

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE OF THE
24th NAVAJO NATION COUNCIL - Fourth Year, 2022

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF
RIGHT-OF-WAY TO CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC. FOR
THE SUNDANCE RIGHT-OF-WAY #2 POWERLINE/FIBER OPTIC LINE PROJECT
LOCATED ON NAVAJO NATION TRUST LANDS IN CHURCH ROCK CHAPTER
VICINITY (MCKINLEY COUNTY, NEW MEXICO)

BE IT ENACTED:

SECTION ONE. AUTHORITY

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

SECTION TWO. FINDINGS

- A. The Continental Divide Electric Cooperative, Inc., P.O. Box 1087, Grants, New Mexico 87020, has submitted a right-of-way application to construct, operate and maintain 14.4/29.9 kV distribution powerline/fiber optic line to serve the Church Rock Chapter. The Terms and Conditions is attached hereto and incorporated herein as **Exhibit A**.
- B. The proposed right-of-way is described in map and description attached hereto and incorporated herein as **Exhibit B**.
- C. The District 16 Land Board member through the "Field Clearance Checklist" dated November 2, 2021 identified one grazing permittee with land use rights in the affect lands. The land user consented to the use of the lands for the purposes of the right-of-way easement for construction, operation, and maintenance of 14.4/24.9 kV electric distribution power line and fiber optic line and its appurtenances to serve Church Rock Chapter Sundance #2. The "Field Clearance Checklist" dated November 2, 2021 and the land user's consent form are attached as **Exhibit C**.

- D. A waiver of compensation for this right-of-way is requested. See, 25 CFR § 169.110. **Exhibit A**, the terms and conditions document states that the compensation for a twenty-year right-of-way is \$13,147.72.
- E. The Resources and Development Committee, through resolution number RDCF-08-20 allows for one-hundred (100%) waiver of right-of-way consideration for non-profit electric utility companies that provide service to Navajo residents on Navajo Trust land in the Eastern Navajo Agency.
- F. The requested right-of-way is located on Navajo trust land in the Eastern Navajo Agency and Continental Divide Electric Company is a non-profit electric company.
- G. The environmental studies and archaeological clearances including **Exhibit D**, the Finding of No Significant Impact (FONSI) dated July 23, 2021; **Exhibit E**, the Heritage and Historic Preservation Department Cultural Resources Compliance Form HPD-20-251; **Exhibit F**, the Biological Resources Compliance Form, NNDFW Review No. 20dan1102-tk; **Exhibit G**, the Sundance #2 Biological Evaluation prepared by Denali Environmental Services dated April 2020; and **Exhibit H**, the Sundance #2 Biological Evaluation prepared by Denali Environmental Services dated July 2020 are attached.
- H. The Right of Way Application is attached as **Exhibit I**.
- I. The application for the Right-of-Way as submitted by the Continental Divide Electric Cooperative, Inc., has been reviewed Executive Official Review process, including review by the Department of Justice and "Approved" or found "Sufficient". Executive Official Review Document No. 017949 is attached as **Exhibit J**.

SECTION THREE. APPROVAL

- A. The Resources and Development Committee of the Navajo Nation Council hereby approves the Grant of Right-of-Way to Continental Divide Electric Cooperative, Inc. for construction, operation and maintenance of a 14.4/29.9 kV distribution powerline, fiber optic line on, over and across Navajo Nation Trust Lands in Church Rock Chapter vicinity (McKinley County, New Mexico). The location is more particularly described on the survey map attached hereto as **Exhibit B**.
- B. The Resources and Development Committee of the Navajo Nation Council hereby waives compensation of one-hundred percent

(100%) of the assessed \$13,147.72 for the right-of-way project for 20-year term because it has been determined that accepting the agreed-upon compensation is in its best interest of the Navajo Nation, pursuant to Title 25 CFR § 169.110.

- C. The Resources and Development Committee of the Navajo Nation Council hereby approves the right-of-way subject to, but not limited to, the following terms and conditions incorporated herein and attached as **Exhibit A**.
- D. The Resources and Development Committee of the Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to affect the intent and purpose of this resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Resources and Development Committee at a duly called meeting in Nageezi Chapter, Nageezi, Navajo Nation (New Mexico), at which a quorum was present and that the same was passed by a vote of 05 in Favor, and 00 Opposed, on this 11th day of May 2022.


