ends at the existing McElmo Creek Unit Substation in the SE/4 SE/4 of Section 31 in T. 40 S., R. 25 E.

The habitat in the project area is generally a desert shrub or dunal plant community. South of the San Juan River, the dominant plants in the shrub community are blackbrush, sand buckwheat (*Eriogonum leptocladon*), and resinbush (*Vanclevea stylosa*). North of the river, the dominant shrubs change to blackbrush, Bigelow's rabbitbrush, and snakeweed (*Gutierrezia sarothrae*) with scattered four-wing saltbush (*Atriplex canescens* var. *canescens*). The dunal areas are

predominantly south of the river and are dominated by Cutler's ephedra (*Ephedra viridis* var. *viscida*), Bigelow's rabbitbrush, resinbush, broom snakeweed, and sandhill muhly (*Muhlenbergia pungens*), with areas of narrow-leaf yucca (*Yucca* sp.). Cutler's milkweed is scattered throughout the dunal areas. Areas with more clayey or salty soil are dominated by blackbrush, shadscale (*Atriplex confertifolia*), broom snakeweed, Torrey's ephedra (*Ephedra torreyana*), Rusby's goldenbush (*Haplopappus rusbyi*), and galleta (*Hilaria jamesii*). The larger drainages support Rusby's goldenbush, tamarisk (*Tamarix chinensis*), and desert saltgrass (*Distichlis spicata*).

The floodplain along the San Juan River has a more developed plant community along the southern side, with tamarisk becoming quite dense at the river, and occasional Russian olive (*Elaeagnus angustifolia*) and Fremont's cottonwoods (*Populus fremontii*). Russian knapweed (*Centaurea repens*) is common in the understory. On the northern side of the river there is a narrow band of Russian olive and tamarisk along the river at the base of a steep cobble bank. Russian thistle (*Salsola tragus*) occurs in most of the disturbed areas, particularly along the dirt roads and at the Ratherford Unit Substation.

The proposed power line begins in the Aneth-Sheppard Association, rolling soil unit (AUC). This unit consists of aeolian deposits derived from sandstone with a soil texture of fine sand to loamy fine sand. It crosses into the Badland-Typic Torrifluvents Association, steep soil unit (BD), then back into the AUC soil unit, before dropping down to the floodplains in the Aquic Ustifluvents-Typic Fluvaquents Association, gently sloping soil unit (AV). The BD unit consists of mixed alluvium and aeolian deposits and alluvium or aeolian deposits derived from sandstone and shale. The soil textures are loam and sandy loam. The AV unit consists of mixed alluvium with soil textures of very fine sandy loam and fine sandy loam to loam and sandy loam. The soils north of the San Juan River are in the BD soil unit (NRCS, 2013). The underlying bedrock is predominantly the Morrison Formation (Hintze, 1980).

The elevation at the southwestern end of the project area is approximately 4715 feet. The land drops down to approximately 4430 feet at the San Juan River and rises back to approximately 4735 feet at the northeastern end of the project area. Disturbances in the project area include the existing McElmo Creek Unit Substation, power lines, both buried and surface pipelines, a paved highway with cleared right-of-way corridors, gravel, dirt and two-track roads, and grazing by horses, sheep, and cattle.

METHODOLOGY

The project area was surveyed between September 4 and October 19, 2012, by botanist Marian Rohman. The proposed power line was surveyed by walking a zigzag transect on each side of the centerline covering the 100-foot corridor and a buffer zone of 200 feet on each side of the corridor. The emphasis of the survey was to inspect for the identified species of concern; however, all plants were identified in order to provide a more complete description of the environment. A list of the plants observed is included at the end of this report.

SURVEY RESULTS

Species of Interest to the Navajo Natural Heritage Program and the United States Fish and Wildlife Service: Cronquist's milkvetch is identified by the NNHP as a species of concern in the proposed project area (Detsoi, 2012). In addition, any wetland conditions need to be evaluated for the potential for Parish's alkali grass (Detsoi, 2012). Navajo sedge is listed as Threatened and present in San Juan County, Utah, by the USFWS (USFWS, 2013). Cutler's milkweed, a plant species listed as sensitive by the NNHP (NNHP, 2008b), will also be discussed. The following table lists these species with their protection status, habitat requirements, and potential to occur in the project area.

SPECIES STATUS*	HABITAT	POTENTIAL TO OCCUR IN THE PROJECT AREA**
<i>Asclepias cutleri</i> Cutler's milkweed NNHP Sensitive	On sand dunes and sandy or gravelly soils in mixed desert shrub and piñon-juniper communities between 4200 and 4700 feet. Flowers from April to May (UNPS, 2003-2013).	Habitat Present: this species is growing in the project area in dunal areas. (K)
<i>Astragalus cronquistii</i> Cronquist's milkvetch NNHP Group 3	Salt desert shrub and blackbrush communities on sandy or gravelly soils derived from the Cutler and Morrison Formations between 4700 and 5800 feet (Roth, 2001a, UNPS, 2003-2013). On the Morrison Formation, it usually grows in open blackbrush-Bigelow's rabbitbrush communities on sandy clay loam soil, often in transition areas between clay loam and sandy loam soils and frequently near rock outcrops (personal observation). Flowers from late April to June (Roth, 2001a; UNPS, 2003-2013).	No Appropriate Habitat: there are blackbrush communities in the project area; however, the soil is not the appropriate combination of sand and clay required by this species. Most of the project area is below the known elevation range of the species. (NP)
<i>Carex specuicola</i> Navajo sedge USFWS Threatened NNHP Group 3	Restricted to seeps, springs, or hanging gardens in Navajo Sandstone between 4600 and 7200 feet. Flowering/fruiting period is from late June to September (Roth, 2001b; UNPS 2003-2013).	No appropriate habitat: there are no seeps, springs, or hanging gardens and no Navajo Sandstone Formation in the project area. (NP)

<i>Puccinellia parishii</i> Parish's alkali grass NNHP Group 4	Alkaline springs, seeps, and seasonally wet areas such as washes at 4510 to 7200 feet (Roth, 2001c; personal observation).	No appropriate habitat: there are no alkaline springs, seeps or seasonally wet areas in the project area. (NP)
--	--	---

Status* NNHP – Navajo Endangered Species List (NNHP, 2008a)

Group 3 – a species or subspecies whose prospects of survival or recruitment are likely to be in jeopardy in the foreseeable future

Group 4 – a species or subspecies where there is not currently sufficient information to support its being listed as endangered, but there is reason to consider it

Sensitive Species List (NNHP, 2008b)

Sensitive – a species that is not protected under Navajo Nation laws, but for which the NNHP would like data reported in order to analyze distribution and abundance (Roth, 2008)

USFWS – U.S. Fish and Wildlife Service (USFWS, 2013)

Threatened – a species that is likely to become endangered in the foreseeable future.

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 is not present and species is unlikely to occur within the project area.

Cutler's milkweed is scattered through several dunal areas on the southern side of the San Juan River. This plant is listed as sensitive by the NNHP (NNHP, 2008b). Sensitive species should be avoided when possible, but are not protected under Navajo Nation laws. The NNHP would like data on their presence reported in order to analyze their distribution and abundance (Roth, 2008). Due to the widely scattered spacing of the plants, avoidance is not determined to be feasible.

Noxious Weeds: There are seventeen species listed on the BIA Navajo Noxious Weed List (OSM, 1999). Three of these species are present in the project area: halogeton (*Halogeton glomeratus*), Russian knapweed, and Canada thistle (*Cirsium arvense*).

Halogeton is present as scattered plants in areas of clay soil south of the San Juan River, particularly in a badland area at 37.21869N 109.28177E and for several hundred feet in a playa at 37.21868N 109.27389E (both NAD 83). Both Russian knapweed and Canada thistle are present as understory plants in the floodplain on the southern side of the San Juan River. Russian knapweed is very common. Canada thistle is occasional.

All three plants are Priority B species, indicating that they are new noxious weeds known to have invaded isolated locales on the reservation. Emphasis is placed on immediate control, prevention of seed spread, and eradication. Education, awareness, identification, control, and monitoring are the priorities (OSM, 1999).

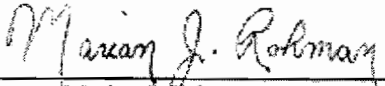
DISCUSSION

Cutler's milkweed is scattered through several dunal areas on the southern side of the San Juan River. This plant is listed as sensitive by the NNHP (NNHP, 2008b). Sensitive species should be avoided when possible, but are not protected under Navajo Nation laws (Roth, 2008). Due to

the widely scattered spacing of the plants, avoidance is not determined to be feasible.

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

Signature of Author:


Marian J. Rohman

December 23, 2013

REFERENCES

Detsoi, Sonja. 2012. Navajo Endangered Species List (NESL) Information for: Project: Resolute Aneth, LLC. Ratherford to McElmo Power Line Project. Legal Description Sec. 31, T40S, R25E, Sec. 6, T41S, R25E, Sections 1, 10-12 & 15-17, T41S, R24E, San Juan County, UT. UTM Coordinates 651037E, 4120297N (Southwest End), 659132E, 4125090N (Northeast End). Located 3 Miles East of Montezuma Creek, UT. Wildlife Technician, Navajo Natural Heritage Program. Letter of 26 September to Brian Wood, Permits West, Inc. Santa Fe, NM.

Hintze, Lehi F., compiler. 1980. Geologic Map of Utah. Utah Geological and Mineral Survey. Salt Lake City, Utah.

Natural Resources Conservation Services, United States Department of Agriculture (NRCS). 2013. Web Soil Survey. <http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>. Accessed November 22.

Navajo Natural Heritage Program, Navajo Nation Department of Fish and Wildlife (NNHP). 2008a. *Navajo Endangered Species List*. Resources Committee Resolution No. RCS-41-08. http://nnhp.nndfw.org/nnhp_nesl.pdf

Navajo Natural Heritage Program, Navajo Nation Department of Fish and Wildlife. (NNHP) 2008b. *Navajo Nation Sensitive Species List*. <http://nnhp.nndfw.org/tracking.pdf>

Office of Surface Mining, United States Department of the Interior (OSM). 1999. *A Guide to Noxious Weeds of the Navajo Reservation*. U.S. Department of the Interior.

Roth, Daniela. 2001a. *Species account for Astragalus cronquistii*. Navajo Natural Heritage Program. nnhp.nndfw.org/Plants/ascr.pdf. Revised 15 May 2008.

Roth, Daniela. 2001b. *Species account for Carex specuicola*. Navajo Natural Heritage Program.

nnhp.nndfw.org/Plants/casp.pdf. Revised 15 May 2008.

Roth, Daniela. 2001c. *Species account for Puccinellia parishii*. Navajo Natural Heritage Program. nnhp.nndfw.org/Plants/pupa.pdf. Revised 15 May 2008.

Roth, Daniela. 2008. RE: new Astragalus cronquistii site and A. monumentalis question. Botanist, Navajo Natural Heritage Program. Email received April 3.

United States Fish and Wildlife Service (USFWS). 2013. Threatened and Endangered Species System, Listings and Occurrences for Utah. http://ecos.fws.gov/tess_public/pub/stateListingAndOccurrence.jsp?state=UT. Accessed November 14.

Utah Native Plant Society (UNPS). 2003-2013 [cited November 14, 2013]. Utah rare plant guide. [Internet]. A.J. Frates editor/coordinator. Salt Lake City, UT: Utah Native Plant Society. Available from: <http://www.utahrareplants.org>.

Weber, W. A. and Ronald C. Wittman. 2012. *Colorado Flora : Western Slope*. University Press of Colorado. Boulder, Colorado.

Welsh, S. L., N. D. Atwood, S. Goodrich, and L. C. Higgins. 2003. *A Utah Flora*. Third Edition, revised. Print Services, Brigham Young University, Provo, Utah.

PLANTS OF THE PROPOSED RATHERFORD UNIT TO MCELMO CREEK UNIT 69 kV POWER LINE

Scientific and common names according to Welsh et al., 2003

Identifications based on Welsh et al., 2003, and Weber and Wittman, 2012

Trees

Elaeagnus angustifolia

Russian olive

Fraxinus anomala

Singleleaf ash

Populus fremontii

Fremont's cottonwood

Tamarix chinensis

Tamarisk

Shrubs and Subshrubs

Amelanchier utahensis

Utah serviceberry

Artemisia bigelovii

Bigelow's sagebrush

Artemisia filifolia

Sand sagebrush

Artemisia spinescens

Budsage

Atriplex canescens var. *canescens*

Four-wing saltbush

Atriplex confertifolia
Atriplex gardneri var. *cuneata*
Brickellia microphylla var. *scabra*
Chrysothamnus Greenei
Chrysothamnus nauseosus var. *bigelovii*
Chrysothamnus nauseosus var. *graveolens*
Coleogyne ramosissima
Ephedra torreyana
Ephedra viridis var. *viscida*
Eriogonum leptocladon
Forestiera pubescens
Gutierrezia sarothrae
Haplopappus rusbyi
Lycium pallidum
Poliomintha incana
Rhus aromatica var. *trilobata*
Salix exigua var. *stenophylla*
Sarcobatus vermiculatus var. *vermiculatus*
Stanleya pinnata
Suaeda torreyana var. *torreyana*
Vancleavea stylosa
Yucca sp.

Shadscale
 Gardner's saltbush
 Rough brickellbush
 Greene's rabbitbrush
 Bigelow's rabbitbrush
 Glabrate rabbitbrush
 Blackbrush
 Torrey's ephedra
 Cutler's ephedra
 Sand buckwheat
 Desert olive
 Broom snakeweed
 Rusby's goldenbush
 Pale wolfberry
 Purple sage
 Skunkbush
 Sandbar willow
 Greasewood
 Prince's plume
 Torrey's seepweed
 Resinbush
 Narrow-leaved yucca

Cactus

Opuntia polyacantha
Sclerocactus whipplei var. *roseus*

Central pricklypear
 Whipple's fishhook

Grasses and Grass-like Plants

Bouteloua gracilis
Bromus tectorum
Distichlis spicata
Hilaria jamesii
Muhlenbergia pungens
Munroa squarrosa
Sporobolus airoides
Sporobolus contractus
Sporobolus cryptandrus
Sporobolus flexuosus
Stipa hymenoides

Blue grama
 Cheatgrass
 Desert saltgrass
 Galleta
 Sandhill muhly
 False buffalograss
 Alkali sacaton
 Spike dropseed
 Sand dropseed
 Mesa dropseed
 Indian ricegrass

Forbs

Abronia fragrans
Ambrosia acanthicarpa
Asclepias macrocarpa
Asclepias culteri

Fragrant sand-verbena
 Bur ragweed
 Eastwood's milkweed
 Cutler's milkweed

<i>Astragalus amphioxys</i>	Crescent milkvetch
<i>Astragalus flavus</i> var. <i>flavus</i>	Yellow milkvetch
<i>Astragalus praelongus</i>	Stinking milkvetch
<i>Astragalus sabulonum</i>	Gravel milkvetch
<i>Atriplex</i> sp.	Orache
<i>Centaurea repens</i>	Russian knapweed
prob. <i>Chaenactis stevioides</i>	Stevia dusty-maiden
<i>Chamaesaracha coronopus</i>	False nightshade
<i>Chamaesyce fendleri</i>	Fendler's euphorb
<i>Chamaesyce glyptosperma</i>	Ridge-seeded spurge
<i>Chamaesyce parryi</i>	Parry's spurge
<i>Chrysopsis villosa</i> var. <i>minor</i>	Hairy goldenaster
<i>Cirsium arvense</i>	Canada thistle
<i>Cordylanthus wrightii</i>	Wright's bird'sbeak
<i>Cryptantha</i> sp.	Perennial cryptanth
<i>Descurainia pinnata</i>	Pinnate tansy-mustard
<i>Dicoria brandegei</i>	Brandegee's sandplant
<i>Dimorphocarpa wislizenii</i>	Spectacle-pod
<i>Encelia frutescens</i>	Bush encelia
<i>Eriogonum</i> sp.	Buckwheat
<i>Eriogonum inflatum</i>	Desert trumpet
<i>Eriogonum wetherillii</i>	Wetherill's buckwheat
<i>Erodium cicutarium</i>	Storksbill
<i>Evolvulus nuttallianus</i>	Evolvulus
<i>Halogeton glomeratus</i>	Halogeton
<i>Hymenopappus filifolius</i> var. <i>cinereus</i>	Hyalineherb
<i>Machaeranthera canescens</i> var. <i>aristata</i>	Hoary aster
<i>Mentzelia multiflora</i>	Desert stickleaf
<i>Oenothera albicaulis</i>	Whitestem evening-primrose
<i>Penstemon angustifolius</i> var. <i>venosus</i>	Veined penstemon
<i>Phacelia</i> sp.	Phacelia
<i>Plantago patagonica</i>	Wooly plantain
<i>Polygonum persicaria</i>	Ladysthumb
<i>Rumex hymenosepalus</i>	Canaigre
<i>Salsola tragus</i>	Russian-thistle
<i>Senecio douglasii</i> var. <i>longilobus</i>	Douglas' groundsel
<i>Sphaeralcea coccinea</i>	Common globemallow
<i>Swertia utahensis</i>	Utah swertia
<i>Tribulus terrestris</i>	Puncture vine
<i>Wyethia scabra</i>	Rough mulesears
<i>Xanthium strumarium</i>	Cocklebur



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



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

Ben Shelly, President

Rex Lee Jim, Vice-President

26 September 2012

File#12PERM-27

Brian Wood
Permits West, Inc.
37 Verano Loop
Santa Fe, NM 87508

NAVAJO ENDANGERED SPECIES LIST (NESL) INFORMATION FOR:

PROJECT: RESOLUTE ANETH LLC
RATHERFORD TO McELMO POWER LINE PROJECT
LEGAL DESCRIPTION SEC. 31, T40S, R25E;
SEC. 6, T41S, R25E
SECTIONS 1, 10-12 & 15-17, T41S, R24E
SAN JUAN COUNTY, UT
UTM COORDINATES
651037E, 4120297N (SOUTHWEST END)
659132E, 4125090N (NORTHEAST END)
LOCATED 3 MILES EAST OF MONTEZUMA CREEK, UT

Mr. Wood:

The following information on species of concern¹ is provided in response to your 18 August 2012 request concerning the subject project, which consists of the proposed 6 mile long 69kV overhead power line Resolute Aneth LLC Ratherford to McElmo Power Line Project. The project site is located 3 miles east of Montezuma Creek, UT legal descriptions Section 31, T40S, R25E; Section 6, T41S, R25E, Sections 1, 10-12, & 15-17, T41S, R24E, San Juan County, UT. UTM Coordinates 651037E, 4120297N (southwest end), 659132E, 4125090N, Montezuma Creek, San Juan County, UT.

Each 7.5-minute quadrangle containing project boundaries is addressed separately below. For potentially occurring species these species lists are quadrangle-specific rather than project-specific. Potential for species has been determined primarily on quadrangle-wide coarse habitat characteristics and species range

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

information. Your project biologist should determine habitat suitability at the project site(s).