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

Motion: Honorable Herman M. Daniels, Jr.
Second: Honorable Mark A. Freeland



EXHIBIT " D "

NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS

CONTINENTAL DIVIDE ELECTRICAL COOPERATIVE, INC. (GRANTEE)

1. The term of the right-of-way shall be for twenty (20) years, beginning on the date the right-of-way is granted by the Secretary of Interior.
2. Consideration for the right-of-way is assessed at \$ 13,147.72 and shall be paid in full to the Controller of the Navajo Nation, in lawful money of the United States, and a copy of the receipt for such payment provided to the Navajo Nation Minerals Department, or its successor, within 10 days of approval of and consent to the grant of the right-of-way by the Navajo Nation.

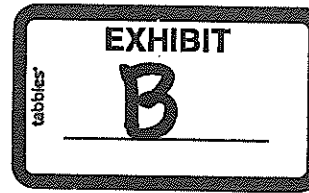
If consideration has been waived, the Navajo Nation contributes the amount listed above to the project because the project serves a public purpose and will benefit Navajo residents.

3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of construction, operation, & maintenance of a 14.4/29.9 kV distribution powerline/fiber optic line for the Church Rock Chapter. The Grantee may not develop, use or occupy the right-of-way for any other purpose, nor allow others to use or occupy the right-of-way for any other purpose, without the prior written approval of the Navajo Nation 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.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
 - a. Title 25, Code of Federal Regulations, Part 169; subject to the terms of this right-of-way.
 - b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archaethological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices;
 - c. The Navajo Preference in Employment Act, 16q N.N.C. §§ 601 et seq. and the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq.
 - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq. Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.

6. The Grantee shall clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uprooted or otherwise accumulated during any surface disturbance activities.
7. The Grantee shall reclaim all surface lands disturbed related to the right-of-way, as outlined in a restoration and revegetation plan, which shall be approved by the Navajo Nation Environmental Protection Agency (NNEPA) prior to any surface disturbance. The Grantee shall comply with all provisions of such restoration and revegetation plan and shall notify the Director of the NNEPA immediately upon completion of the surface disturbance activities so that a site inspection can be made.
8. The Grantee shall at all times during the term of the right-of-way and at the Grantee's sole cost and expense, maintain the land subject to the right-of-way and all improvements located thereon and make all necessary and reasonable repairs.
9. The Grantee shall obtain prior written permission to cross existing rights-of-way, if any, from the appropriate parties.
10. The Grantee shall be responsible for and promptly pay all damages when they are sustained.
11. The Grantee shall indemnify and hold harmless the Navajo Nation and 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 term or condition of the grant or of applicable laws or regulations;
 - b. A non-use of the right-of-way for the purpose for which it is granted for a consecutive two 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.
 - d. An abandonment of the right-of-way.
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 or to the land subject to the right-of-way or to any improvements located thereon.

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

**RIGHT-OF-WAY EASEMENT FOR
CDEC'S SUNDANCE NUMBER 2 POWER LINE PROJECT
LINE A
MCKINLEY COUNTY, NEW MEXICO
CDEC WORK ORDER NUMBER 86619**



SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Sundance Number 2 Power Line Project, Line "A", located within section 28, Township 15 North, Range 17 West, New Mexico Principal Meridian, Navajo Tribal Trust, McKinley County, State of New Mexico, and being more particularly described as follows:

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

BEGINNING at B.O.P. Station 0+00, a point on an existing power line, located in section 28, T15N, R17W, NMPM, said parcel being Navajo Tribal Trust Land, having Local Coordinates of N1641212.79, E2484219.44, Latitude 35°30'29.1", Longitude -108°38'09.4", and from which point the found BLM brass cap for the northeast corner of section 28, T15N, R17W, NMPM, bears N44°43'46"E a distance of 307.31 feet,

Thence S82°01'54"W a distance of 29.96 feet to P.I. Station 0+29.96, from which point the set Base Control Station, having the True New Mexico State Plane West, NAD83(2011), US Survey Feet Coordinates of N1640924.77, E248232.30, Latitude 35°30'26.3", Longitude -108°38'09.2", bears S08°31'15"E a distance of 287.03 feet,

Thence N85°10'06"W a distance of 481.23 feet to P.O.T. Station 5+11.19, at which point the centerline of the easement crosses a water line,