A total of eighteen (18) species both known and/or potential are included in this response. They are:

	SCIENTIFIC NAME	COMMON NAME	NESL STATUS	FED. STATUS and/or MBTA*
1.	<i>Aquila chrysaetos</i>	Golden Eagle	G3	MBTA
2.	<i>Astragalus cronquistii</i>	Cronquist Milk-vetch	G3	
3.	<i>Buteo regalis</i>	Ferruginous Hawk	G3	MBTA
4.	<i>Catostomus discobolus</i>	Bluehead Sucker	G4	
5.	<i>Ceryle alcyon</i>	Belted Kingfisher	G4	MBTA
6.	<i>Charadrius montanus</i>	Mountain Plover	G4	ESA Proposed Threatened; MBTA
7.	<i>Cinclus mexicanus</i>	American Dipper	G3	MBTA
8.	<i>Coccyzus americanus</i>	Yellow-billed Cuckoo	G2	ESA Candidate species; MBTA.
9.	<i>Cottus bairdi</i>	Mottled Sculpin	G4	
10.	<i>Dendroica petechia</i>	Yellow Warbler	G4	MBTA
11.	<i>Empidonax traillii extimus</i>	Southwestern Willow Flycatcher	G2	ESA Endangered; MBTA.
12.	<i>Falco peregrinus</i>	Peregrine Falcon	G4	MBTA
13.	<i>Gila robusta</i>	Roundtail Chub	G2	ESA Candidate Species
14.	<i>Haliaeetus leucocephalus</i>	Bald Eagle	G2	MBTA
15.	<i>Lithobates pipiens</i>	Northern Leopard Frog	G2	
16.	<i>Mustela nigripes</i>	Black-footed Ferret	G2	ESA Endangered
17.	<i>Ptychocheilus lucius</i>	Colorado Pikeminnow	G2	ESA Endangered
18.	<i>Xyrauchen texanus</i>	Razorback Sucker	G2	ESA Endangered

*MBTA=Migratory Bird Treaty Act

WHITE MESA VILLAGE, UT 7.5-MINUTE QUADRANGLE

Project Location: Resolute Aneth LLC, Ratherford to McElmo P/L Project

Species of concern known to occur on or near the project site(s) include:

1. *Xyrauchen texanus*

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

Appendix 7-2

Known to occur within three miles of the project site:

1. *Empidonax traillii extimus*
2. *Astragalus cronquistii*

Species of concern with **potential** to occur on the 7.5-minute quadrangle(s) containing the project boundaries include the following:

1. *Aquila chrysaetos*
2. *Buteo regalis*
3. *Catostomus discobolus*
4. *Ceryle alcyon*
5. *Charadrius montanus*
6. *Cinclus mexicanus*
7. *Coccyzus americanus*
8. *Cottus bairdi*
9. *Dendroica petechia*
10. *Falco peregrinus*
11. *Gila robusta*
12. *Haliaeetus leucocephalus*
13. *Lithobates pipiens*
14. *Mustela nigripes*
15. *Ptychocheilus lucius*

AREA 1: HIGHLY SENSITIVE WILDLIFE RESOURCES

AREA 3: LOW SENSITIVITY WILDLIFE RESOURCES

ANETH, UT 7.5-MINUTE QUADRANGLE

Project Location: Resolute Aneth LLC, Ratherford to McElmo P/L Project

Species of concern **known** to occur on or near the project site(s) include:

1. *Xyrauchen texanus*

Known to occur within three miles of the project site:

1. *Astragalus cronquistii*

Species of concern with **potential** to occur on the 7.5-minute quadrangle(s) containing the project boundaries include the following:

1. *Aquila chrysaetos*
2. *Buteo regalis*
3. *Catostomus discobolus*
4. *Ceryle alcyon*
5. *Charadrius montanus*
6. *Cinclus mexicanus*
7. *Coccyzus americanus*
8. *Cottus bairdi*
9. *Dendroica petechia*
10. *Empidonax traillii extimus*
11. *Falco peregrinus*
12. *Gila robusta*

13. *Haliaeetus leucocephalus*
14. *Lithobates pipiens*
15. *Mustela nigripes*
16. *Ptychocheilus lucius*

AREA 1: HIGHLY SENSITIVE WILDLIFE RESOURCES

AREA 2: MODERATELY SENSITIVE WILDLIFE RESOURCES

NAVAJO CANYON, UT 7.5-MINUTE QUADRANGLE

Project Location: Resolute Aneth LLC, Ratherford to McElmo P/L Project

Known to occur within three miles of the project site:

1. *Astragalus cronquistii*
2. *Xyrauchen texanus*

Species of concern with potential to occur on the 7.5-minute quadrangle(s) containing the project boundaries include the following:

1. *Aquila chrysaetos*
2. *Buteo regalis*
3. *Coccyzus americanus*
4. *Dendroica petechia*
5. *Empidonax traillii extimus*
6. *Mustela nigripes*

AREA 2: MODERATELY SENSITIVE WILDLIFE RESOURCES

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

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

Biological surveys need to be conducted during the appropriate season to ensure they are complete and accurate please refer to NN Species Accounts.⁴ Further questions pertaining to surveys should be referred to Species Account. Surveyors on the Navajo Nation must be permitted by the Director, NFWD. Contact Jeff Cole at (928) 871-7068 for permitting procedures. Questions pertaining to surveys should be directed to the NFWD Zoologist (Chad Smith) for animals at 871-7070 and Botanist (Andrea Hazelton) for plants at (928) 523-3221. Questions regarding biological evaluations should be directed to Pamela Kyselka (Acting Environmental Reviewer) at 871-7065.

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

Does the project design include guy wires for structural support? If so, and if bird species may occur in relatively high concentrations in the project area, then guy wires should be equipped with highly visual markers to reduce the potential mortality due to bird-guy wire collisions. Examples of visual markers

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

include aviation balls and bird flight diverters. Birds can be expected to occur in relatively high concentrations along migration routes (e.g., rivers, ridges or other distinctive linear topographic features) or where important habitat for breeding, feeding, roosting, etc. occurs. The U.S. Fish and Wildlife Service recommends marking guy wires with at least one marker per 100 meters of wire.

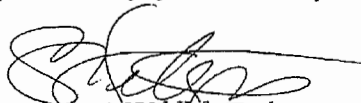
Potential impacts to wetlands should also be evaluated. The U.S. Fish & Wildlife Service's National Wetlands Inventory (NWI) maps should be examined to determine whether areas classified as wetlands are located close enough to the project site(s) to be impacted. In cases where the maps are inconclusive (e.g., due to their small scale), field surveys must be completed. For field surveys, wetlands identification and delineation methodology contained in the "Corps of Engineers Wetlands Delineation Manual" (Technical Report Y-87-1) should be used. When wetlands are present, potential impacts must be addressed in an environmental assessment and the Army Corps of Engineers, Phoenix office, must be contacted. NWI maps are available for examination at the NFWD's Natural Heritage Program (NHP) office, or may be purchased through the U.S. Geological Survey (order forms are available through the NHP). The NHP has complete coverage of the Navajo Nation, excluding Utah, at 1:100,000 scale; and coverage at 1:24,000 scale in the southwestern portion of the Navajo Nation.

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

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

An invoice for this information is attached.

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



Sonja Detsoi, Wildlife Tech.
Natural Heritage Program
Department of Fish and Wildlife

xc: file/chronon

**PRELIMINARY WETLAND DELINEATION
AND JURISDICTIONAL DETERMINATION
FOR THE PROPOSED
RESOLUTE NATURAL RESOURCES COMPANY
RATHERFORD-MC ELMO CREEK UNIT 69Kv TRANSMISSION PROJECT
SAN JUAN COUNTY, UTAH**

Prepared for
Resolute Aneth, LLC

Prepared by
Southwest Environmental, Inc.
PO Box 983
Dolores, CO 81323

August 15, 2013

Appendix 8-1

TABLE OF CONTENTS

1.0	EXECUTIVE SUMMARY	1
2.0	INTRODUCTION	1
2.1	REGULATORY SETTING	1
2.2	PROJECT DESCRIPTION.....	2
2.3	PROJECT LOCATION	3
2.4	CONTACT INFORMATION.....	3
3.0	PURPOSE OF ASSESSMENT AND JURISDICTIONAL CRITERIA.....	3
4.0	DELINEATION METHODOLOGY.....	3
5.0	WETLAND ASSESSMENT.....	5
5.1	PROJECT AREA DESCRIPTION AND FIELD OBSERVATIONS	5
5.2	PROJECT AREA'S RELEVANCE TO COMMERCE.....	5
5.3	HYDROLOGY.....	5
5.4	SOILS	5
5.5	VEGETATION.....	6
5.5	HYDROPHYTIC VEGETATION.....	6
6.0	PROJECT IMPACTS	6
6.1	PERMITTING	6
7.0	LIST OF CONTACTS AND PREPARERS.....	7
8.0	REFERENCES	8

LIST OF FIGURES

<u>Figure</u>	<u>Page</u>
FIGURE 1. PROJECT AREA MAP.....	2

LIST OF APPENDICES

Appendix A-A. Preliminary Wetland Delineation Map

Appendix B-B. Wetland Photos

Appendix C-C. Wetland Data Forms

1.0 EXECUTIVE SUMMARY

Resolute Natural Resources Company (RNRC) is planning to construct a 69Kv electrical transmission line within the boundaries of the Navajo Nation in San Juan County, Utah. The transmission line would be supported by wood pole structures and would be suspended over the San Juan River near the community of Montezuma Creek, UT (Figure 1). The project area is located on the north side of the San Juan River and the legal description of the proposed transmission structure is; Section 31, Township 41 South; Range 24 East (Figure 1).

Under the Clean Water Act (CWA), properly known as the Federal Pollution Control Act, Section 404 and Section 10 of the Rivers and Harbors Act of 1899 (33 Code of Federal Regulations (CFR) Parts 320-330), the Environmental Protection Agency, and the U.S. Army Corps of Engineers (USACE) share regulatory authority over Waters of the U.S. (WoUS). Southwest Environmental was retained by Permits West to conduct a wetland delineation of the proposed project area, and assess the project area for potential jurisdictional WoUS.

The proposed project area was surveyed for plant speciation, soils, and hydrology as per the USACE Wetland Delineation Manual (1987) and the Interim Regional Supplement: Arid West Region (2007). Garmin GPS equipment was used to define the perimeter of areas containing hydrophytic vegetation, hydric soils, wetland hydrology, and/or features characteristic of WoUS.

The San Juan River is under the jurisdiction of the USACE. Jurisdictional wetlands exist throughout the riverine channel and around the inlets of significant side canyons. Wetland and WoUS boundaries were delineated only where the proposed transmission structure would be constructed. The included delineation map is preliminary until written approval from the USACE (Appendix A).

2.0 INTRODUCTION

2.1 Regulatory Setting

Under the Federal Pollution Control Act, Section 404 and Section 10 of the Rivers and Harbors Act of 1899 (CFR Parts 320-330), the environmental Protection Agency (EPA) and the United States Army Corps of Engineers (USACE) have regulatory authority over the "Waters of the U.S." (WoUS). WoUS include all waters that:

"...are, have, or may be used for interstate and/or international commerce, including all water that is subject to the tide; all waters that are rivers, streams, sloughs, lakes, mudflats, sandflats, wetlands, wet meadows, prairie potholes, playa lakes, or natural ponds and the use, degradation, or destruction, of above mentioned, which could affect interstate and international commerce; all impoundment of above mentioned Waters of the U.S. (WoUS). In areas where wetlands are absent, the jurisdictional boundary for the Corps (USACE) is the ordinary high water mark (OHWM)."

For the purposes of this report, the "Southwest" is broadly defined to include all portions of 10 arid to semi-arid western states: (Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, Texas, and Wyoming. The USACE is required to consult with other federal agencies that share responsibility for the natural resource. With regards to WoUS and wetlands, the primary agencies are the United States Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) regarding any concerns of impacts to federally protected species of concern.

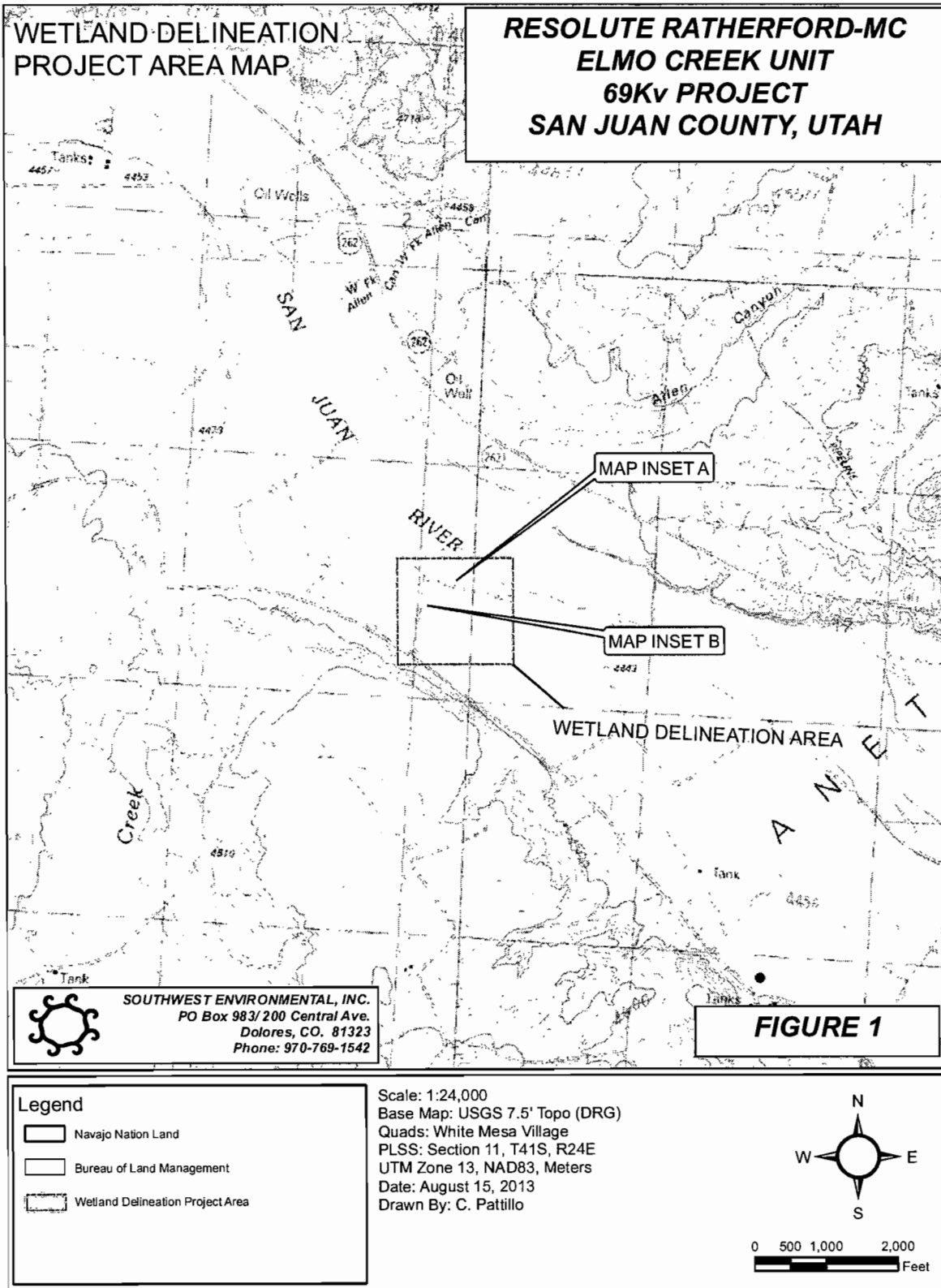


Figure 1. Project Area Map.

2.2 Project Description

RNRC proposes to construct a 69Kv electrical transmission line. The proposed powerline would be supported by wood pole structures and would be suspended over the San Juan River. The legal description of the project is Section 11, Township 41 South; Range 24 East (Figure 1). The surface elevation of the proposed project site is approximately 4,440 feet above mean sea level (amsl).

2.3 Project Location

The proposed project area is located on the north side of the San Juan River approximately 4.0 miles west of Aneth, Utah. The project area is located in San Juan County within the boundaries of the Navajo Nation. Navajo Nation lands are administered by the Navajo Nation and the Bureau of Indian Affairs (BIA). The project area may be found on the White Mesa Village, Utah, U.S. Geological Survey (USGS) 7.5' topographic quadrangle map (Figure 1).

2.4 Contact Information

Wetland Consultant

Permits West, Inc
37 Verano Loop
Santa Fe, NM. 87508

Project Proponent

Resolute Aneth, LLC

3.0 Purpose of Assessment and Jurisdictional Criteria

The jurisdictional boundary for the USACE is the Ordinary High Water Mark (OHWM) defined in 33 CFR Part 328.3. The concept of OHWM was originally employed to delineate the extent of tidal and navigable waters. In stream channels, including those in arid regions, the OHWM boundary is determined by examining recent physical evidence of surface flow. The definition of OHWM is based on physical evidence and lacks any statements concerning the duration and frequency of events.

It should be noted that while the *USACE Jurisdictional Determination Form Instructional Guidebook* provides guidance and standards for the determination of WoUS, interpretation of field condition is not always simple. It is the purview of the regulatory agency to accept or amend delineations submitted to them. Therefore, this delineation should be considered preliminary until approved in writing by the USACE.

4.0 Delineation Methodology

The determination work was completed by Mr. Curtis Pattillo on July 16, 2013. The delineation work was conducted in accordance with the USACE Wetland Delineation Manual (1987) and the Arid West Supplement (January 2007). The wetland delineation effort consisted of the Routine, Small Area Determination Method. Visual observations were used to identify vegetation, soil, and hydrological characteristics within the vicinity of the project area.

This jurisdictional determination was conducted in accordance with the USACE *Jurisdictional Determination Form Instructional Guidebook* and employing the USACE *Review of Ordinary High Water Mark Indicators for Delineation Arid Streams in the Southwestern United States* (Lichvar and Wakeley 2004). The USACE methodology has two standards, one for areas of open water such as streams, rivers, ponds, and lakes, and a second for wetlands.

Linear drainage features within the project area were assessed based on the OHWM. Linear drainage features occurring within the project area that exhibited clearly defined bed, bank and scour were evaluated for hydrologic connectivity to WoUS and subsequently mapped (Appendix A). Additionally, the linear drainage courses within the study area were classified as ephemeral, intermittent, or perennial based on the amount and duration of free-flowing surface water within the drainage course. Human impacts and other unnatural disturbances can have a significant impact on natural hydrologic patterns and the duration of surface water flow. It is often difficult to differentiate between ephemeral and intermittent courses. Definitions for each drainage class are as follows:

- Ephemeral – A stream channel that carries water only during, and immediately after, heavy rainfall and snowmelt, but ceases to flow shortly after available water supply from the precipitation event ceases.
- Intermittent – A stream channel that carries water only during, and immediately after, heavy rainfall and snowmelt, or defined as a stream that carries water a considerable portion of the time, but ceases to flow occasionally or seasonally because bed seepage and evapo-transpiration exceed that available water supply.
- Perennial – A stream that contains water at all times except during extreme drought.

Hydrophytic vegetation dominates areas where the frequency and duration of inundation or soil saturation exerts a controlling influence on the plant species present. Plant species are assigned wetland indicator status according to the probability of a particular species occurring in wetlands. These indicators are published by FWS. According to the USACE (Environmental Laboratory, 1987), more than fifty percent of the dominant species must be hydrophytic to meet the wetland vegetation criterion. Hydrophytic plant indicator status designations conform to the following:

- Obligate - Plants that occur almost always (estimated probability greater than 99 percent) in wetlands under natural conditions, but may also occur rarely (estimated probability less than 1 percent) in non-wetlands.
- Facultative Wetland - Plants that usually occur (estimated probability is greater than 67 percent to 99 percent) in wetlands under natural conditions, but also occur (estimated probability is 1 percent to 33 percent) in non-wetlands.
- Facultative Plants - Plants with a similar likelihood (estimated probability is between 33 to 67 percent) of occurring in both wetlands and non-wetlands under natural conditions.
- Facultative Upland - Plants that sometimes occur (estimated probability 1 percent to less than 33 percent) in wetlands, but occur more often (estimated probability is greater than 67 percent to 99 percent) in non-wetlands.
- Obligate Upland - Plants that occur rarely (estimated probability less than 1 percent) in wetlands, but almost always occur (estimated probability is greater than 99 percent) in non-wetlands under natural conditions.

Hydric soils are saturated or inundated for a sufficient duration during the growing season to develop anaerobic or reducing conditions that favor the growth and regeneration of hydrophytic vegetation (Environmental Laboratory, 1987). Indicators of wetland soils include observations of inundation or saturation, dark (low chroma) soil colors, contrasting mottles, or gleying. Additional supporting information includes documentation of a soil as hydric, or reference to wet conditions, in the NRCS soil survey.

Soil sample plots were evaluated by digging soil test pits. Munsell Soil Color Charts (MacBeth, 2000) were used to assess the color, hue, and chroma of representative soils and oxygen reduction reaction (redox) features associated with anaerobic conditions. Redox features were also characterized by their size, distribution, and frequency of occurrence.

5.0 Wetland Assessment

5.1 Project Area Description and Field Observations

The project area elevation is approximately 4,440 feet above MSL. The project area is comprised of unmanaged riparian woodland and sagebrush scrub habitat that is currently utilized for oil/gas field development and livestock rangeland. The overall project area is previously disturbed from construction of well pads, roads, and water diversion/flood control structures. The surrounding land is within the boundaries of the Navajo Nation, in San Juan County, Utah.