Thence continuing N85°10'06"W a distance of 22.55 feet to P.O.T. Station 5+33.74, at which point the centerline of the easement enters Lot H7,

Thence continuing N85°10'06"W a distance of 208.69 feet to P.O.T. Station 7+42.43, at which point the centerline of the easement exits Lot H7,

Thence continuing N85°10'06"W a distance of 121.00 feet to P.O.T. Station 8+63.43, at which point the centerline of the easement enters Lot H6,

Thence continuing N85°10'06"W a distance of 16.53 feet to E.O.P. Station 8+79.96, having Local Coordinates of N1641280.23, E2483342.78, Latitude 35°30'29.7", Longitude -108°38'20.0", and from which point the found BLM brass cap for the northeast corner of section 28, T15N, R17W, NMPM, bears N82°08'23"E a distance of 1,103.29 feet,

The above described right-of-way easement contains 0.40 acres, more or less, in area. The right-of way easement is 0.17 miles in length.

**CDEC'S SUNDANCE NUMBER 2 POWER LINE PROJECT
MCKINLEY COUNTY, NEW MEXICO
CDEC WORK ORDER NUMBER 86619**

GUY EASEMENT DESCRIPTION

<u>GUY NO.</u>	<u>STATION</u>	<u>BEARING</u>	<u>LENGTH</u>	<u>WIDTH</u>	<u>ACREAGE</u>
LINE A					
1	0+29.96	S85°10'06"E	50'	20'	0.02
2	8+79.96	N85°10'06"W	50'	20'	0.02
			100'		0.04

SUMMARY DESCRIPTION

<u>SEGMENT</u>	<u>LENGTH</u>	<u>MILES</u>	<u>WIDTH</u>	<u>ACREAGE</u>
LINE "A"	879.96'	0.17	20'	0.40
GUY EASEMENTS	100.00'	0.02	20'	0.04
TOTAL	979.96'	0.19		0.44

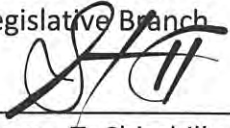


THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

Memorandum

To: Honorable Rickie Nez, Chairman
 24th NNC Resources and Development Committee
 Legislative Branch

From: 
 Steven T. Chischilly Jr.
 Environmental Specialist
 Navajo Nation General Land Development Department
 Division of Natural Resources

Date: **December 30, 2021**

Subject: Environmental Compliance Determination for Continental Divide Electric Cooperative, Inc. Right-of-Way "Sundance #2 Powerline Project WO# 86619" consisting of 979.96 feet (+/-) and/or 0.44 acres located within Section 28, Township 15 North, Range 17 West, New Mexico Principal Meridian, Church Rock Chapter, Navajo Tribal Trust, McKinley County, New Mexico

The General Land Development Department's environmental compliance determination (ECD) confirms the above mentioned Right-of-Way (ROW) application meets the environmental clearance criteria of the Navajo Nation General Leasing Regulations (16 N.N.C. § 2301 et. Seq.). The proposed ROW poses no significant impact(s) to the cultural, biological and the natural environments of the Navajo Nation.

In addition, the ECD is valid so long as the "Effect/Conditions of Compliance" out-lined on "Cultural Resources Compliance Form (NNHPD No.: HPD-20-251)" and the "Biological Resource Compliance Form (NNDFW Review No. 20dan102-tk)" are implemented.

If at anytime any historical properties, archeological resources, human remains, or other cultural items not previously reported are encountered, all activity will cease and the Navajo Nation Historic and Heritage Preservation Department will be contacted immediately.

Furthermore, the aforementioned ROW applicant will also consult with the Navajo Nation EPA to ensure compliance with all Navajo Nation Environmental laws and permits (4 N.N.C. § 901 et.

Seq.) that will be enforced after said ROW is consented to by the Navajo Nation. In continuance, NNEPA Superfund will need to be notified regarding the Right-of-Way being located near known AUM features.