5.2 Project Area's Relevance to Commerce

The potential wetland and other WoUS on-site have no known use related to commerce. No current commercial activity occurring on-site is related to potential USACE jurisdictional features.

5.3 Hydrology

Hydrology of the project area is directly affected by stream flow regimes of the San Juan River and surface runoff from periodic rain events. Monthly precipitation averages 0 to 0.5 inches, and as much as 8 inches yearly (Western Regional Climate Center 2008). Wetland hydrology is defined as inundation or soil saturation with a frequency and duration long enough during the growing season to cause the development of hydric soils and plant communities dominated by hydrophytic vegetation.

Wetland boundaries delineated within the proposed project area were defined by the presence of hydrophytic vegetation and hydric soil indicators. The construction of roads and well pads within the project area have resulted in the impoundment of surface waters. This investigation of the project area was conducted within the typical, active growing season and normal river flow regimes for mid-summer.

5.4 Soils

Project area soils were mapped by the National Resources Conservation Service as the; *Aquic Ustifluvents-Typic Fluvaquents Association, gently sloping*, and *Water-Riverwash Complex* (NRCS 2007). The NRCS rates the *Aquic Ustifluvents-Typic Fluvaquents Association as Partially Hydric*, and describes it as occupying floodplains and terraces. The soil unit is derived from mixed alluvium of sedimentary rock. The unit is described as poorly drained and rated frequent to flooding. The rated capacity to transport water is moderately high to high, and the depth to the water table is 0-20 inches (NRCS 2007).

The *Water-Riverwash Complex* is rated as *Partially Hydric*. The soil complex is approximately 70% *Water*, and 20% *Riverwash*. The Riverwash component is derived from igneous and sedimentary rocks (NRCS 2007). The map unit is rated as poorly drained; frequent to flooding; and depth to water table approximately 0-24 inches.

Soil test pits were dug near proposed Structure #88 & Structure #87 (Appendix A). The soil from Test Pit #1 (Structure #88) was mostly sand mixed with alluvium gravels. The A-horizon is a layer of silty clay approximately 2 inches thick. The chroma was recorded as 5YR 4/6. There was no visible standing water at a depth of 20 inches, though the soil was damp to the touch. The soil from Test Pit #2 (Structure #87) was mostly sand mixed with alluvium gravels. The A-horizon is a layer of silty clay approximately

4-5 inches thick. The chroma was recorded as 10YR 3/3. There was no visible standing water at a depth of 20 inches, though the soil was damp to the touch.

5.5 Vegetation

The project area demonstrates significant modification and disturbance of the historic native substrate and vegetation structure. The construction of roads; utility corridors, and gas field development have impacted the project area. Upland scrub/shrub vegetation dominates the landscape and is comprised of big sagebrush (*Artemisia tridentata*), rabbitbrush (*Chrysothamnus nauseosus*), and greasewood (*Sarcobatus vermiculatus*). A thick riparian woodland habitat occupies the riverine corridor and the historic floodplain. The woodland is co-dominated by tamarisk (*Tamarix ramosissima*), Russian olive (*Eleagnus angustifolia*), and Fremont cottonwood (*Populus deltoides*). Forbs and grasses observed throughout the study area included: Russian knapweed (*Acroptilon repens*), globe mallow (*Sphaeralcea coulteri*), goosefoot (*Chenopodium desiccatum*), Russian thistle (*Salsola iberica*), saltgrass (*Distichlis stricta*), and cheatgrass (*Bromus tectorum*).

5.5 Hydrophytic Vegetation

Hydrophytic vegetation dominates areas where the frequency and duration of inundation or soil saturation exerts a controlling influence on the plant species present. Plant species are assigned wetland indicator status according to the probability of the species occurring in wetlands. More than fifty percent of the dominant species must be hydrophytic to meet the wetland vegetation criterion.

Adjacent to the river course is a thick riparian woodland consisting of cottonwood (*Populus deltoides*), Russian olive (*Eleagnus angustifolia*), and tamarisk (*Tamarix ramosissima*). The understory is a mixed Palustrine scrub/shrub (Cowardin 1979) habitat dominated by willow (*Salix exigua*), rose (*Rosa woodsii*), and sumac (*Rhus trilobata*). Other dominant shrubs included rabbitbrush (*Chrysothamnus nauseosus*), and greasewood (*Sarcobatus vermiculatus*).

6.0 Project Impacts

STRUCTURE #88; Out of the total mapped acreage of 0.23 acres WoUS, the project footprint would impact approximately 0.14 acres of WoUS (Appendix A, Inset A).

STRUCTURE #87; Out of the total mapped acreage of 2.8 acres WoUS, the project footprint would impact approximately 0.03 acres of WoUS (Appendix A, Inset B). Not included in this impact calculation is the project access to the proposed structure location.

6.1 Permitting

Projects that cause the discharge of dredge or fill material into WoUS require Section 404 permitting by the USACE. Projects that do not qualify for a Nation Wide Permit (NWP) must obtain an Individual Permit. The process for obtaining an Individual Permit requires a detailed alternatives analysis and development of a comprehensive mitigation/monitoring plan.

7.0 LIST OF CONTACTS AND PREPARERS

Curtis Pattillo

Southwest Environmental, Inc.

PO Box 983

Dolores, CO 81323

Tel: 970-769-1542

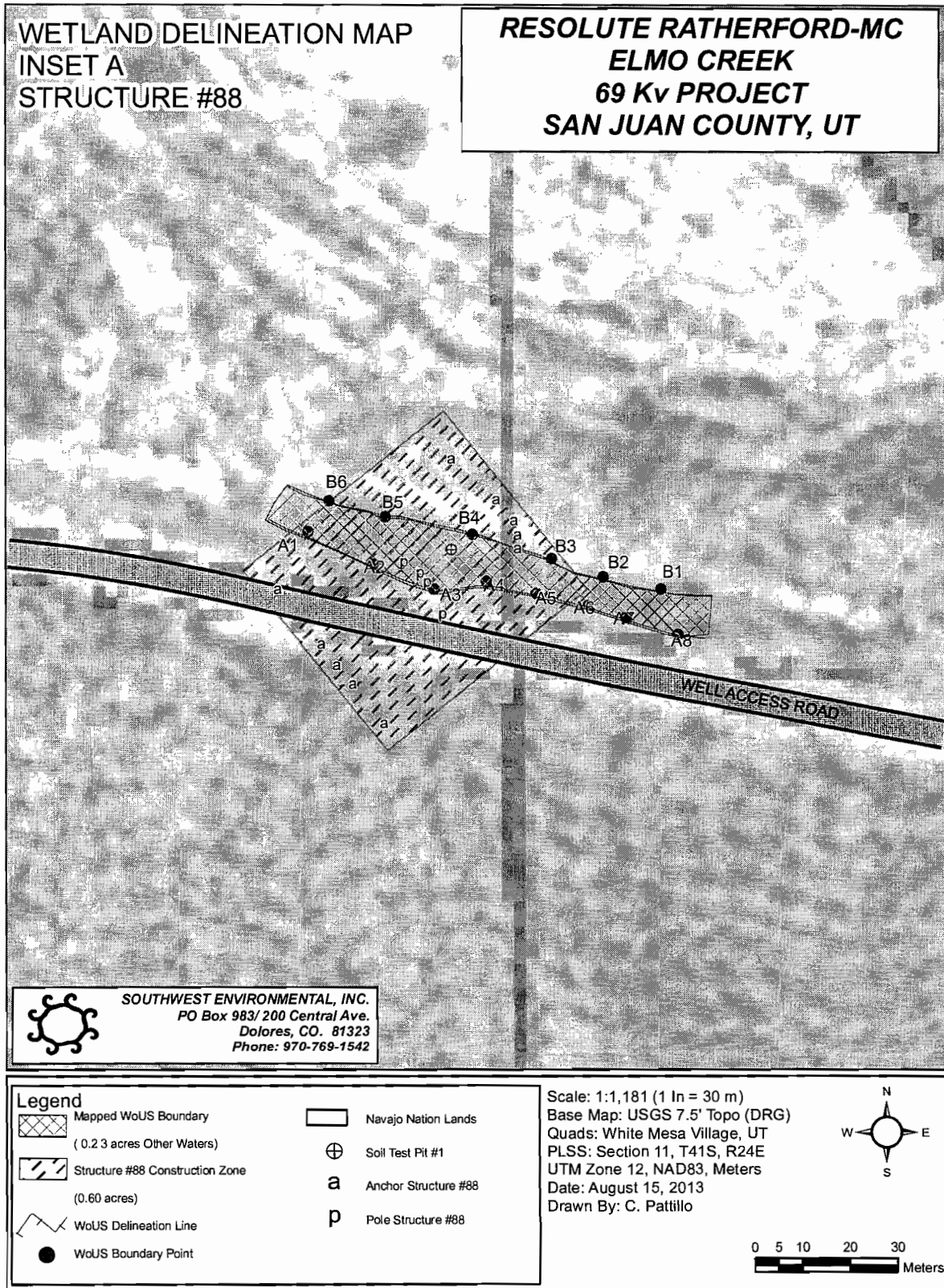
Email: curtiscaves@yahoo.com

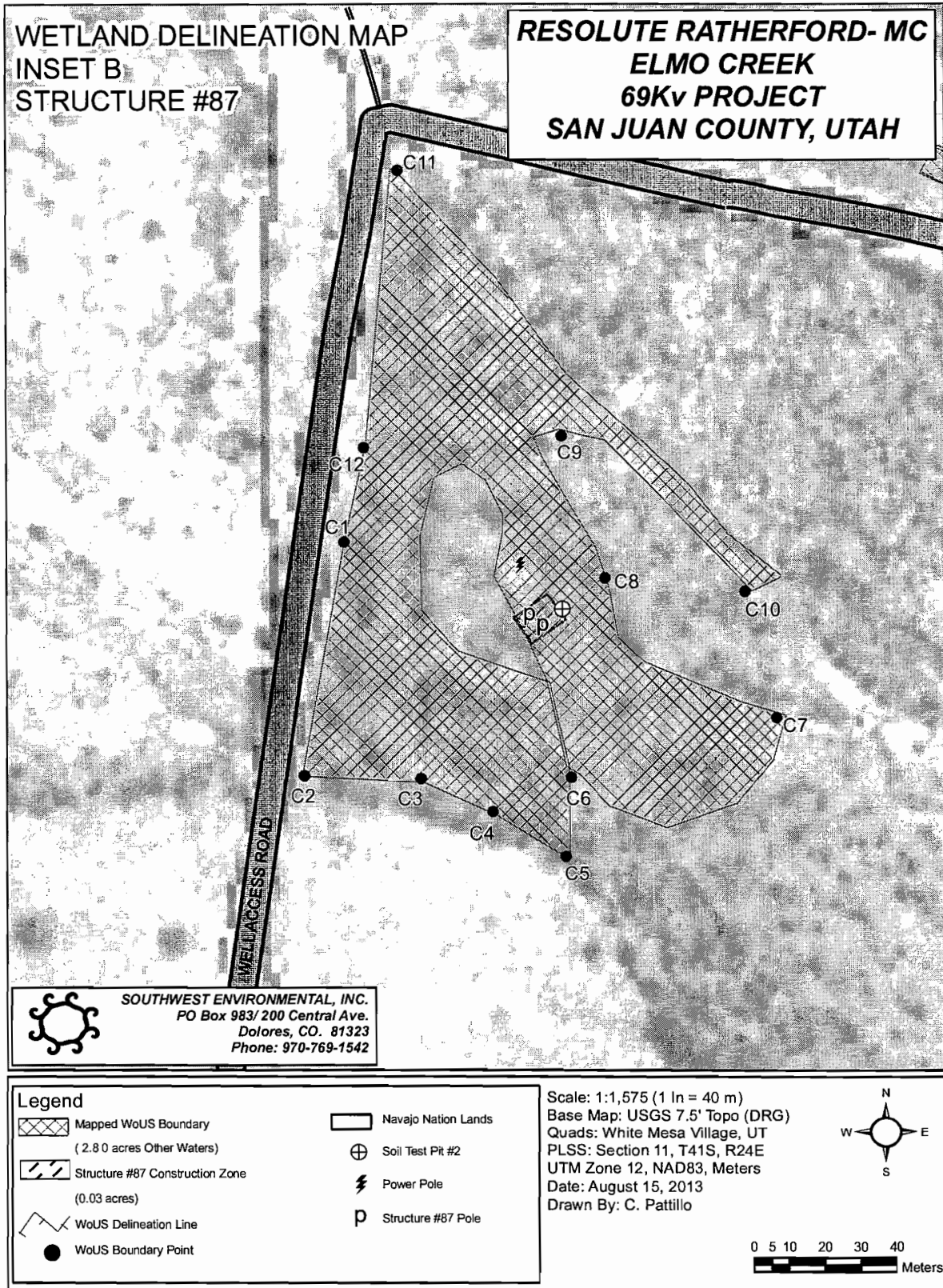
8.0 REFERENCES

- Anderson, O.J., and G.E. Jones. 1994. Geologic Map of New Mexico: New Mexico Bureau of Mines and Mineral Resources, Open-file Report 408-A and B, Geologic map and 15 magnetic disks, 1:5000,000.
- Brown, D.E. 1994. *Biotic communities southwestern United States and northwestern Mexico*. University of Utah Press, Salt Lake City, Utah.
- Cowardin, et al. 1979. *Wetland and Deepwater Habitat Classification*. US Fish and Wildlife Service, Northern Prairie Wildlife Research Center, 58401 Jamestown, ND, USA.
- Environmental Laboratory, 1987. *Corps of Engineers wetland delineation manual*. Technical Report Y-87-1. U.S. Army Corps of Engineers Waterways Experiment Station, Vicksburg, Mississippi.
- Ivey, Robert DeWitt. 2003. *Flowering Plants of New Mexico, fourth edition*. RD & V Ivey Publishers. Albuquerque, NM.
- Lichvar, R.W., and J.S. Wakeley. 2004. Review of ordinary high water mark indicators for delineating arid streams in the southwestern United States. ERDC TR-04-1. Hanover, NH: U.S. Army Engineer Research and Development Center.
- Munsell Color, 2000. *Munsell Soil Color Charts*. New Windsor, New York, MacBeth Division of the Kollmorgen Corporation.
- Natural Resources Conservation Service (NRCS). 2008. Web Soil Survey of Jicarilla Apache Nation, Parts of Rio Arriba and Sandoval Counties, New Mexico. <http://websoilsurvey.nrcs.usda.gov/app/>. Accessed August 2013.
- New Mexico Department of Agriculture (NMDA). 2003. New Mexico Noxious Weed List. Accessed online at <http://nmdaweb.nmsu.edu/DIVISIONS/APR/weed.html>. August 2013.
- Reed, P.B. Jr. 1988. National List of Plant Species that Occur in Wetlands: National Summary. Biological Report 88(24), US Fish and Wildlife Service, Washington, DC.
- Stubbendieck, Hatch, Butterfield. 1997. *North American Range Plants*. The University of Nebraska.
- USDA, NRCS. 2006. The PLANTS Database, Wetlands (http://plants.nrcs.usda.gov/cgi_bin/topics.cgi?earl=wetland.html).
- Weber, W. A. and Ronald C. Wittman. 2001. *Colorado Flora : Western Slope*. University Press of Colorado. Boulder, Colorado.
- Western Regional Climate Center (WRCC). 2006. Western U.S. Climate Historical Summaries. Climatological Data Summary for Dulce, New Mexico. www.wrcc.dri.edu/CLIMATEDATA.html. Accessed August 2013.
- Whitson, T.D., Burrill, L.C., Dewey, S.A., Cudney, D.W., Nelson, B.E., et al. 1999. *Weeds of the West*. Western Society of Weed Science, Western United States Land Grant Universities Cooperative Extension Services.

APPENDIX A-A

Preliminary Wetland Delineation Map





APPENDIX B-B

Wetland Photos

Appendix B. Wetland Photos

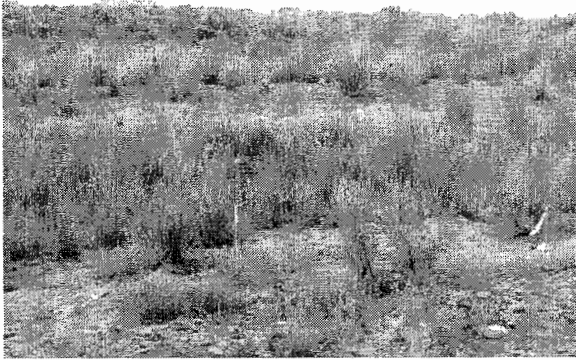


Photo 1: View north of Structure #88 staking.

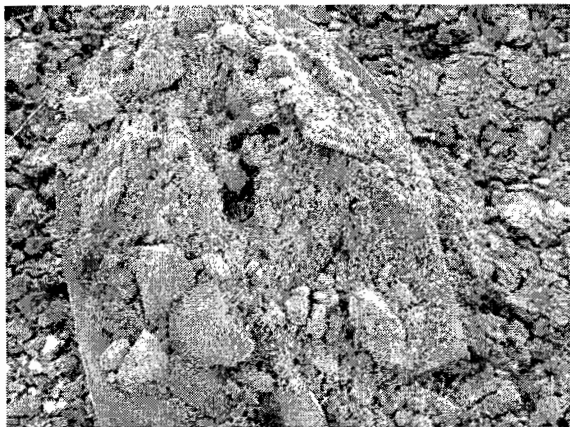


Photo 2: Close-up photo of soil from Test Pit #2 (Structure #87).



Photo 3: View northwest of Structure #87 staking.

APPENDIX C-C

Wetland Data Forms

*Preliminary Wetland Delineation and Jurisdictional Determination
Resolute Ratherford-Mc Elmo Creek Unit 69Kv Transmission Project*

WETLAND DETERMINATION DATA FORM – Arid West Region

Project/Site: Tranche 88 Resolute 69KV City/County: SAN JUAN Sampling Date: 7-16-2013
 Applicant/Owner: Resolute State: UT Sampling Point: TP#1
 Investigator(s): CURTIS PATTILLO Section, Township, Range: Sec. 11, T41S, R24E
 Landform (hilllope, terrace, etc.): terraced Local relief (concave, convex, none): CONCAVE Slope (%): 0-1%
 Subregion (LRR): _____ Elev: 6551.56 E Long: 4122692 N Datum: 13S
 Soil Map Unit Name: Agic Ustifluvents - Typic Fluvaquents NWI classification: Partially Hydric
 Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No _____ (If no, explain in Remarks.)
 Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes X No _____
 Are Vegetation X, Soil _____, or Hydrology _____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes <u>X</u> No _____	Is the Sampled Area within a Wetland? Yes <u>X</u> No _____
Hydric Soil Present?	Yes _____ No <u>X</u>	
Wetland Hydrology Present?	Yes <u>X</u> No _____	
Remarks: Site is within historic floodplain, within a drainage swale. Surface impoundments have changed flow regimes.		