If at any time over the duration of the ROW an environmental taking or violation occurs, the grantee may be subject to disciplinary actions and possible cancellation of the authorization. This pertains to all Navajo Nation and Federal environmental laws, regulations and policies applicable to the proposed undertaking which include, but are not limited to the following:

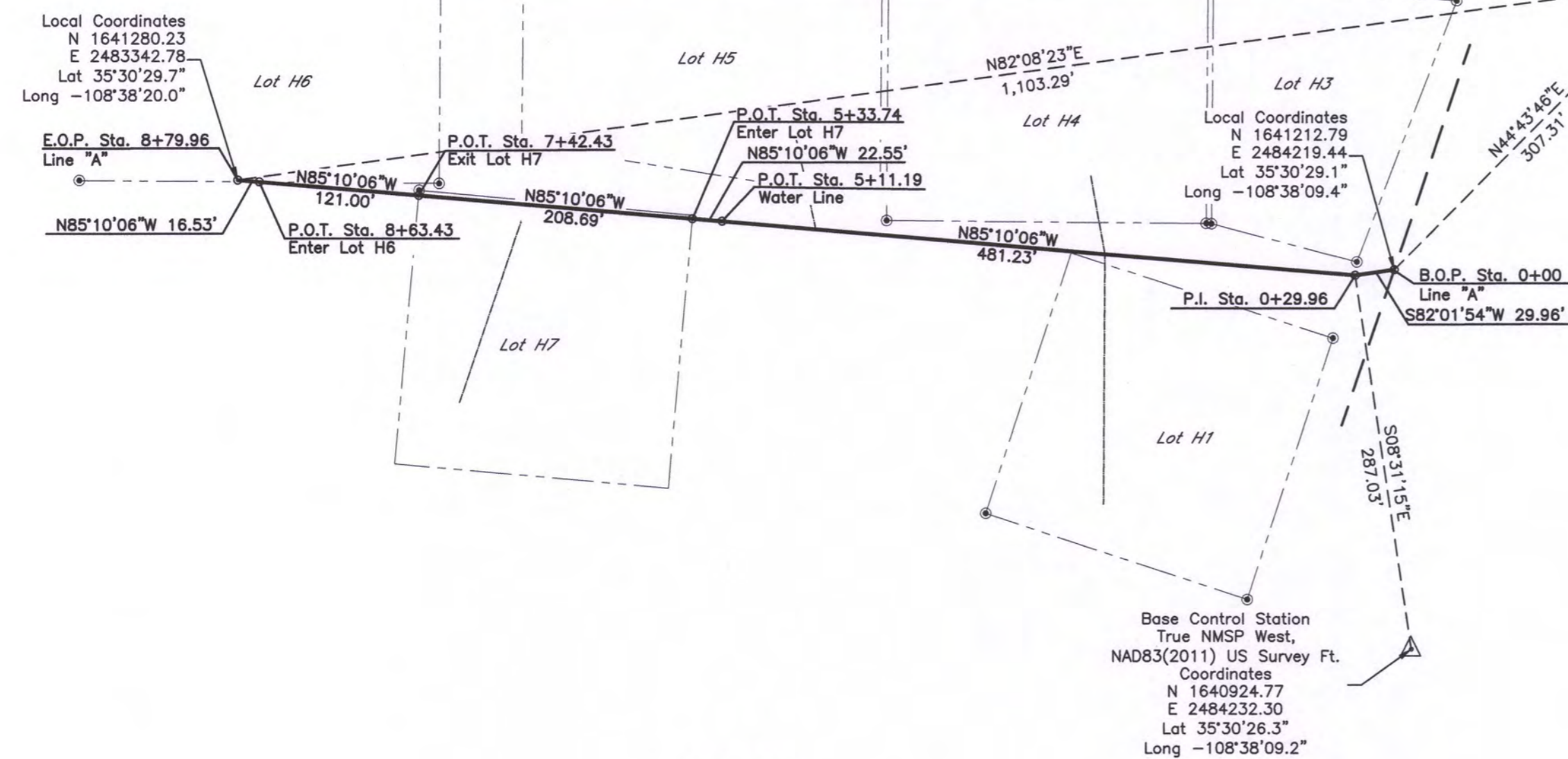
- National Historic Preservation Act, 16 U.S.C. §§ 470 et seq.
- Endangered Species Act, 7 U.S.C. §136, U.S.C. §§1531 et seq.
- Farmland Protection Policy Act, 7 U.S.C. §§ 4201 et seq.
- Clean Air Act, 42 U.S.C. §§ 7401 et seq.
- Eagle Protection Act, 16 U.S.C. §§ 668-668c
- Migratory Bird Treaty Act, 16 U.S.C. §§ 703-712
- Navajo Nation Environmental Policy Act, 4 N.N.C. §§ 901 et seq.
- Navajo Nation Cultural Resource Protection Act, 19 N.N.C. §§ 1001 et seq.
- Navajo Nation Solid Waste Act, 4 N.N.C. §§ 101 et seq.
- Navajo Nation Air Pollution Prevention and Control Act, 4 N.N.C. §§ 1101 et seq.
- Navajo Nation Prevention and Control Act, 4 N.N.C. §§ 1101 et seq.
- Navajo Nation Safe Water Drinking Water Act, 22 N.N.C. §§ 2501 et seq.
- Navajo Nation Clean Wate Act, 4 N.N.C. §§ 1301 et seq.
- Navajo Nation Underground Storage Tank Act, 4 N.N.C. §§ 1501 et seq.
- Navajo Nation Pesticide Act, 4 N.N.C. §§ 301 et seq.
- Golden and Bald Eagle Nest Protection Regulations (GBENPR)
- Navajo Endangered Species List (NESL)
- Biological Resource Land-Use Clearance Policies and Procedure (RCP)
- All other applicable Navajo Nation and Federal Laws, Regulations and Policies