VEGETATION

Tree Stratum (Use scientific names.)	Absolute % Cover	Dominant Species?	Indicator Status	Dominance Test worksheet:
1. <u>TAMARISK (TAMARIX Ra)</u>	<u>1</u>	<u>Y</u>	<u>FACW</u>	Number of Dominant Species That Are OBL, FACW, or FAC: <u>2</u> (A)
2. <u>POPULUS deltoides</u>	<u>1</u>	<u>Y</u>	<u>FACW</u>	Total Number of Dominant Species Across All Strata: <u>5</u> (B)
3. _____	_____	_____	_____	Percent of Dominant Species That Are OBL, FACW, or FAC: <u>40%</u> (AB)
Total Cover: <u>2%</u>				Prevalence Index worksheet:
Seedling/Small Shrub Stratum				Total % Cover of _____ Multiply by:
1. <u>TAMARISK (TAMARIX Ra)</u>	<u>35</u>	<u>Y</u>	<u>FACW</u>	OBL species _____ x 1 = _____
2. _____	_____	_____	_____	FACW species <u>37</u> x 2 = <u>74</u>
3. _____	_____	_____	_____	FAC species _____ x 3 = _____
4. _____	_____	_____	_____	FACU species <u>45</u> x 4 = <u>180</u>
5. _____	_____	_____	_____	UPL species _____ x 5 = _____
Total Cover: <u>35%</u>				Column Totals: <u>82</u> (A) <u>254</u> (B)
Herb Stratum				Prevalence Index = BA = <u>3.0</u>
1. <u>RUSSIAN Knapweed</u>	<u>20</u>	<u>Y</u>	<u>FACU</u>	Hydrophytic Vegetation Indicators: Dominance Test is >50% <u>X</u> Prevalence Index is <3.0 ¹ Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) Problematic Hydrophytic Vegetation ¹ (Explain) Indicators of hydric soil and wetland hydrology must be present.
2. <u>CHENOPODIUM</u>	<u>25</u>	<u>Y</u>	<u>FACU</u>	
3. _____	_____	_____	_____	
4. _____	_____	_____	_____	
5. _____	_____	_____	_____	
Total Cover: <u>45%</u>				Hydrophytic Vegetation Present? Yes <u>X</u> No _____
Wood/Vine Stratum				
1. _____	_____	_____	_____	Remarks: Vegetation is very sparse. The Tamarisk plants do not appear healthy or alive.
2. _____	_____	_____	_____	
% Bare Ground in Herb Stratum <u>20%</u> % Cover of Exotic Crest <u>0</u>				

US Army Corps of Engineers

Arid West – Version 11-1-2006

Sampling Point: TP#2

HYDROLOGY

Wetland Hydrology Indicators:		Secondary Indicators (2 or more required)	
Primary Indicators (any one indicator is sufficient)			
<input type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Soil Crust (B11)	<input type="checkbox"/> Water Marks (B1) (fluvine)	<input type="checkbox"/> Sediment Deposits (B2) (fluvine)
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Biotic Crust (B12)	<input type="checkbox"/> Drill Deposits (B3) (fluvine)	<input type="checkbox"/> Drainage Patterns (B10)
<input type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Aquatic Invertebrates (B13)	<input type="checkbox"/> Dry-Season Water Table (C2)	<input type="checkbox"/> Thin Muck Surface (C7)
<input type="checkbox"/> Water Marks (B1) (nonfluvine)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Crayfish Burrows (C8)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)
<input type="checkbox"/> Sediment Deposits (B2) (nonfluvine)	<input type="checkbox"/> Oxidized Rhizospheres along Living Roots (C3)	<input type="checkbox"/> Shallow Aquifers (C3)	<input type="checkbox"/> FAC-Nutrient Test (D5)
<input type="checkbox"/> Drill Deposits (B3) (nonfluvine)	<input type="checkbox"/> Presence of Reduced Iron (C4)		
<input checked="" type="checkbox"/> Surface Soil Cracks (B6)	<input type="checkbox"/> Recent Iron Reduction in Flowed Soils (C6)		
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)	<input type="checkbox"/> Otter (Explain in Remarks)		
<input type="checkbox"/> Water-Stained Leaves (B9)			
Field Observations:			
Surface Water Present?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Depth (inches): _____	Wetland Hydrology Present? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Water Table Present?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Depth (inches): <u>40-20"</u>		
Saturation Present? (includes capillary fringe)	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Depth (inches): <u>> 20"</u>		
Describe Recorded Data (stream gauge, installing well, aerial photos, previous inspections), if available:			
Remarks: Aerial photos show red colored surface clay/s flowing across site. Road construction has impounded surface flows. Site is within historical floodplain.			



ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF EXECUTIVE DIRECTOR/ADMINISTRATION

OFFICE OF ENVIRONMENTAL REVIEW

PO BOX 339 WINDOW ROCK ARIZONA 86515 Office: 928/871-7188 Fax: 928/729-4323

Website: www.navajonationepa.org

M E M O R A N D U M

TO: Howard P. Draper, Project and Program Specialist
Project Review Office
Land Department
Division of Natural Resources

FROM:

A handwritten signature in black ink, likely belonging to Rita Whitehorse-Larsen.

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

DATE: November 10, 2014

SUBJECT: 164 EOR 002661 ROW NNOGC Tohonadla Ute Canyon 25 G-O

The Navajo Nation Environmental Protection Agency (NNEPA) reviewed¹ and recommends ***conditional approval*** for the proposed project as stated in EOR 002661 pursuant the Title 4, NNC Chapter 9 Navajo Nation Environmental Policy Act, Subchapter 1, §904. Navajo Nation Oil and Gas Company (NNOGC) Exploration and Production. LLC, PO Box 4439, Window Rock, Arizona, 86515, submitted a right-of-way (ROW) application to construct, operate and maintain the Tohonadla Ute Canyon 25 G-O pipelines. The pipelines will be 13,800.59 feet in length, 40 feet wide, (20 feet final width), with total 12.67 acres (6.34 acres in pipeline final width). The pipelines will be used to transport oil, gas and fluids in the three pipelines in the same trench from the Ute Canyon 25 G-O well to local tank batteries for gathering, separating and subsequent distribution purposes.

A. Navajo Nation Clean Water Act (CWA):

¹ Permits West, Inc. Environmental Assessment for NNOGC Exploration and Production LLC Tohonadla Ute Canyon Pipeline. January 2014.

- a. *NNEPA Water Quality determines the waters of the US and Navajo Nation.*
 - b. §Section 401- USEPA issued a “treatment as state” and directly delegated CWA Section 401 permitting to Navajo Water Quality Program. MAPL applied and was awarded a Section 401 Certification on July 23, 2013.
 - c. §Section 402 - The proposed action is greater than 1 acre therefore NNOGC and its contractor(s) including subcontractor(s) is subject to complete the requirements under the Clean Water Act Section 402. Stormwater Pollution Prevention Plan (SWPPP), Best Management Practices (BMPs) and Notice of Intent (NOI) must be completed and submitted to Gary Sheth, our Navajo Nation permitting lead, can be reached at 415-972-3516 or sheth.gary@epa.gov. Here is a link to USEPA Regional permits webpage with links to information about different types of EPA permit requirements and existing permits: <http://www.epa.gov/region9/water/npdes/permits.html>. Courtesy copies must be provided to Patrick Antonio, Principal Hydrologist with NNEPA Water Quality Program. His office phone is 928/871-7185.
 - d. §Section 404 – This permit is issued by the US Army Corp of Engineers.
- B. Navajo Nation Safe Drinking Water Act:**
- a. The USEPA Region 9 delegated the authority to NNEPA Surface & Groundwater Protection Department Public Water System Supervision Program (PWSSP).
 - b. The existing drinking water lines must be marked before commencing any construction to lessen and minimize impacts to the public drinking water system.
- C. Navajo Nation Air Pollution Prevention and Control Act:**
- a. The USEPA Region 9 delegated its responsibilities to NNEPA Air Quality Control Program – Operating Permit Program (OPP) to regulate Title V Sources including coal fired power plant, coal mine, natural gas compression station, crude oil & gas production facility and gas fractionating facility. Some concerns may include Title V permits, greenhouse gas regulations, regional haze rule, tribal minor sources and tribal new source review (NSR) [Excerpt from NNEPA AQCP OPP brochure].
 - b. The NNEPA Air Quality collects meteorological weather data, monitor air quality levels of particulate matter, sulfur dioxide, nitrous oxides and ozone, determines and recommends for air quality control and enforcement using air quality index, develops air quality legislation for regulatory rulemaking and updates and maintains an emissions inventory for the Navajo Nation.
 - c. **Before any construction commences, a Navajo Nation Air Quality Control Program Activity Application must be submitted for the proposed pipeline expansion development. The application will be sent to NNOGC to ensure it's completion and returned to NNEPA Air Quality Operating Permit Program.**
- D. Navajo Nation Pesticide Act:**
- a. Before applying any chemicals, contact the NNEPA Pesticide Program at 928/871-7815/7810/7892 to attain a pesticide use permit (PUP) to ensure the

product is in compliance and appropriately applied by a certified and licensed applicator. The PUP must be approved by the Water Quality Navajo Pollution Discharge Elimination Program – Pesticide, PWSSP, Air Quality and Navajo Fish and Wildlife.

- b.* Pesticide staff will also may need to be onsite to monitor during pesticide/herbicide application.

E. Navajo Nation Solid Waste Act:

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

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

- a.* Approved by the Navajo Nation Council, CF-07-08, February 26, 2008, the NN CERCLA classified and included petroleum (including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas or synthetic gas usable for fuel (or mixtures of natural gas and synthetic gas)) as hazardous material unlike the US CERCLA or the Superfund Law.
- b.* The NNCERCLA mandates operators to report petroleum release ≥ 25 gallons at the site and/or during transport immediately to the Navajo Nation Department of Emergency Management within the Navajo Nation Division of Public Safety.
- c.* In the event of a hazardous material spill, releases would be contained and disposed of in accordance with federal and tribal regulations, the project representative shall contact NNEPA Waste Regulatory and Compliance Department, Superfund Office, at 928/871-6859 or NNEPA OER at 928/871-7188 to report hazardous waste spills as defined according to the NN CERCLA.
- d.* If production fluids (gasoline, diesel and propane) will be stored on the project site, preventative and precautionary measures will need to be taken to avoid risks and impacts to the Navajo Nation environmental resources.

G. Navajo Nation Storage Tank Act:

- a.* No underground (UST) and/or aboveground storage tank (AST) greater than 100 gallons will not be installed on the proposed pipeline expansion development parcel.
- b.* If any UST and/or AST is proposed, this right-of-way must be modified to include the change. The proposed designs must be submitted for NNEPA

Storage Tank Program for review until the final design is approve.

- c. Any ASTs greater than 100 gallons must meet the design and installation specifications as described in the NN Storage Tank Act.
- d. UST staff will need to be onsite to monitor during tank installation.
- e. Mr. Warren Roan, Environmental Specialist, is the contact for UST/AST issues. He can be reached at 928-871-7995.

H. Others to Contact within Navajo Nation:

- a. Melvin Badonie, Division of Natural Resources, Department of Water Resources, Water Code Program at 505-368-1426 to ensure sufficient water is available for the new and proposed pipeline expansion project.
- b. Judy Willetto, DNR, Department of Agriculture at 928-871-6605 for reclamation project and specified seed mix during reclamation.

If there are any questions you may contact Rita Whitehorse-Larsen at 928-871-7188 or email rwhitehorseL@navajo-nsn.gov. Thank you.

Cc: Navajo Nation Oil and Gas Company (NNOGC) Exploration and Production. LLC, PO Box 4439,
Window Rock, Arizona, 86515
NNEPA Water Quality; Air Quality – OPP; RCRP; Administration chrono file
Contact person: Brian Wood, 505-466-8120
Location: BOP 37.19666°N 109.55613°W; EOP 37.18071°N 109.57666°W

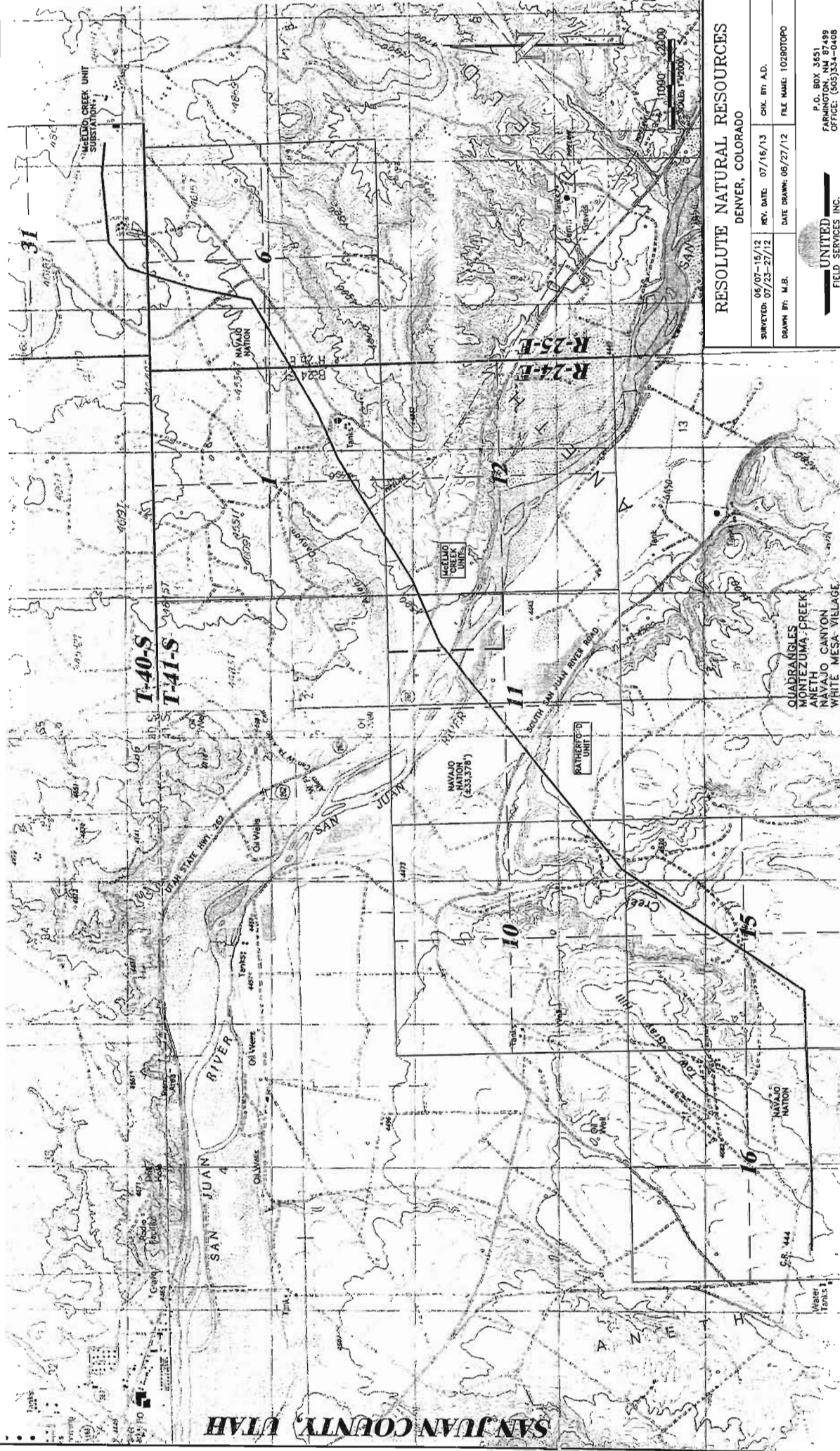
RESOLUTE

NATURAL RESOURCES

PROPOSED RATHERFORD UNIT TO McELMO CREEK UNIT 69 KV POWER LINE

EXHIBIT

B



RESOLUTE NATURAL RESOURCES DENVER, COLORADO

06/07-15/12
SUBMITTED: 07/23-27/12
DRAWN BY: M.B.

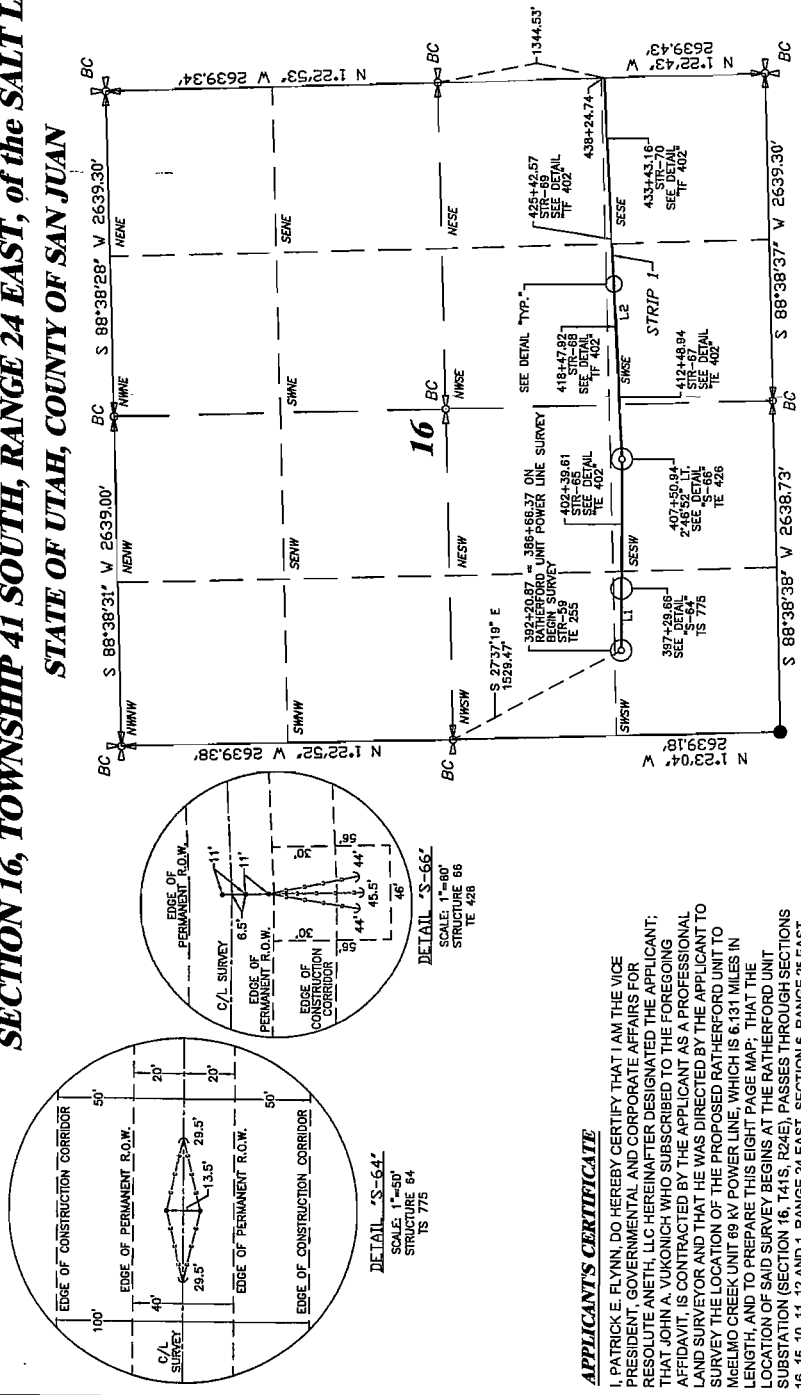
REV. DATE: 07/16/13

DATE DRAWN: 06/27/12
FILE NAME: 1028070PO

UNITED
FIELD SERVICES INC.

P.O. BOX 3651
FARMINGTON, NM 87499
OFFICE: (505)334-0408

SECTION 16, TOWNSHIP 41 SOUTH, RANGE 24 EAST, of the SALT LAKE MERIDIAN STATE OF UTAH, COUNTY OF SAN JUAN



APPLICANT'S CERTIFICATE

I, PATRICK E. FLYNN, DO HEREBY CERTIFY THAT I AM THE VICE PRESIDENT, GOVERNMENTAL AND CORPORATE AFFAIRS FOR RESOLUTE ANETH, LLC HEREINAFTER DESIGNATED THE APPLICANT; THAT JOHN A. VUKONICH WHO SUBSCRIBED TO THE FOREGOING AFFIDAVIT, IS CONTRACTED BY THE APPLICANT AS A PROFESSIONAL LAND SURVEYOR AND THAT HE WAS DIRECTED BY THE APPLICANT TO SURVEY THE LOCATION OF THE PROPOSED RATHERFORD UNIT TO McELMO CREEK UNIT 69 KV POWER LINE, WHICH IS 6.131 MILES IN LENGTH, AND TO PREPARE THIS EIGHT PAGE MAP; THAT THE LOCATION OF SAID SURVEY BEGINS AT THE RATHERFORD UNIT SUBSTATION (SECTION 16, T41S, R24E), PASSES THROUGH SECTIONS 16, 15, 10, 11, 12 AND 1, RANGE 24 EAST, SECTION 6, RANGE 25 EAST, TOWNSHIP 41 SOUTH, AND ENDS AT THE McELMO CREEK UNIT SUBSTATION (SECTION 31) IN RANGE 28 EAST, TOWNSHIP 40 SOUTH, SALT LAKE MERIDIAN, SAN JUAN COUNTY, UTAH, IS ACCURATELY REPRESENTED ON THIS MAP; THAT SUCH SURVEY AS REPRESENTED ON THIS MAP HAS BEEN ADOPTED BY THE APPLICANT AS THE DEFINITE LOCATION OF THE RIGHT-OF-WAY THEREBY SHOWN; AND THAT THE MAP HAS BEEN PREPARED TO BE FILED WITH THE SECRETARY OF THE INTERIOR OR HIS DULY AUTHORIZED REPRESENTATIVE AS PART OF THE APPLICATION FOR SAID RIGHT-OF-WAY TO BE GRANTED TO THE APPLICANT, ITS SUCCESSORS AND ASSIGNS, WITH THE RIGHT TO CONSTRUCT, MAINTAIN, AND REPAIR IMPROVEMENTS, THEREON AND THEREAFTER, FOR SUCH PURPOSES, AND WITH THE FURTHER RIGHT IN THE APPLICANT, ITS SUCCESSORS AND ASSIGNS, TO TRANSFER THIS RIGHT-OF-WAY BY ASSIGNMENT, GRANT, OR OTHERWISE.

PATRICK E. FLYNN
VICE PRESIDENT, GOVERNMENTAL AND CORPORATE AFFAIRS
RESOLUTE ANETH, LLC

DATUM
UTAH SP SOUTH (1927)

- LEGEND**
- FOUND MONUMENT SECTION CORNER
 - FOUND MONUMENT QUARTER CORNER
 - CALCULATED CORNER FROM WITNESS CORNER
 - PROPOSED GUY WIRE & ANCHOR



SCALE 1" = 1000'
500' 0 1000'

SHEET 1 OF 8

PROPOSED RATHERFORD UNIT TO
McELMO CREEK UNIT 69 KV POWER LINE
PREPARED FOR:

RESOLUTE ANETH, LLC as a wholly owned subsidiary of
RESOLUTE NATURAL RESOURCES COMPANY

BY: H.S. DWG. # 1029M01 REV. DATE: 12/03/13



SCALE: 1" = 1000'

JOB No. 10290

DATE: 11/21/12

P.O. BOX 3651
FARMINGTON, N.M.
(505) 334-0408

OWNERSHIP:

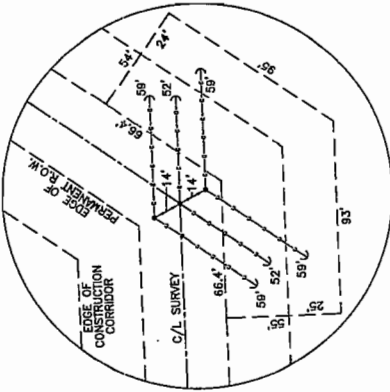
NAVAJO NATION TRIBAL TRUST				
POWER LINE	CORRIDOR LENGTH (FT.)	MILES	ACRES	RODS
ANCHOR POCKET	4603.87	0.872	10.569 **	279.022
TOTAL	4603.87	0.872	10.567	279.022

** 10.569 ACRES DURING CONSTRUCTION AND 4.228 ACRES FOR REMAINDER OF RIGHT-OF-WAY TERM.
*** 0.028 ACRES DURING CONSTRUCTION AND 0.059 ACRES FOR REMAINDER OF RIGHT-OF-WAY TERM.

STRIP 1		
#	DIRECTION	CONSTR. CORRIDOR DISTANCE WIDTH *
L1	S 89°50'05" E	1530.07' 100'
L2	N 87°23'03" E	3073.80' 100'

* 100' WIDE DURING CONSTRUCTION AND 40' WIDE FOR REMAINDER OF RIGHT-OF-WAY TERM

SECTION 15, TOWNSHIP 41 SOUTH, RANGE 24 EAST, of the SALT LAKE MERIDIAN
STATE OF UTAH, COUNTY OF SAN JUAN



DATUM
UTAH SP SOUTH (1927)

LEGEND

- FOUND MONUMENT
- SECTION CORNER
- FOUND MONUMENT
- QUARTER CORNER
- CALCULATED CORNER
- PROPOSED GUY WIRE & ANCHOR

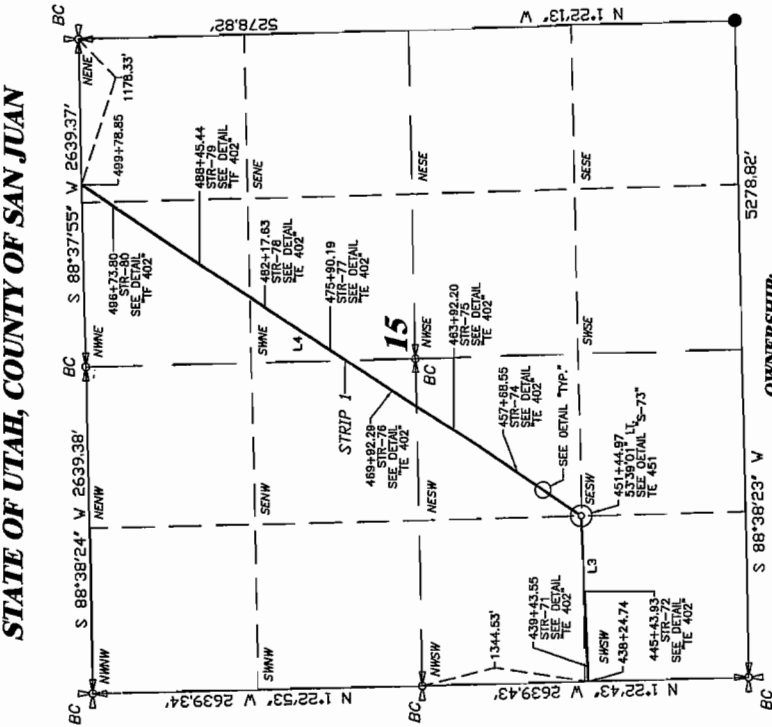
SURVEYOR'S AFFIDAVIT

STATE OF UTAH)

COUNTY OF SAN JUAN)
I, JOHN A. VUKONICH, FIRST BEING DULY SWORN, HEREBY STATE: THAT I AM A
PROFESSIONAL LAND SURVEYOR; THAT THIS SURVEY WAS MADE BY ME OR UNDER
MY DIRECTION; THAT THIS EIGHT PAGE MAP ACCURATELY REPRESENTS THE
CENTERLINE OF THE HEREIN REFERENCED RATHERFORD UNIT TO McELMO CREEK
UNIT 69 KV POWER LINE, THAT SAID SURVEY IS LOCATED ON NAVAJO TRIBAL TRUST
LANDS, PASSING THROUGH THE S 1/2 OF SECTION 16, THE W 1/2 AND THE NE 1/4 OF
SECTION 15, THE SE 1/4 OF SECTION 10, THE W 1/2 AND THE NE 1/4 OF SECTION 11,
THE NW 1/4 OF SECTION 12, THE S 1/2 OF SECTION 1, IN RANGE 24 EAST AND THE
W 1/2 OF SECTION 6, IN RANGE 26 EAST, ALL IN TOWNSHIP 41 SOUTH; ALSO THE
S 1/2 OF SECTION 31, IN RANGE 25 EAST, TOWNSHIP 40 SOUTH, SAN JUAN COUNTY,
UTAH, BEGINNING AT THE RATHERFORD UNIT SUBSTATION (SECTION 16, T41S, R24E)
AND ENDING AT THE McELMO CREEK UNIT SUBSTATION (SECTION 31, T40S, R25E);
THAT SAID RATHERFORD UNIT TO McELMO CREEK UNIT 69 KV POWER LINE
RIGHT-OF-WAY HAS A LENGTH OF 32,372.06 FEET OR 6.131 MILES.

PLS UTAH 7219139-2201

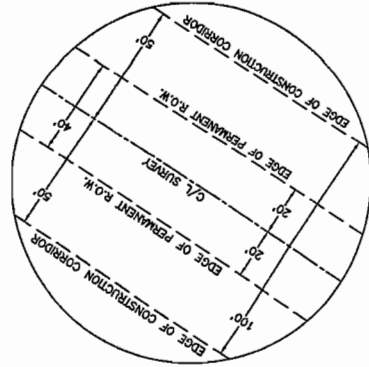
DATE



OWNERSHIP:

NAVAJO NATION TRIBAL TRUST			
	CORRIDOR LENGTH (FT.)	MILES	ACRES
POWER LINE	6154.11	1.166	14.128**
ANCHOR POCKET	N/A	N/A	0.068***
TOTAL	6154.11	1.166	14.227

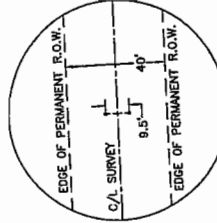
** 14.128 ACRES DURING CONSTRUCTION AND 5.561 ACRES FOR REMAINDER OF RIGHT-OF-WAY TERM.
*** 0.068 ACRES DURING CONSTRUCTION AND 0.201 ACRES FOR REMAINDER OF RIGHT-OF-WAY TERM.



DETAIL "TYP."
SCALE: 1"=50'

STRIP 1		
#	DIRECTION	CONST. CORRIDOR WIDTH
L3	N 87°23'03" E	1320.23' 100'
L4	N 33°44'02" E	4833.88' 100'

* 100' WIDE DURING CONSTRUCTION AND
40' WIDE FOR REMAINDER OF RIGHT-OF-WAY TERM



DETAIL "TYP."
SCALE: 1"=50'

STRUCTURES 71, 72, 74, 75, 76, 77 & 78

DETAIL "TYP."
SCALE: 1"=50'

STRUCTURES 79 & 80

SHEET 2 OF 8

PROPOSED RATHERFORD UNIT TO

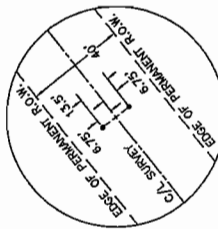
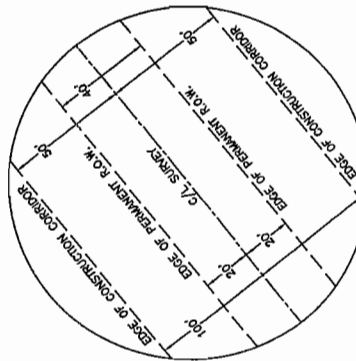
McELMO CREEK UNIT 69 KV POWER LINE

PREPARED FOR:

RESOLUTE ANETH, LLC as a wholly owned subsidiary of
RESOLUTE NATURAL RESOURCES COMPANY

BY: H.S. DWG. # 10250M02 REV. DATE: 12/03/13

SECTION 10, TOWNSHIP 41 SOUTH, RANGE 24 EAST, of the SALT LAKE MERIDIAN STATE OF UTAH, COUNTY OF SAN JUAN



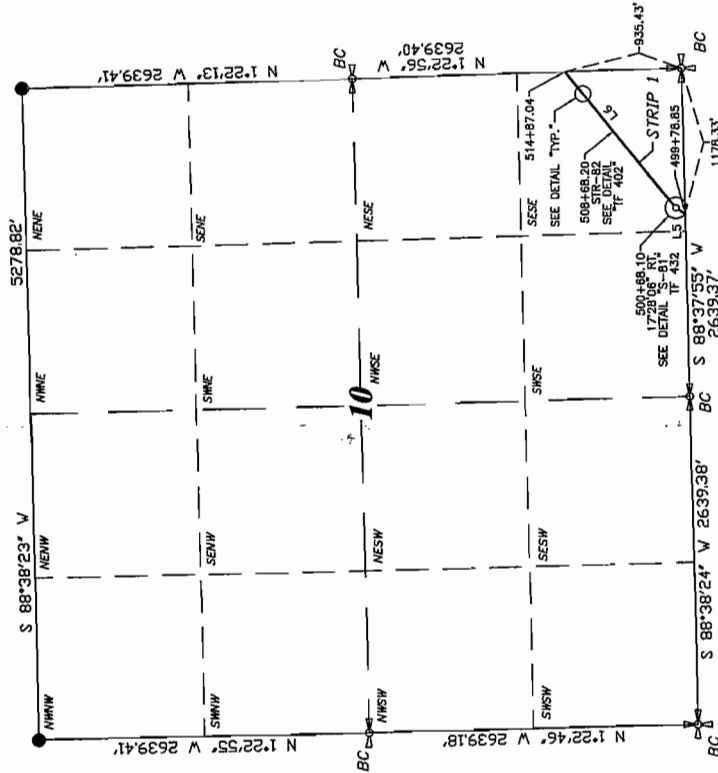
DETAIL 'TYP.'
SCALE: 1"=50'
STRUCTURE B2

	FEET	MILES	ACRES PERMANENT CONSTRUCTION	ACRES	RODS
RATHERFORD UNIT	17,249.51	3.288	17,211	40,209	1,045,424
McELMO CREEK UNIT	15,122.55	2.853	15,011	35,178	918,518
TOTAL	32,372.06	6.131	32,222	75,387	1,963,942

DATUM
UTAH SP SOUTH (1927)

LEGEND

- FOUND MONUMENT
- SECTION CORNER
- FOUND MONUMENT
- QUARTER CORNER
- CALCULATED CORNER
- PROPOSED GUY WIRE & ANCHOR

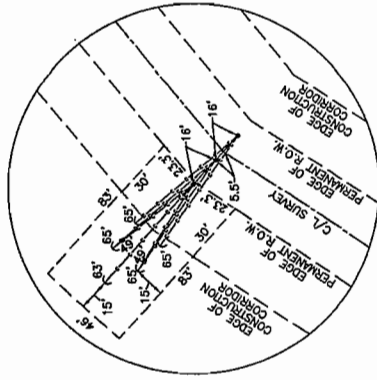


SCALE
500' 0 1" = 1000'
1000'

#	DIRECTION	DISTANCE	CONST. CORRIDOR WIDTH *
LS	N 33°44'02" E	189.25'	100'
LS	N 51°12'08" E	1418.94'	100'

* 100' WIDE DURING CONSTRUCTION AND 40' WIDE FOR REMAINDER OF RIGHT-OF-WAY TERM

DETAIL 'S-81'
SCALE: 1"=60'
STRUCTURE B1
IF 432



OWNERSHIP:

NAVAJO NATION TRIBAL TRUST				
	CORRIDOR LENGTH (FT.)	MILES	ACRES	RODS
POWER LINE	1508.19	0.286	3.462 **	91.405
ANCHOR POCKET	N/A	N/A	0.054 ***	N/A
TOTAL	1508.19	0.286	3.516	91.405

** 3.462 ACRES DURING CONSTRUCTION AND 1.385 ACRES FOR REMAINDER OF RIGHT-OF-WAY TERM.
*** 0.054 ACRES DURING CONSTRUCTION AND 0.086 ACRES FOR REMAINDER OF RIGHT-OF-WAY TERM.



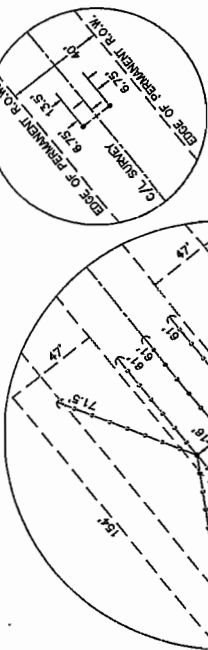
P.O. BOX 3651
FARMINGTON, N.M.
(505) 334-0408
SCALE: 1" = 1000'
JOB No. 10290
DATE: 11/21/12

PROPOSED RATHERFORD UNIT TO
McELMO CREEK UNIT 69 KV POWER LINE
PREPARED FOR:

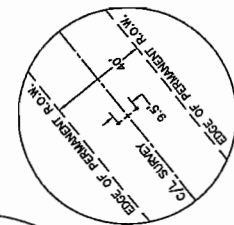
RESOLUTE ANETH, LLC as a wholly owned subsidiary of
RESOLUTE NATURAL RESOURCES COMPANY

BY: H.S. DWG. # 10250M03 REV. DATE 12/03/12

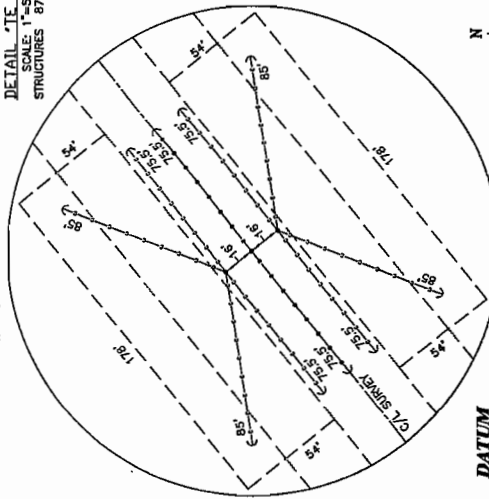
SECTION 11, TOWNSHIP 41 SOUTH, RANGE 24 EAST, of the SALT LAKE MERIDIAN STATE OF UTAH, COUNTY OF SAN JUAN



DETAIL "TF 402"
SCALE: 1"=50'
STRUCTURES 83, 84 & 85



DETAIL "TE 402"
SCALE: 1"=50'
STRUCTURES 87 & 82



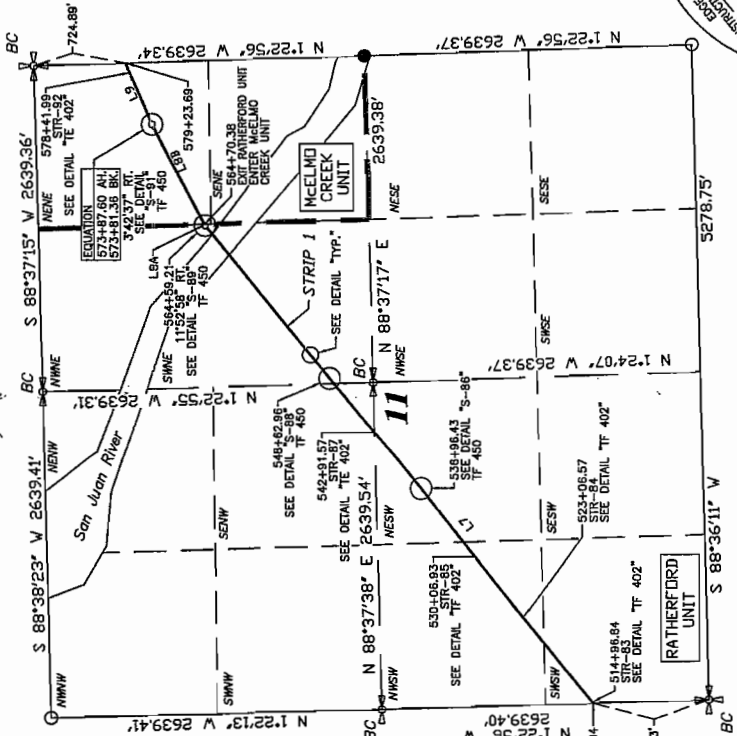
UTAH SP SOUTH (1927)

DATUM

LEGEND

- FOUND MONUMENT
- SECTION CORNER
- FOUND MONUMENT
- QUARTER CORNER
- PROJECTED CORNER
- PROJECTED QUARTER CORNER
- FROM WITNESS CORNER MONITOR
- PROPOSED GUY WIRE & ANCHOR

SCALE 0 1" = 1000'
500'



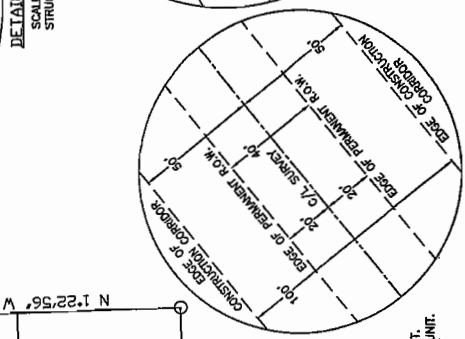
OWNERSHIP:

POWER LINE	CORRIDOR LENGTH (FT.)	MILES	ACRES	RODS
	6430.41*	1.218	14,762.44**	389.722
ANCHOR POCKET	N/A	N/A	0.517***	N/A
TOTAL	6430.41	1.218	15,279	389.722

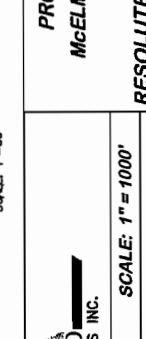
* OF WHICH 4983.34 FEET IN RATHERFORD UNIT AND 1447.07 FEET IN McELMO CREEK UNIT.
** 11,440 ACRES DURING CONSTRUCTION AND 4,576 ACRES FOR REMAINDER OF RIGHT-OF-WAY TERM IN RATHERFORD UNIT.
*** 3,322 ACRES DURING CONSTRUCTION AND 1,329 ACRES FOR REMAINDER OF RIGHT-OF-WAY TERM IN McELMO CREEK UNIT.
**** 0.517 ACRES DURING CONSTRUCTION AND 1,408 ACRES FOR REMAINDER OF RIGHT-OF-WAY TERM.