If there are any questions, do not hesitate to contact me at Stchischilly@navajo-nsn.gov or at (928)-871-6447. Thank you.

- LEGEND**
- Proposed Power Line
 - Existing Power Line
 - Lot Lines
 - Found BLM brass cap as shown
 - Set Base Control Station, 2 1/4" ACap, NMPLS 22500
 - Found rebar with PCap RLS 19633



T15N R17W



Section 28
NNT

SURVEYOR'S STATEMENT

This survey is subject to any facts that may be disclosed by a title search and abstract.

I, Katherine C. Gallegos, New Mexico Professional Land Surveyor Number 22500, do hereby state that this right-of-way easement plat is based on a field survey made by me or under my direct supervision; that this survey meets the "Minimum Standards for Surveying in New Mexico", and to the best of my professional knowledge, information, and belief, it correctly represents the facts found at the time of survey.

TRANSMISSION & DISTRIBUTION SERVICES, LLC

BY: Katherine C. Gallegos
NMPLS No. 22500, Commission Expires 4/30/17

Notary Public



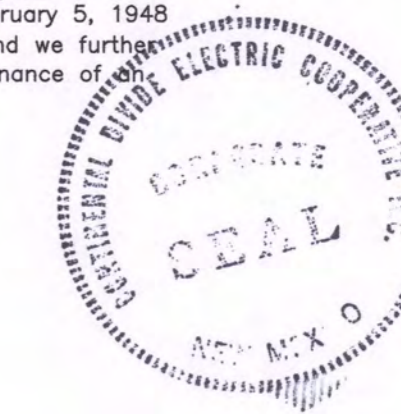
OFFICIAL SEAL
JULIE GIERI-ALLEN
NOTARY PUBLIC-STATE OF NEW MEXICO
My Commission Expires 4/30/17

APPLICANT'S CERTIFICATE

This is to certify that Katherine C. Gallegos of Transmission & Distribution Services, LLC., who subscribed the statement above is the person engaged by the undersigned applicant to prepare this map which has been adopted by the applicant as the location of the electric distribution line right-of-way easement thereby shown, and that this map is filed as part of the complete application, and in order that the applicant may obtain the benefits of the Act of February 5, 1948 (62 Stat. L. 17) (25 U.S.C. 323-328) Department Regulation 25 CFR, as amended, and we further certify that the right-of-way herein described is desired for the operation and maintenance of an electric distribution facility.