#	DIRECTION	DISTANCE	CONST. CORRIDOR WIDTH *
L7	N 51°12'08" E	4972.17'	100'
L8A	N 63°05'06" E	1117'	100'
L8B	N 63°05'06" E	910.98'	100'
L9	N 66°47'43" E	536.09'	100'

* 100' WIDE DURING CONSTRUCTION AND 40' WIDE FOR REMAINDER OF RIGHT-OF-WAY TERM



DETAIL "TYP." SCALE: 1"=50'



SHEET 4 OF 8

PROPOSED RATHERFORD UNIT TO
McELMO CREEK UNIT 69 kV POWER LINE

UNITED FIELD SERVICES INC.

PREPARED FOR:

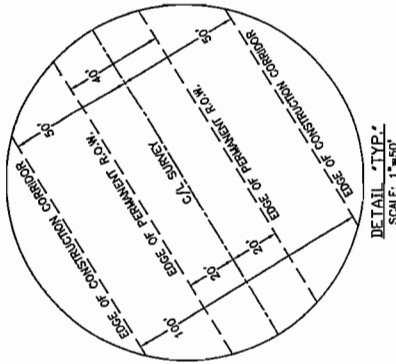
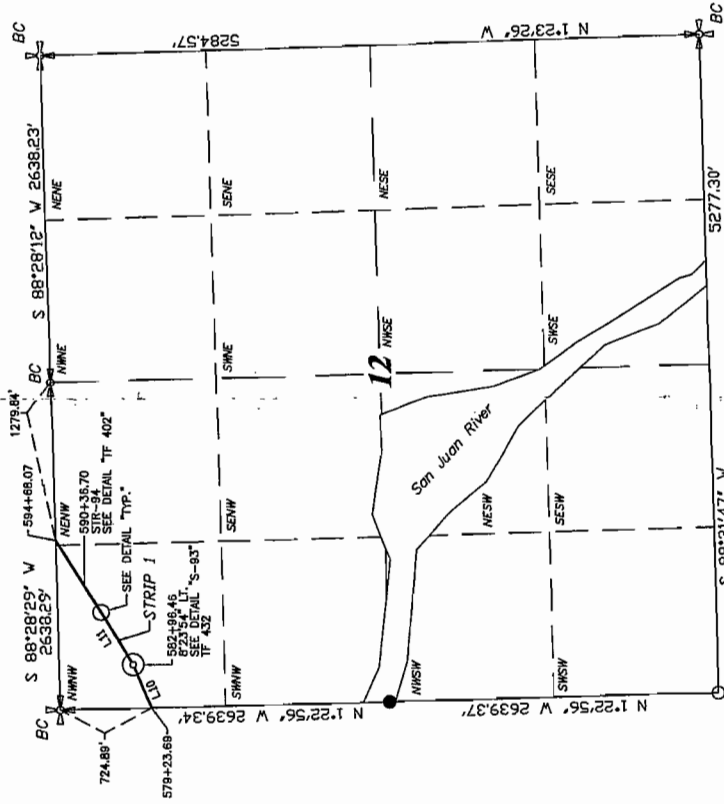
RESOLUTE ANETH, LLC as a wholly owned subsidiary of
RESOLUTE NATURAL RESOURCES COMPANY

SCALE: 1" = 1000'
JOB No. 10290
DATE: 11/21/12

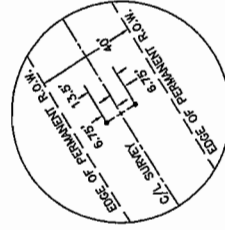
P.O. BOX 3551
FARMINGTON, N.M.
(505) 354-0408

BY: H.S. DWR. # 10230M04 REV. DATE: 12/03/13

SECTION 12, TOWNSHIP 41 SOUTH, RANGE 24 EAST, of the SALT LAKE MERIDIAN STATE OF UTAH, COUNTY OF SAN JUAN



DETAIL 'S-93'
SCALE: 1" = 60'
STRUCTURE 93
TF 432



DETAIL 'TF 402'
SCALE: 1" = 50'
STRUCTURE 94

DATUM
UTAH SP SOUTH (1927)

LEGEND

- FOUND MONUMENT
- SECTION CORNER
- FOUND MONUMENT
- QUARTER CORNER
- PROJECTED CORNER
- PROJECTED QUARTER CORNER FROM WITNESS CORNER MONUMENT
- PROPOSED GUY WIRE & ANCHOR



SCALE 1" = 1000'
500' 0 1000'

OWNERSHIP:

NAVAJO NATION TRIBAL TRUST			
	CORRIDOR LENGTH (FT.)	ACRES	RODS
POWER LINE	1544.38	3.545 **	93.598
ANCHOR POCKET	N/A	0.058 ***	N/A
TOTAL	1544.38	3.603	93.598

** 3.545 ACRES DURING CONSTRUCTION AND 1.418 ACRES FOR REMAINDER OF RIGHT-OF-WAY TERM.
*** 0.058 ACRES DURING CONSTRUCTION AND 0.090 ACRES FOR REMAINDER OF RIGHT-OF-WAY TERM.

#	DIRECTION	DISTANCE	CONST. CORRIDOR WIDTH #
L10	N 66°47'43" E	372.77'	100'
L11	N 58°23'49" E	1171.61'	100'

* 100' WIDE DURING CONSTRUCTION AND
40' WIDE FOR REMAINDER OF RIGHT-OF-WAY TERM

SHEET 5 OF 8

PROPOSED RATHERFORD UNIT TO
McELMO CREEK UNIT 69 KV POWER LINE

PREPARED FOR:

RESOLUTE ANETH, LLC as a wholly owned subsidiary of
RESOLUTE NATURAL RESOURCES COMPANY

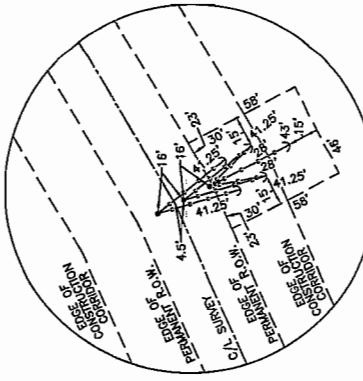
BY: H.S. UMC # 1029005 REV. DATE: 12/05/17



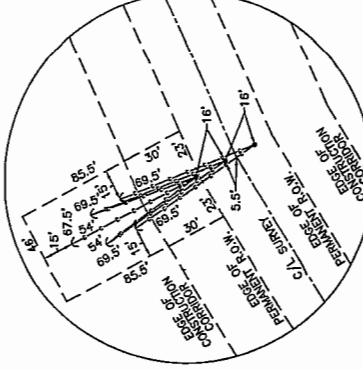
P.O. BOX 3651
FARMINGTON, N.M.
(505) 334-0408

SCALE: 1" = 1000'
JOB No. 10290
DATE: 11/21/12

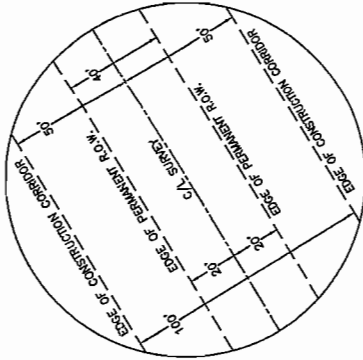
SECTION 1, TOWNSHIP 41 SOUTH, RANGE 24 EAST, of the SALT LAKE MERIDIAN STATE OF UTAH, COUNTY OF SAN JUAN



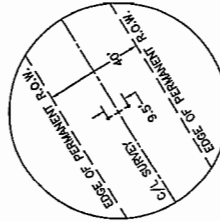
DETAIL "S-100"
SCALE: 1"=60'
STRUCTURE 100
TF 432



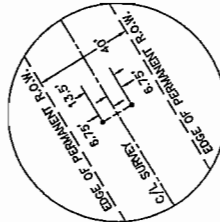
DETAIL "S-98"
SCALE: 1"=60'
STRUCTURE 98
TF 432



DETAIL "TYP."
SCALE: 1"=60'



DETAIL "TE 402"
SCALE: 1"=60'
STRUCTURES 97, 98, 101 & 102



DETAIL "TF 402"
SCALE: 1"=60'
STRUCTURES 95 & 96

#	DIRECTION	DISTANCE	CONST. CORRIDOR WIDTH
L12	N 58°23'49" E	2091.00'	100'
L13	N 66°14'28" E	1152.30'	100'
L14	N 59°31'14" E	1192.58'	100'

* 100' WIDE DURING CONSTRUCTION AND 40' WIDE FOR REMAINDER OF RIGHT-OF-WAY TERM

DATUM
UTAH SP SOUTH (1927)

LEGEND

- FOUND MONUMENT
- SECTION CORNER
- FOUND MONUMENT
- QUARTER CORNER
- CALCULATED CORNER
- PROPOSED GUY WIRE & ANCHOR

OWNERSHIP:

NAVAJO NATION TRIBAL TRUST			
	CORRIDOR LENGTH (FT.)	MILES	ACRES
POWER LINE	4435.88	0.840	10.183 **
ANCHOR POCKET	N/A	N/A	0.087 ***
TOTAL	4435.88	0.840	10.270

** 10.183 ACRES DURING CONSTRUCTION AND 4.073 ACRES FOR REMAINDER OF RIGHT-OF-WAY TERM.
*** 0.087 ACRES DURING CONSTRUCTION AND 0.149 ACRES FOR REMAINDER OF RIGHT-OF-WAY TERM.



P.O. BOX 3651
FARMINGTON, N.M.
(505) 334-0408

SCALE: 1"=1000'
JOB No. 10290
DATE: 11/21/12

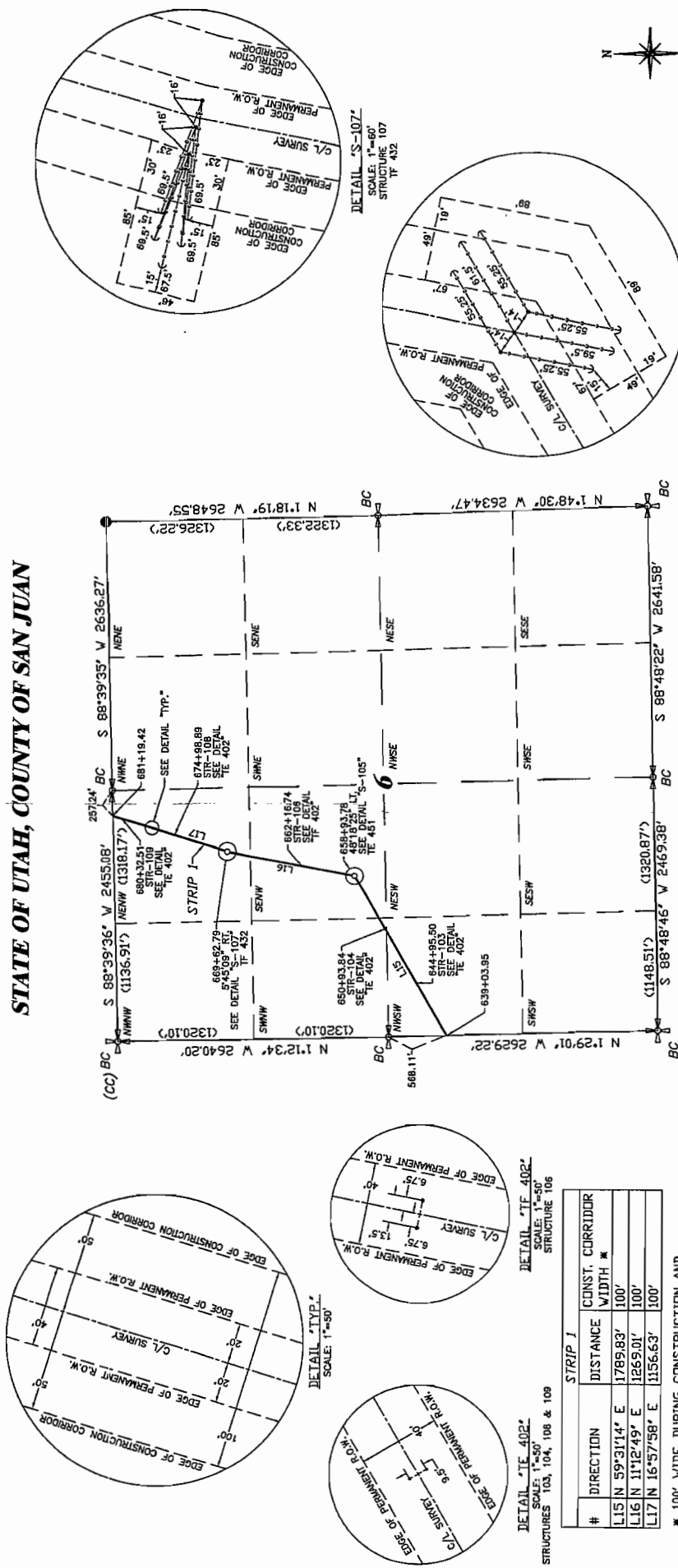
PROPOSED RATHERFORD UNIT TO
MCELMO CREEK UNIT 69 KV POWER LINE
PREPARED FOR:
RESOLUTE ANETH, LLC as a wholly owned subsidiary of
RESOLUTE NATURAL RESOURCES COMPANY

SCALE 1" = 1000'
500' 0 1000'

SHEET 6 OF 8

BY: N.S. DWG. # 1029006 REV. DATE: 12/03/11

SECTION 6, TOWNSHIP 41 SOUTH, RANGE 25 EAST, of the SALT LAKE MERIDIAN STATE OF UTAH, COUNTY OF SAN JUAN



OWNERSHIP:

NAVAJO NATION TRIBAL TRUST				
	CORRIDOR LENGTH (FT.)	MILES	ACRES	RODS
POWER LINE	4215.47	0.798	9.877 **	255.483
ANCHOR POCKET	N/A	N/A	0.132 ***	N/A
TOTAL	4215.47	0.798	9.809	255.483

** 9.877 ACRES DURING CONSTRUCTION AND 3.871 ACRES FOR REMAINDER OF RIGHT-OF-WAY TERM.
*** 0.132 ACRES DURING CONSTRUCTION AND 0.263 ACRES FOR REMAINDER OF RIGHT-OF-WAY TERM.

DATUM

UTAH SP SOUTH (1927)

LEGEND

- FOUND MONUMENT
- SECTION CORNER
- FOUND MONUMENT
- QUARTER CORNER
- CALCULATED CORNER
- PROPOSED GUY WIRE & ANCHOR



P.O. BOX 3651
FARMINGTON, N.M.
(505) 334-0408

SCALE: 1" = 1000'
JOB No. 10290
DATE: 11/21/12

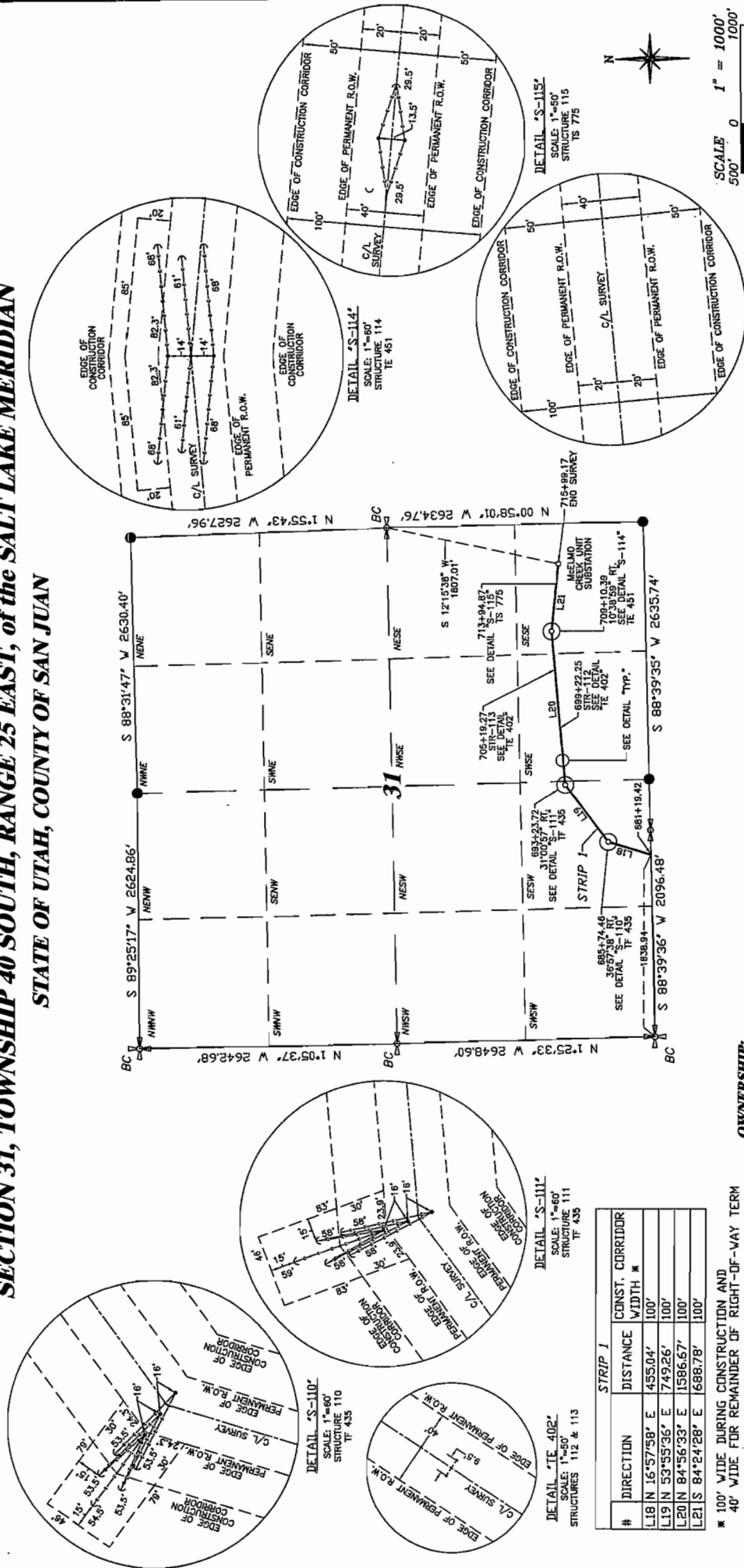
PROPOSED RATHERFORD UNIT TO
McELMO CREEK UNIT 69 KV POWER LINE
PREPARED FOR:
RESOLUTE ANETH, LLC as a wholly owned subsidiary of
RESOLUTE NATURAL RESOURCES COMPANY

SCALE: 1" = 1000'
500' 0 1000'

SHEET 7 OF 8

BY: H.S. DWG. # 10290007 REV. DATE: 12/03/12

SECTION 31, TOWNSHIP 40 SOUTH, RANGE 25 EAST, of the SALT LAKE MERIDIAN STATE OF UTAH, COUNTY OF SAN JUAN



DATE: 11/21/12
JOB No.: 10290
SCALE: 1" = 1000'

PROPOSED RATHERFORD UNIT TO:
McELMO CREEK UNIT 69 KV POWER LINE
PREPARED FOR:
RESOLUTE ANETH, LLC as a wholly owned subsidiary of
RESOLUTE NATURAL RESOURCES COMPANY

BY: N.S. DWG. # 10290M08 REV. DATE: 12/03/12

DATUM
UTAH SP SOUTH (1927)

LEGEND
FOUND MONUMENT
SECTION CORNER
FOUND MONUMENT
QUARTER CORNER
CALCULATED CORNER
PROPOSED GUY WIRE & ANCHOR

OWNERSHIP:
NAVAJO NATION TRIBAL TRUST

	CORRIDOR LENGTH (FT.)	ACRES	RODS
POWER LINE	3478.75	0.659	210.894
ANCHOR POCKET	N/A	0.057	N/A
TOTAL	3478.75	0.659	210.894

** 7.988 ACRES DURING CONSTRUCTION AND 3.195 ACRES FOR REMAINDER OF RIGHT-OF-WAY TERM.
** 0.097 ACRES DURING CONSTRUCTION AND 0.240 ACRES FOR REMAINDER OF RIGHT-OF-WAY TERM.

100' WIDE DURING CONSTRUCTION AND 40' WIDE FOR REMAINDER OF RIGHT-OF-WAY TERM

STRIP 1

#	DIRECTION	DISTANCE	CONST. CORRIDOR WIDTH
L18	N 16°57'58" E	455.04'	100'
L19	N 53°55'36" E	749.26'	100'
L20	N 84°56'33" E	1586.67'	100'
L21	S 84°24'28" E	1686.78'	100'

DETAIL "S-110"
SCALE: 1"=60'
STRUCTURE 110
TF 435

DETAIL "S-111"
SCALE: 1"=60'
STRUCTURE 111
TF 435

DETAIL "S-112"
SCALE: 1"=60'
STRUCTURE 112 & 113

DETAIL "S-114"
SCALE: 1"=60'
STRUCTURE 114
TE 451

DETAIL "S-115"
SCALE: 1"=60'
STRUCTURE 115
TS 775

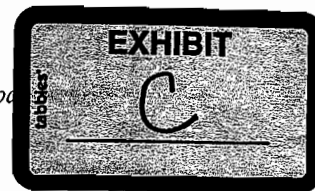


THE NAVAJO NATION

BEN SHELLY
PRESIDENT




Utah Land Office/Navajo Land Department
Post Office Box 410
Montezuma Creek, Utah 84534



REX LEE JIM
VICE - PRESIDENT

MEMORANDUM

To: Mr. Howard P. Draper, Senior Programs & Projects Specialist
Project Review Section/Navajo Land Department
Division of Natural Resources

From: 
Belinda Chee, Senior Right-of-Way Agent
Utah Land Office/Navajo Land Department

Date: May 20, 2014

Subject: Field Clearance for Resolute Natural Resources



Pursuant to the Field Clearance request, the Utah Land Office has completed the below cited Field Clearance with Mr. Bruce H. Benally, Grazing Committee Member of Red Mesa Chapter and Mr. Calvin C. Thomas, Grazing Committee Member of Aneth Chapter, and eight (8) grazing permittees has consented. Thus, forward the proposed projects for approval. The proposed projects are described below:

McElmo Creek Unit 69kV Supply Project, Power Line 100' width x 32,372.06' length/74.315 acres (100' width for Construction and 40' width for Right-of-way), and structure anchors 1.072 acres, total of 75.387 acres, in Sections 1, 10, 11, 12, 15 and 16, T41S, R24E, Section 6, T41S, R25E, San Juan County, Utah.

All of the original Field Clearance documents are attached. For any inquiries, call me at (435) 651-3504, fax (435) 651-3506 or email at belchee@frontier.com And if you should have any questions to the company you may call Mr. Brian Wood, Consultant with Permits West, Incorporated at (505) 466-8120. Thank you.

Attachments

xc:

Brian Wood, Consultant/Permits West, Inc.
Roger Atcity/Resolute Natural Resources
W. Mike Halona, Dept. Mgr. III/NLD/DNR/NN
I. Harlan Charley, SPPS/NLD/DNR/NN
Calvin C. Thomas, GCM/Aneth Chapter/NN
Bruce H. Benally, GCM/Red Mesa Chapter/NN
Akhtar Zaman, Director/Minerals Dept./NN
Bill Freeman/NNEPA/NN
Bertha Spencer/BIA
File, Utah Land Office/NLD/DNR/NN



THE NAVAJO NATION

COPY

COPY

"CONFIDENTIAL INFORMATION"

Utah Land Office/Navajo Land Dept./DNR
Post Office Box 410
Montezuma Creek, Utah 84534

BEN SHELLY
PRESIDENT

REX LEE JIM
VICE - PRESIDENT

May 20, 2014

Mr. Roger Atcitty, Production Supervisor
Resolute Natural Resources
Post Office Box 100
Montezuma Creek, Utah 84534

Subject: Surface Damage Compensation Request for McElmo Creek Unit 69kV Supply
Project, Power Line & Structure Anchors

Dear Mr. Atcitty:

The Utah Land Office has completed your said Field Clearances with Mr. Bruce H. Benally, Grazing Committee Member of Red Mesa Chapter and Mr. Calvin C. Thomas, Grazing Committee Member of Aneth Chapter, and eight (8) grazing permittee. The surface damage payment will be made according to the Payment Recommendations. The proposed projects are described below with its measurements, calculations, amounts and payees:

McElmo Creek Unit 69kV Supply Project, Power Line 100' width x 32,372.06' length/74.315 acres (100' width for Construction and 40' width for Right-of-way), and structure anchors 1.072 acres, total of 75.387 acres, in Sections 1, 10, 11, 12, 15 and 16, T41S, R24E, Section 6, T41S, R25E, San Juan County, Utah.

Calculations:

<u>Power Line</u> 100' width x 32,372.06' length/74.315 acres x \$610 per acres rate =	\$45,332.15
<u>Structure Anchors</u> 1.072 acres x \$610 per acres rate =	\$653.92
	\$45,986.07

Thus, make the checks payable to:

Red Mesa Chapter:

- 1) Victoria M. Joe, SS# 529-60-7381, for \$2,042.47,
- 2) Robert Holly, SS# 527-82-9068, for 2,042.46,
- 3) Jimmy Holly Sr., SS# 725-01-8221, for \$2,042.46,
- 4) Marion Cita Holly, SS# 522-52-9579, for \$1,021.23,
- 5) Virgil Holly, SS# 629-08-3476, for \$1,021.23,
- 6) Isabelle Sam, SS# 585-05-1853, for \$2,723.29,
- 7) Cecelia Dee, SS# 529-04-0350, for \$2,723.28,
- 8) Samuel Dee, SS# 585-84-7528, for \$2,723.28,
- 9) Rosita Nakai, SS# 528-98-8616, for \$1,633.98,
- 10) Anna Tsosie, SS# 528-50-7448, for \$1,633.97,
- 11) LaRose Sam, SS# 523-58-7972, \$1,633.97,
- 12) Linda B. Begay, SS# 528-56-9593, \$1,633.97,
- 13) Albert Sam, SS# 529-66-2385, for \$1,633.97.

Aneth Chapter:

- 14) Annie Oldman, SS# 529-66-2302, for \$12,456.38
- 15) Betty Ann Norton, SS# 585-62-5074, for \$2,362.41, and
- 16) Dora Todechene, SS# 522-56-6272, for \$6,657.72.

COPY

COPY

Send the checks to our office for our accountability and distribution. For inquiries, please call me at (435) 651-3504, fax (435) 651-3506 or email at belchee@frontier.com Thank you.

Sincerely,



Belinda Chee, Senior Right-of-way Agent
Utah Land Office/Navajo Land Department
Division of Natural Resources

xc:

Brian Wood, Consultant/Permits West, Inc.
Howard P. Draper, Sup./PRS/NLD/DNR/NN
W. Mike Halona, Dept. Mgr. III/NLD/DNR/NN
I. Harlan Charley, SPPS/NLD/DNR/NN
Calvin C. Thomas, GCM/Aneth Chapter/NN
Bruce H. Benally, GCM/Red Mesa Chapter/NN
File, Utah Land Office/NLD/DNR/NN



**THE
NAVAJO
NATION**

BEN SHELLY
PRESIDENT

COPY

XC: Howard Draper
"CONFIDENTIAL INFORMATION"

Utah Land Office/Navajo Land Dept./DNR
Post Office Box 410
Montezuma Creek, Utah 84534

REX LEE JIM
VICE - PRESIDENT

May 21, 2014

Mr. Roger Atcitty, Production Supervisor
Resolute Natural Resources
Post Office Box 100
Montezuma Creek, Utah 84534

Subject: Revised Surface Damage Compensation Request for McElmo Creek Unit 69kV
Supply Project, Power Line & Structure Anchors

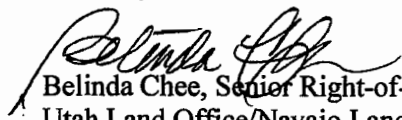
Dear Mr. Atcitty:

Please be informed that Isabelle Sam, Grazing Permit holder came into my office this morning requesting to share her compensation of \$2,723.29 with her five (5) children. Therefore, the compensation for Isabelle Sam will be change as followed:

- 1) Isabelle Sam, SS# 585-05-1853, for \$453.89,
- 2) Larry Sam, SS# 629-60-7384, for \$453.88,
- 3) Marion Sam, SS# 529-70-2400, for \$453.88,
- 4) Norman Sam, SS# 525-94-6622, for \$453.88,
- 5) Stanley Sam, SS# 585-52-4869, for \$453.88, and
- 6) Leo Sam, SS#585-76-7586, for \$453.88.

Please make the necessary changes. For inquiries, please call me at (435) 651-3504, fax (435) 651-3506 or email at belchee@frontier.com Thank you.

Sincerely,


Belinda Chee, Senior Right-of-way Agent
Utah Land Office/Navajo Land Department
Division of Natural Resources

xc:

Brian Wood, Consultant/Permits West, Inc.
Howard P. Draper, Sup./PRS/NLD/DNR/NN
W. Mike Halona, Dept. Mgr. III/NLD/DNR/NN
I. Harlan Charley, SPPS/NLD/DNR/NN
Bruce H. Benally, GCM/Red Mesa Chapter/NN
File, Utah Land Office/NLD/DNR/NN

FIELD CLEARANCE CHECKLIST

(This form covers only damages and compensation to individual land users. It does not cover consideration or other fees to the Navajo Nation. If necessary, use the back of this form for completion.)

Project Identification:

Applicant: Resolute Natural Resources Company, Post Office Box 100, Montezuma Creek, Utah 84534

Identification:

Purpose: McElmo Creek Unit 69kV Supply Project, Power Line & Structure Anchors

Location (Legal Description): In Sections 1, 10, 11, 12, 15 and 16, T41S, R24E, Section 6, T41S, R25E, San Juan County, Utah.

Amount of land affected: Power Line 100' width x 32,372.06' length/74.315 acres (100' width for Construction and 40' width for Right-of-way), and Structure Anchors 1.072 acres, total of 75.387 acres.

Land status: Trust Fee Other

1. List of land use/grazing permittee whose land use rights will be affected project:

<u>Names</u>	<u>Census No.</u>	<u>Type of and Use Right</u>
a. Victoria M. Joe	35,982	Grazing Rights (within Red Mesa Chapter)
b. Isabelle Sam	19,271	Grazing Rights (within Red Mesa Chapter)
c. Cecelia Dee	52,825	Grazing Rights (within Red Mesa Chapter)
d. Samuel Dee	102,813	Grazing Rights (within Red Mesa Chapter)
e. Rosita Nakai	52,821	Grazing Rights (within Red Mesa Chapter)
f. Annie Oldman	52,544	Grazing Rights (within Aneth Chapter)
g. Betty Ann Norton	96,648	Grazing Rights (within Aneth Chapter)
h. Dora Todechene	102,093	Grazing Rights (within Aneth Chapter)

2. Are all land users in the above list no. 4 with claims to the affected lands shown in the Branch of Land Operations records? Yes No

3. Have the Grazing Committee or Land Board Member (whichever is appropriate) for the affected area confirms the list no. 4 by signing acknowledgement form below.

ACKNOWLEDGEMENT

I acknowledge that due notice was given to the affected community of the proposed project, and according to my records and to the best of my knowledge; the list no. 4 includes all land users who have rights in the affected lands.

5/26/2014
Date

Bruce H. Benally
Bruce H. Benally, Grazing Committee Member
Red Mesa Chapter

09
District

5-6-2014
Date

Calvin C. Thomas
Calvin C. Thomas, Grazing Committee Member
Aneth Chapter

12
District

4. Are any damages expected to individual improvements? Yes No

If yes, contact the Director of Navajo Land Administration because special arrangements will have to be made to compensate for these damages.

If no give full explanations why:

No damages are expected to individual improvement. Nominal surface/grazing damages are expected on the projects. Surface damage compensation will be paid out to the affected grazing permittees. And the disturbed grazing area will be reclaimed/reseed per Bureau of Indian Affairs regulations after the completion of the project.

5. List of land users where diminishment in value of land use rights is expected and/or where land use rights are expected to be enhanced as a result of the project. Specify whether or not there is diminishment or enhancement in value of land use rights. Note whether or not land users have consented and which consent forms were used. (If no expected damages, use Consent Form No. 1.)

<u>Names</u>	<u>Expected Diminishment</u>	<u>Expected Enhancement</u>	<u>Did Land Users Consent? Form?</u>
a. Victoria M. Joe	None	None	Yes, consent # 2
b. Isabelle Sam	None	None	Yes, consent # 2
c. Cecelia Dee	None	None	Yes, consent # 2
d. Samuel Dee	None	None	Yes, consent # 2
e. Rosita Nakai	None	None	Yes, consent # 2
f. Annie Oldman	None	None	Yes, consent # 2
g. Betty Ann Norton	None	None	Yes, consent # 2
h. Dora Todechene	None	None	Yes, consent # 2

List again the land users from list no. 8 where land use rights value will be diminished as a result of the project. Specify if land users is to receive compensation and the monetary amount in-kind compensation to be received, and use Consent Form No. 2. Indicate whether compensation is be received is adequate for the estimated damages to land use rights. Note whether land users have consented and which consent forms used. (If waiver of compensation for damages, use Consent Form No. 3.)

<u>Names</u>	<u>Compensation Amount</u>	<u>Is Amount Adequate</u>	<u>Did Land Users Consent? Form?</u>
a. Victoria M. Joe	\$8,169.85	Yes	Yes, consent # 2
b. Isabelle Sam	\$2,723.29	Yes	Yes, consent # 2
c. Cecelia Dee	\$2,723.28	Yes	Yes, consent # 2
d. Samuel Dee	\$2,723.28	Yes	Yes, consent # 2
e. Rosita Nakai	\$8,169.86	Yes	Yes, consent # 2
f. Annie Oldman	\$12,456.38	Yes	Yes, consent # 2
g. Betty Ann Norton	\$2,362.41	Yes	Yes, consent # 2
h. Dora Todechene	\$6,657.72	Yes	Yes, consent # 2

How, when and by whom will land users be paid compensation? If any, is it specified in list no. 9 above?

Surface damages compensation will be paid out accordingly to the Grazing Committee Member's Payment Recommendations.

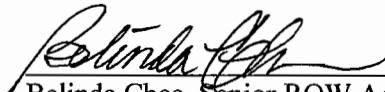
6. Is a topographical map of the project attached? Yes No

7. Was the project fully explained to the land users? Yes No
8. Which chapter will be affected by the project? Aneth & Red Mesa Chapters
9. Are supporting chapter resolution attached? Yes No
10. Will chapter receive any payments or benefits from the project?
- Yes No If yes, what will be received?
-

Approved by:

Field Clearance Conducted by:

W. Mike Halona, Program Manager III
Navajo Land Department/DNR



Belinda Chee, Senior ROW Agent
Utah Land Office/Navajo Land Department

(NLD approval necessary only if the
field clearance was conducted by
other than NLD Office)

Date: May 20, 2014

GRAZING COMMITTEE RECOMMENDATION

Date: April 9, 2014

Project Name/Legal Description: McElmo Creek Unit 69kV Supply Project, Power Line 100' width x 32,372.06' length/74.315 acres (100' width for Construction and 40' width for Right-of-way), and structure anchors 1.072 acres, total of 75.387 acres, in Sections 1, 10, 11, 12, 15 and 16, T41S, R24E, Section 6, T41S, R25E, San Juan County, Utah (Within Red Mesa & Aneth Chapter). Total of 75.387 acres for the sum of \$45,986.07.

Pursuant to the Shiprock Agency Grazing Committee Resolution dated July 20, 2007, in determining eligibility for grazing permittee/land use permittee to receive surface damage compensation; I, Calvin C. Thomas, Grazing Committee Member of District 12, Aneth Chapter, and I, Bruce H. Benally, Grazing Committee Member of District 09, Red Mesa Chapter recommend this/these individual (s) as:

/ X / Recipient(s) of the surface damage and /or nuisance compensation deriving from the above referenced project from Resolute Natural Resources and compensation to be distributed as follows:

/ X / The permittees to consent to the above-referenced project:

No.	Name:	Census #	Soc. Sec. No.	% Distribution
<u>Red Mesa Chapter:</u>				
1)	Victoria M. Joe	35,982	529-60-7381	100% \$8,169.85
2)	Isabelle Sam	19,271	585-05-1853	33.333% \$8,169.85
3)	Cecelia Dee	52,825	529-04-0350	33.333%
4)	Samuel Dee	102,813	585-84-7528	33.333%
5)	Rosita Nakai	52,821	528-98-8616	100% \$8,169.86

ACKNOWLEDGEMENT:

x Bruce H. Benally
Grazing Committee Member
Bruce H. Benally, Red Mesa Chapter

Aneth Chapter:

1)	Annie Oldman	52544	529-66-2302	58% \$12,456.38
2)	Betty Ann Norton	96,648	585-62-5074	11% \$2,362.41
3)	Dora Todechene	102,093	522-56-6272	31% \$6,457.72

ACKNOWLEDGEMENT:

x Calvin Thomas
Grazing Committee Member
Calvin Thomas, Aneth Chapter

CONCURRENCE:

Belinda Chee
Utah Land Office/Navajo Land Department
Belinda Chee, Senior ROW Agent

Witnesses: _____

CONSENT FORM 2
(Compensation for damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Victoria M. Joe, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona, to permit:

Resolute Natural Resources
Post Office Box 100
Montezuma Creek, Utah 84534

To use a portion of my land use area for the following purpose(s):

McElmo Creek Unit 69kV Supply Project, Power Line 100' width x 32,372.06' length/74.315 acres (100' width for Construction and 40' width for Right-of-way), and structure anchors 1.072 acres, total of 75.387 acres, in Sections 1, 10, 11, 12, 15 and 16, T41S, R24E, Section 6, T41S, R25E, San Juan County, Utah.

As shown on the map showing the location of the proposed project attached.

My consent is given subject to the receipt of compensation in the amount of \$ 8,169.85 which I acknowledge as good and adequate compensation for the diminishment in value of my land use rights as a result of the above-referenced proposed project.

Remarks:

5/19/14 Date
X Victoria M. Joe Land User Signature
Victoria M. Joe
Address: PO Box 166, Montezuma Creek, Utah 84534
Census No. 35,982
Permit No. 9-2347
SS No. 529-60-7381
Remarks: (1/2) - divided into (B) - Marion Holly Virgil Holly, Robert Holly, Jimmie Holly, etc

Witness: _____

5/20/2014
Date

Bruce H. Benally
Grazing Committee Member Signature
Bruce H. Benally, Red Mesa Chapter

District 09

ACKNOWLEDGEMENT OF FIELD AGENT

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

Belinda Chee
Field Agent Signature
Belinda Chee, Senior ROW Agent

Cell # 505-399-8850

CONSENT FORM 2
(Compensation for damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Isabelle Sam, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona, to permit:

Resolute Natural Resources Company
Post Office Box 100
Montezuma Creek, Utah 84534

To use a portion of my land use area for the following purpose(s):

McElmo Creek Unit 69kV Supply Project, Power Line 100' width x 32,372.06' length/74.315 acres (100' width for Construction and 40' width for Right-of-way), and structure anchors 1.072 acres, total of 75.387 acres, in Sections 1, 10, 11, 12, 15 and 16, T41S, R24E, Section 6, T41S, R25E, San Juan County, Utah.

As shown on the map showing the location of the proposed project attached.

My consent is given subject to the receipt of compensation in the amount of \$2,723.29, which I acknowledge as good and adequate compensation for the diminishment in value of my land use rights as a result of the above-referenced proposed project.

Remarks:

4/21/14
Date

X [Signature] - witnessed by Sam De
Land user Signature
Isabelle Sam

Census No. 19,271
Permit No. 9-1196
SS No. 585-05-1853

Address: P.O. Box 103, Montezuma Creek, Utah 84534

5/20/2014
Date

[Signature] District 09
Grazing Committee Member Signature
Bruce H. Benally, Red Mesa Chapter

ACKNOWLEDGEMENT OF FIELD AGENT

I acknowledge that the consents of this consent form was read / 2x or fully explained / 1x to the land user in Navajo / 1x or English / / (check where applicable).