SECRETARY

AUTHORIZED OFFICER



DESCRIPTION

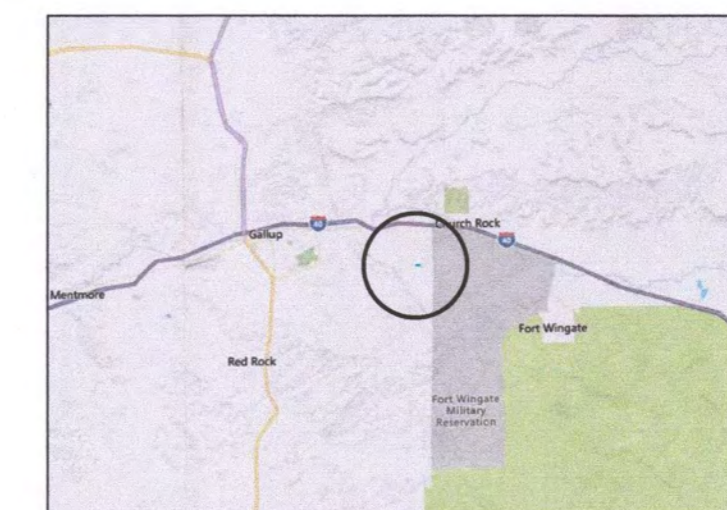
WIDTH OF RIGHT-OF-WAY EASEMENT TO BE 20 FEET

LENGTH OF RIGHT-OF-WAY EASEMENT ACROSS NAVAJO TRIBAL TRUST LAND TO BE 879.96 FEET (0.17 MILES). GUY EASEMENTS TO BE 100.00 FEET TOTAL = 979.96 FEET.

ACREAGE OF RIGHT-OF-WAY EASEMENT ACROSS NAVAJO TRIBAL TRUST LAND TO BE 0.40 ACRES. GUY EASEMENT ACREAGE TO BE 0.04 ACRES TOTAL = 0.44 ACRES.

NOTES:

- BASIS OF BEARING - Bearings shown hereon are based on the New Mexico State Plane Coordinate System, West Zone, North American Datum of 1983. Combined factor = 0.99985455. $\Delta \alpha = -00^{\circ}27'58.16''$. All bearings are grid bearings, distances are ground distances. Field data for this project was obtained using Trimble dual frequency GPS receivers in RTK and Static Mode. Horizontal and vertical control calibration was generated from National Geodetic Survey's Online Positioning User Service (OPUS) with and observation at the base control point.
- No. 5 rebar with orange plastic cap set at all P.I. Points, B.O.P. Points, and E.O.P. Points.



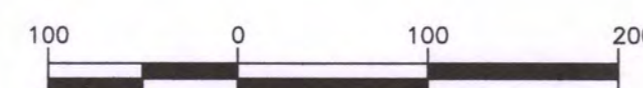
AREA MAP
N.T.S.

REFERENCES (including but not limited to): USGS 7.5 MIN. QUADS: Fort Wingate, NM; Churchrock, NM; Gallup East, NM; Breadsprings, NM

BLM Dependent Resurvey and Completion Survey of Fractional T15N, R17W, NMPLS, accepted July 12, 2001
BLM Dependent Resurvey, Subdivision of Sections, and Metes and Bounds Survey of Fractional T15N, R17W, NMPLS, accepted January 24, 2008

SCALE:

1 INCH = 100 FEET



9550 San Mateo Blvd NE, Suite G
Albuquerque, NM 87113

F.B. NM22-13 Instrument TrimbleR10/TSC3

CONTINENTAL DIVIDE ELECTRIC CO-OP, INC.

GRANTS, NM

NEW MEXICO 22 MCKINLEY

DRAWN KCG

CHECKED XX

APPROVED

DATE 2/27/20

ENGRS. FILE NO. 200008

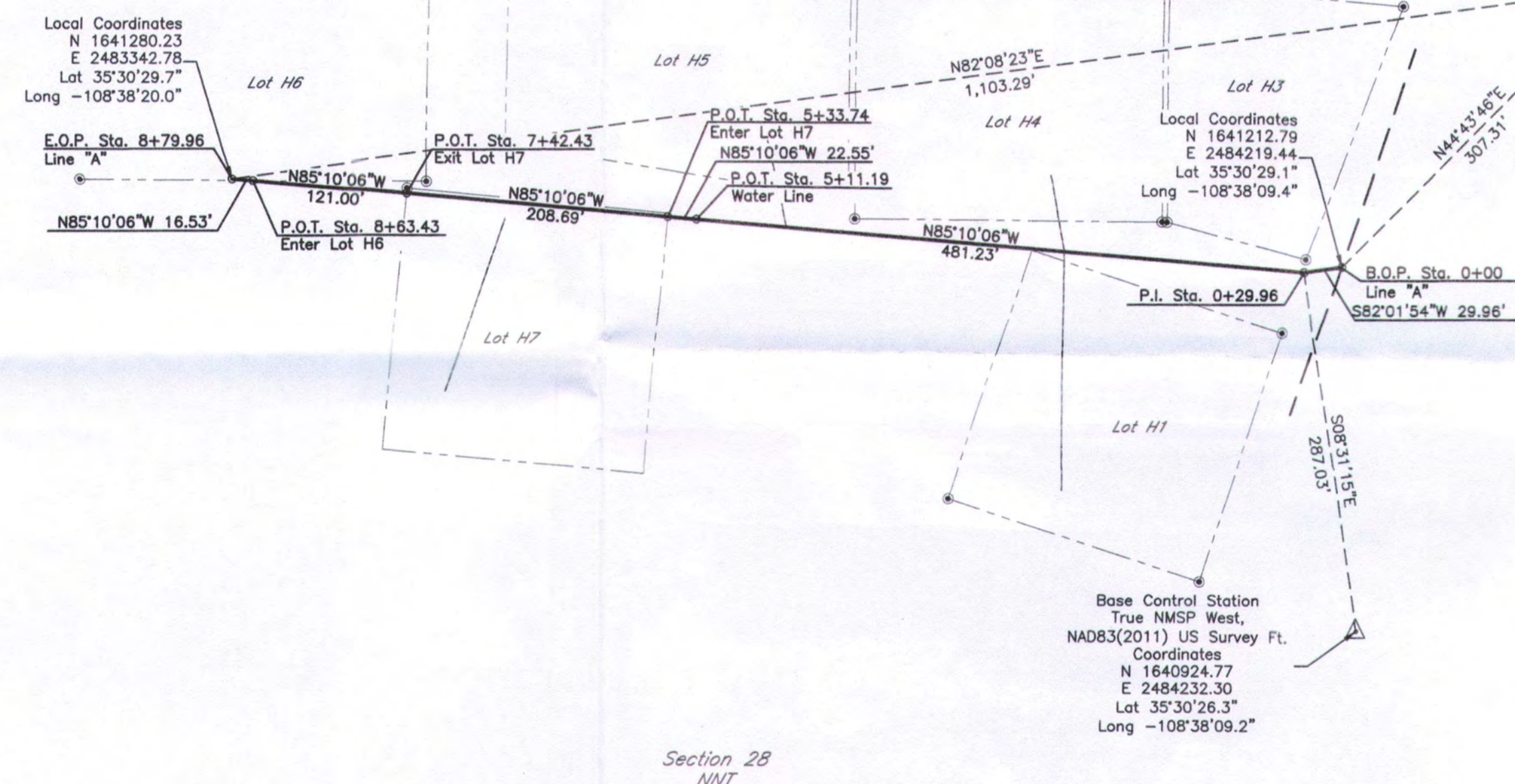
WORK ORDER NUMBER 86619

DATE		REVISIONS		SUNDANCE NUMBER 2 POWER LINE PROJECT			
				PERMIT MAP 1 OF 1			
				STATE	COUNTY	DETAIL	
				NM	MCKINLEY		

- LEGEND**
- Proposed Power Line
 - Existing Power Line
 - Lot Lines
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T15N R17W



Section 28
NNT

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This survey is subject to any facts that may be disclosed by a title search and abstract.

I, Katherine C. Gallegos, New Mexico Professional Land Surveyor Number 22500, do hereby state that this right-of-way easement plat is based on a field survey made by me or under my direct supervision; that this survey meets the Minimum Standards for Surveying in New Mexico, and to the best of my professional knowledge, information, and belief, it correctly represents the facts found at the time of survey.

TRANSMISSION & DISTRIBUTION SERVICES, LLC

BY Katherine C. Gallegos
NMPLS No. 22500, CFed No. 1602
Notary Public



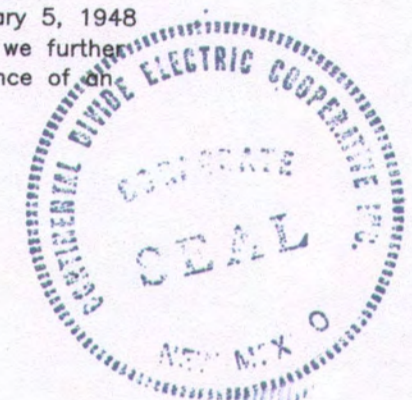
OFFICIAL SEAL
JULIE GIERI-ALLEN
NOTARY PUBLIC-State of New Mexico
My Commission Expires 4/20/21