[Signature]
Field Agent Signature
Belinda Chee, Senior ROW Agent

CONSENT FORM 2
(Compensation for damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Cecelia Dee, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona, to permit:

Resolute Natural Resources Company
Post Office Box 100
Montezuma Creek, Utah 84534

To use a portion of my land use area for the following purpose(s):

McElmo Creek Unit 69kV Supply Project, Power Line 100' width x 32,372.06' length/74.315 acres (100' width for Construction and 40' width for Right-of-way), and structure anchors 1.072 acres, total of 75.387 acres, in Sections 1, 10, 11, 12, 15 and 16, T41S, R24E, Section 6, T41S, R25E, San Juan County, Utah.

As shown on the map showing the location of the proposed project attached.

My consent is given subject to the receipt of compensation in the amount of \$2723.28, which I acknowledge as good and adequate compensation for the diminishment in value of my land use rights as a result of the above-referenced proposed project.

Remarks:

4/21/14
Date

X Cecelia Dee
Land user Signature
Cecelia Dee

Census No. 52,825
Permit No. 9-2247
SS No. 529-04-0350

Address: P.O. Box 21, Montezuma Creek, Utah 84534

5/20/2014
Date

Bruce H. Benally
Grazing Committee Member Signature
Bruce H. Benally, Red Mesa Chapter

District 09

ACKNOWLEDGEMENT OF FIELD AGENT

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

Belinda Chee
Field Agent Signature
Belinda Chee, Senior ROW Agent

CONSENT FORM 2
(Compensation for damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Samuel Dee, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona, to permit:

Resolute Natural Resources Company
Post Office Box 800
Montezuma Creek, Utah 84534

To use a portion of my land use area for the following purpose(s):


McElmo Creek Unit 69kV Supply Project, Power Line 100' width x 32,372.06' length/74.315 acres (100' width for Construction and 40' width for Right-of-way), and structure anchors 1.072 acres, total of 75.387 acres, in Sections 1, 10, 11, 12, 15 and 16, T41S, R24E, Section 6, T41S, R25E, San Juan County, Utah.

As shown on the map showing the location of the proposed project attached.

My consent is given subject to the receipt of compensation in the amount of \$21,723.28, which I acknowledge as good and adequate compensation for the diminishment in value of my land use rights as a result of the above-referenced proposed project.

Remarks:

4/21/14
Date

X 
Land user Signature
Samuel Dee

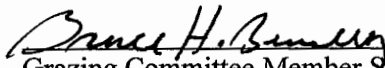
Census No. 102,813

Permit No. 9-2247

SS No. 585-84-7528

Address: P.O. Box 305, Montezuma Creek, Utah 84534

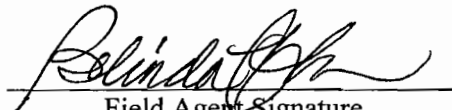
5/20/2014
Date


Grazing Committee Member Signature
Bruce H. Benally, Red Mesa Chapter

District 09

ACKNOWLEDGEMENT OF FIELD AGENT

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


Field Agent Signature
Belinda Chee, Senior ROW Agent

CONSENT FORM 2
(Compensation for damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Rosita Nakai, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona, to permit:

Resolute Natural Resources Company
Post Office Box 100
Montezuma Creek, Utah 84534

To use a portion of my land use area for the following purpose(s):

McElmo Creek Unit 69kV Supply Project, Power Line 100' width x 32,372.06' length/74.315 acres (100' width for Construction and 40' width for Right-of-way), and structure anchors 1.072 acres, total of 75.387 acres, in Sections 1, 10, 11, 12, 15 and 16, T41S, R24E, Section 6, T41S, R25E, San Juan County, Utah.

As shown on the map showing the location of the proposed project attached.

My consent is given subject to the receipt of compensation in the amount of \$ 8,169.86, which I acknowledge as good and adequate compensation for the diminishment in value of my land use rights as a result of the above-referenced proposed project.

Remarks: Agreed to share ^{with} 4 other siblings.

5-19-14 Rosita Nakai

Date

Land user Signature
Rosita Nakai

Census No. 52,821

Permit No. 9-1130

SS No. 528-98-8616

Address: P.O. Box 366, Montezuma Creek, Utah 84534

5/20/2014
Date

Bruce H. Benally
Grazing Committee Member, Signature
Bruce H. Benally, Red Mesa Chapter

District 09

ACKNOWLEDGEMENT OF FIELD AGENT

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

Belinda Chee
Field Agent Signature
Belinda Chee, Senior ROW Agent

CONSENT FORM 2
(Compensation for damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Annie Oldman, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona, to permit:

Resolute Natural Resources
Post Office Box 100
Montezuma Creek, Utah 84534

To use a portion of my land use area for the following purpose(s):

McElmo Creek Unit 69kV Supply Project, Power Line 100' width x 32,372.06' length/74.315 acres (100' width for Construction and 40' width for Right-of-way), and structure anchors 1.072 acres, total of 75.387 acres, in Sections 1, 10, 11, 12, 15 and 16, T41S, R24E, Section 6, T41S, R25E, San Juan County, Utah.

As shown on the map showing the location of the proposed project attached.

My consent is given subject to the receipt of compensation in the amount of \$12,456.38. I acknowledge as good and adequate compensation for the diminishment in value of my land use rights as a result of the above-referenced proposed project.

Remarks:

04-11-14
Date

X Annie B Oldman
Land user Signature
Annie Oldman

Census No. 52,544
Permit No. 12-3341
SS No. 529-66-2302

Address: PO Box 393, Montezuma Creek, Utah 84534

5-6-2014
Date

Calvin C. Thomas
Grazing Committee Member Signature
Calvin C. Thomas, Aneth Chapter

District 12

ACKNOWLEDGEMENT OF FIELD AGENT

I acknowledge that the consents of this consent form was read / 2 or fully explained / 2 to the land user in Navajo / ✓ or English / 2 (check where applicable).

Belinda Chee
Field Agent Signature
Belinda Chee, Senior ROW Agent

CONSENT FORM 2
(Compensation for damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Betty Ann Norton, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona, to permit:

Resolute Natural Resources
Post Office Box 100
Montezuma Creek, Utah 84534

To use a portion of my land use area for the following purpose(s):

McElmo Creek Unit 69kV Supply Project, Power Line 100' width x 32,372.06' length/74.315 acres (100' width for Construction and 40' width for Right-of-way), and structure anchors 1.072 acres, total of 75.387 acres, in Sections 1, 10, 11, 12, 15 and 16, T41S, R24E, Section 6, T41S, R25E, San Juan County, Utah.

As shown on the map showing the location of the proposed project attached.

My consent is given subject to the receipt of compensation in the amount of \$2,362.41. I acknowledge as good and adequate compensation for the diminishment in value of my land use rights as a result of the above-referenced proposed project.

Remarks:

4-11-2014
Date

X Betty Ann Norton
Land user Signature
Betty Ann Norton

Census No. 96,648
Permit No. 12-3293
SS No. 585-62-5074
Address: PO Box 316, Montezuma Creek, Utah 84534

5-6-2014
Date

Calvin C. Thomas
Grazing Committee Member Signature
Calvin C. Thomas, Aneth Chapter

District 12

ACKNOWLEDGEMENT OF FIELD AGENT

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

Belinda Chee
Field Agent Signature
Belinda Chee, Senior ROW Agent

CONSENT FORM 2
(Compensation for damages)

CONSENT TO USE
NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, Dora Todachene, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona, to permit:

Resolute Natural Resources
Post Office Box 100
Montezuma Creek, Utah 84534

To use a portion of my land use area for the following purpose(s):

McElmo Creek Unit 69kV Supply Project, Power Line 100' width x 32,372.06' length/74.315 acres (100' width for Construction and 40' width for Right-of-way), and structure anchors 1.072 acres, total of 75.387 acres, in Sections 1, 10, 11, 12, 15 and 16, T41S, R24E, Section 6, T41S, R25E, San Juan County, Utah.

As shown on the map showing the location of the proposed project attached.

My consent is given subject to the receipt of compensation in the amount of \$6,657.72. I acknowledge as good and adequate compensation for the diminishment in value of my land use rights as a result of the above-referenced proposed project.

Remarks:

04-11-14
Date

x Dora Todachene
Land user Signature
Dora Todachene

Census No. 102,093

Permit No. 12-3483

SS No. 522-56-6272

Address: PO Box 121, Aneth, Utah 84510

5-6-2014
Date

Calvin C. Thomas
Grazing Committee Member Signature
Calvin C. Thomas, Aneth Chapter

District 12

ACKNOWLEDGEMENT OF FIELD AGENT

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

Belinda Chee
Field Agent Signature
Belinda Chee, Senior ROW Agent

December 20, 2013

Belinda Clark
Utah Navajo Land Office
P. O. Box 410
Montezuma Creek, UT 84534

Dear Belinda,

On behalf of Resolute Aneth, LLC as a wholly owned subsidiary of Resolute Natural Resources Company, I am requesting field clearance for the following project in the Aneth and Red Mesa Chapters.

McElmo Creek Unit 69 kV Supply Project
Section 31, T. 40 S., R. 25 E.
Sections 1, 10, 11, 12, 15, & 16, T. 41 S. R. 24 E.
Section 6, T. 41 S., R. 25 E.

Power line: $100' \times 32,372.06' = 74.315$ acres
+ structure anchors = 1.072 acres
Total = 75.387 acres

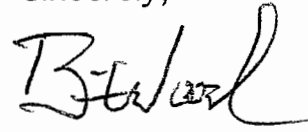
Section Number (from RU to MCU)	Structure Numbers	Acres
16	66	0.028
15	73	0.099
10	81	0.054
11	86, 88, 89, & 91	0.517
12	93	0.058
1	98 & 100	0.087
6	105 & 107	0.132
31	110, 111, & 114	0.097
Total		1.072

Anchors are of various sizes and are shown in the "DETAIL" circles on the plats.

Roger Atcitty can assist you in contacting the grazing permittees.

Please call me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Wood", with a stylized flourish at the end.

Brian Wood

cc: Roger Atcitty

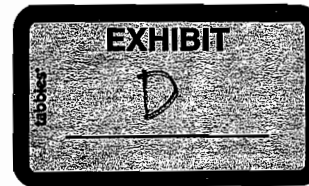


EXHIBIT "D"

**NAVAJO NATION TERMS AND CONDITIONS
For Right-of-Way (ROW) and Sundry Notice**

Resolute Aneth LLC (GRANTEE)

"Resolute Ratherford to McElmo Unit Substation 69kV Power Line" (Power Line & Ancillary Facilities)

1. The term of the permanent right-of-way (ROW) shall be for twenty (20) years effective the date (Effective Date) it is approved by the Secretary of the Interior or his/her designated representative.

The term of the temporary construction easement shall be for ^{nine(9)}~~six(6)~~ months from the Effective Date.

2. The Grantee shall make a lump sum payment of ^{48,674.43}~~\$32,449.63~~ within ten (10) days of the Navajo Nation's approval for the temporary construction easement.

For the permanent ROW, the Grantee shall make 20 annual advance payments for each in the amount of \$48,448.89. The first payment is due within ten (10) days of the Navajo Nation's approval and a subsequent of annual payments is due on or before each anniversary of the Effective Date.

All subsequent annual payments shall be annually adjusted based upon the increase in the Consumer Price Index (CPI), U.S. City Average for all Urban Consumers. The CPI for December 2014 shall be used as the base for the adjustment. The numerators shall be the CPI available for the month when the payment is made.

3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of constructing, operating and maintaining a 69kV and ancillary facilities. The Grantee may not develop, use or occupy the right-of-way for any other purpose without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation. The Grantee may not develop, use or occupy the right-of-way for any unlawful purpose.

Said right-of-way is \approx 6.13 mile (= 32,372.06 feet or 1,961.94 rods) long and 100 feet construction width reverting to 40 feet final width; totaling \approx 75.38 acres in area (32.22 acres for permanent and the remaining 43.16 acres will be temporary for the duration of the construction) and more particularly described and shown on the map of definite location to be attached and made a part hereof.

4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
 - a. Title 25, Code of Federal Regulations, Part 169;
 - b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to 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 Preference Law, 5 N.N.C. §§ 201 et seq.; and
 - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq., Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
- 5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.
 - 6. The Grantee shall clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during any surface disturbance activities.
 - 7. The Grantee shall reclaim all surface lands disturbed related to the right-of-way, as outlined in a restoration and revegetation plan, which shall be approved by NNEPA prior to any surface disturbance. The Grantee shall comply with all provisions of such restoration and revegetation plan and shall notify the Director of the NNEPA immediately upon completion of the surface disturbance activities so that a site inspection 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. The Grantee shall indemnify and hold harmless the Navajo Nation and the Secretary of the Interior and their respective authorized agents, employees, landusers and occupants, against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of right-of-way by the Grantee.
 - 12. The Grantee shall not assign, convey, transfer or sublet in any manner whatsoever, the right-of-way or any interest therein, or in or to any of the improvements on the land subject to the right-of-way, without the prior written consent of the Navajo Nation and the Secretary of the Interior. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation.
 - 13. The Navajo Nation may terminate the right-of-way for violation of any of the terms and conditions stated herein. In addition, the right-of-way shall be terminable in whole or part by the Navajo Nation for any of the following causes:
 - a. Failure to comply with any 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 year period; and

- c. The use of the land subject to the right-of-way for any purpose inconsistent with the purpose for which the right-of-way is granted.
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 and the Secretary shall have the right, at any reasonable time during the term of the right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any improvements located thereon.
17. By acceptance of the grant of right-of-way, the Grantee consents to the full territorial legislative, executive and judicial jurisdiction of the Navajo Nation, including but not limited to the jurisdiction of the Navajo Nation, including but not limited to the jurisdiction to levy fines and to enter judgments for compensatory and punitive damages and injunctive relief, in connection with all activities conducted by the Grantee within the Navajo Nation or which have a proximate (legal) effect on persons or property within the Navajo Nation.
18. By acceptance of the grant of right-of-way, the Grantee covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision shall be construed to negate or impair federal responsibilities with respect to the land subject to the right-of-way or to the Navajo Nation.
19. Any action or proceeding brought by the Grantee against the Navajo Nation in connection with or arising out of the terms and conditions of the right-of-way shall be brought only in the Courts of the Navajo Nation pursuant to the Navajo Nation Sovereign Immunity Act, 1 N.N.C. § 551 et seq., and no such action or proceeding shall be brought by the Grantee against the Navajo Nation in any court of any state.
20. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.
21. Except as prohibited by applicable federal law, the law of the Navajo Nation shall govern the construction, performance and enforcement of the terms and conditions contained herein.
22. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of the Grantee, and the term "Grantee," whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.

23. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the right-of-way and all lands burdened by the right-of-way, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the right-of-way; and the right-of-way and all lands burdened by the right-of-way shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.
24. The applicant will record all water zones encountered during the drilling by depth, case and properly seal to prevent any cross contamination of aquifers or loss of water on the surface due to artesian flow.
25. The applicant will provide all such information to the Navajo Nation Department of Water Resources.

C:\wp.fil\1999\aa\forms\general.385\9\14\99

(New from 5/27/11)
A lump sum payment of \$ ~~48,674.4~~ 48,674.4
should be made for the temporary construction
easement for a nine month (9) term.
There will be twenty (20) Annual payments,
each in the amount of \$ ~~48,674.4~~ 448.89 for the permanent
easement. The first payment is due with 10 days of the Effective Date
Subsequent annual payments will be due on or before

ROW

EXHIBIT "D"

NAVAJO NATION TERMS AND CONDITIONS

For Right-of-Way (ROW) and Sundry Notice

based upon the increase in the Effective Date. Subsequent annual payments shall be paid at the anniversary of the Effective Date.
Resolute Aneth, LLC (GRANTEE) All US CTS charges shall be paid by the Grantee.
"Resolute Ratherford to McElmo Unit Substation 69kV Power Line" (Power Line & Ancillary Facilities)
in Perm. Right shall be used for the 69kV line.

1. The term of the right-of-way (ROW) shall expire on October 17, 2025 be for 20 years effective
the date it is approved by the Secretary of the Department of the Interior
2. Intervenor or other authorized representative Consideration for the right-of-way is assessed at \$ and shall be paid to the Navajo Nation within ten (10) days of approval of the right-of-way by the Navajo Nation. The Grantee shall provide the BIA a copy (proof) of payment within five (5) days of payment to the Navajo Nation.

3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of Constructing, Operating and Maintaining a Pipeline and Ancillary Facilities. The Grantee may not develop, use or occupy the right-of-way for any other purpose without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation. The Grantee may not develop, use or occupy the right-of-way for any unlawful purpose.

Said right-of-way is ≈ 6.13 mile (= 32,372.06 feet or 1961.94 rods) long and 100 feet construction width reverting to 40 feet final width; totaling ≈ 75.38 acres in area (32.22 acres for permanent and the remaining 43.16 acres will be temporary for the duration of the construction) and more particularly described and shown on the map of definite location to be attached and made a part hereof.

4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
 - a. Title 25, Code of Federal Regulations, Part 169;
 - b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to 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 Preference Law, 5 N.N.C. §§ 201 et seq.; and
 - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq., Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.

5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.
6. The Grantee shall clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during any surface disturbance activities.
7. The Grantee shall reclaim all surface lands disturbed related to the right-of-way, as outlined in a restoration and revegetation plan, which shall be approved by NNEPA prior to any surface disturbance. The Grantee shall comply with all provisions of such restoration and revegetation plan and shall notify the Director of the NNEPA immediately upon completion of the surface disturbance activities so that a site inspection 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. The Grantee shall indemnify and hold harmless the Navajo Nation and the Secretary of the Interior and their respective authorized agents, employees, landusers and occupants, against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of right-of-way by the Grantee.
12. The Grantee shall not assign, convey, transfer or sublet in any manner whatsoever, the right-of-way or any interest therein, or in or to any of the improvements on the land subject to the right-of-way, without the prior written consent of the Navajo Nation and the Secretary of the Interior. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation.
13. The Navajo Nation may terminate the right-of-way for violation of any of the terms and conditions stated herein. In addition, the right-of-way shall be terminable in whole or part by the Navajo Nation for any of the following causes:
 - a. Failure to comply with any 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 year period; and
 - c. The use of the land subject to the right-of-way for any purpose inconsistent with the purpose for which the right-of-way is granted.
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 and the Secretary shall have the right, at any reasonable time during the term of the right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any improvements located thereon.
17. By acceptance of the grant of right-of-way, the Grantee consents to the full territorial legislative, executive and judicial jurisdiction of the Navajo Nation, including but not limited to the jurisdiction of the Navajo Nation, including but not limited to the jurisdiction to levy fines and to enter judgments for compensatory and punitive damages and injunctive relief, in connection with all activities conducted by the Grantee within the Navajo Nation or which have a proximate (legal) effect on persons or property within the Navajo Nation.
18. By acceptance of the grant of right-of-way, the Grantee covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision shall be construed to negate or impair federal responsibilities with respect to the land subject to the right-of-way or to the Navajo Nation.
19. Any action or proceeding brought by the Grantee against the Navajo Nation in connection with or arising out of the terms and conditions of the right-of-way shall be brought only in the Courts of the Navajo Nation pursuant to the Navajo Nation Sovereign Immunity Act, 1 N.N.C. § 551 et seq., and no such action or proceeding shall be brought by the Grantee against the Navajo Nation in any court of any state.
20. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.
21. Except as prohibited by applicable federal law, the law of the Navajo Nation shall govern the construction, performance and enforcement of the terms and conditions contained herein.
22. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of the Grantee, and the term "Grantee," whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.
23. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the right-of-way and all lands burdened by the right-of-way, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the right-of-way; and the right-of-way and all lands burdened by the right-of-way shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.
24. The applicant will record all water zones encountered during the drilling by depth, case and properly seal to prevent any cross contamination of aquifers or loss of water on the surface due to artesian flow.
25. The applicant will provide all such information to the Navajo Nation Department of Water Resources.