APPLICANT'S CERTIFICATE

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[Signature]
SECRETARY

[Signature]
AUTHORIZED OFFICER



DESCRIPTION

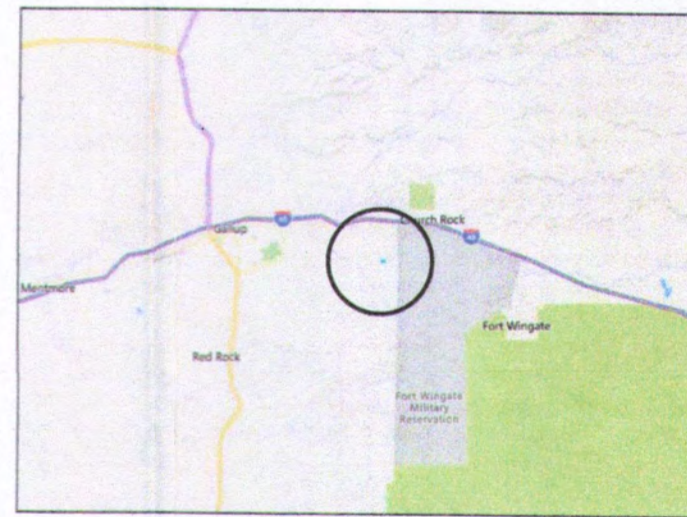
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ACREAGE OF RIGHT-OF-WAY EASEMENT ACROSS NAVAJO TRIBAL TRUST LAND TO BE 0.40 ACRES. GUY EASEMENT ACREAGE TO BE 0.04 ACRES TOTAL = 0.44 ACRES.

NOTES:

1. BASIS OF BEARING - Bearings shown hereon are based on the New Mexico State Plane Coordinate System, West Zone, North American Datum of 1983. Combined factor = 0.9998435. $\Delta \alpha = -00^{\circ}27'58.16''$. All bearings are grid bearings, distances are ground distances. Field data for this project was obtained using Trimble dual frequency GPS receivers in RTK and Static Mode. Horizontal and vertical control calibration was generated from National Geodetic Survey's Online Positioning User Service (OPUS) with and observation at the base control point.
2. No. 5 rebar with orange plastic cap set at all P.I. Points, B.O.P. Points, and E.O.P. Points.



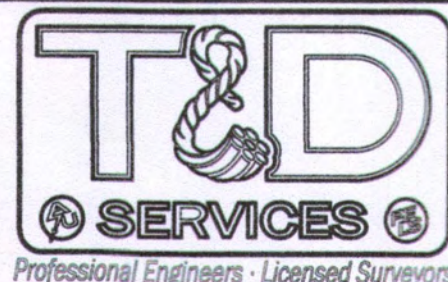
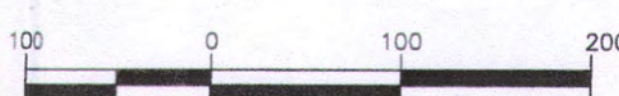
AREA MAP
N.T.S.

REFERENCES (Including but not limited to): USGS 7.5 MIN. QUADS: Fort Wingate, NM; Churchrock, NM; Gallup East, NM; Breadsprings, NM

BLM Dependent Resurvey and Completion Survey of Fractional T15N, R17W, NMPM, accepted July 12, 2001

BLM Dependent Resurvey, Subdivision of Sections, and Metes and Bounds Survey of Fractional T15N, R17W, NMPM, accepted January 24, 2008

SCALE:
1 INCH = 100 FEET



9550 San Mateo Blvd NE, Suite G
Albuquerque, NM 87113

CONTINENTAL DIVIDE ELECTRIC CO-OP, INC.

GRANTS, NM

NEW MEXICO 22 MCKINLEY

F.B. NM22-13 Instrument Trimble R10/TSC3 DRAWN KCG CHECKED XX APPROVED DATE 2/27/20 ENGRS. FILE NO. 200008

DATE	REVISIONS

WORK ORDER NUMBER 86619

SUNDANCE NUMBER 2
POWER LINE PROJECT

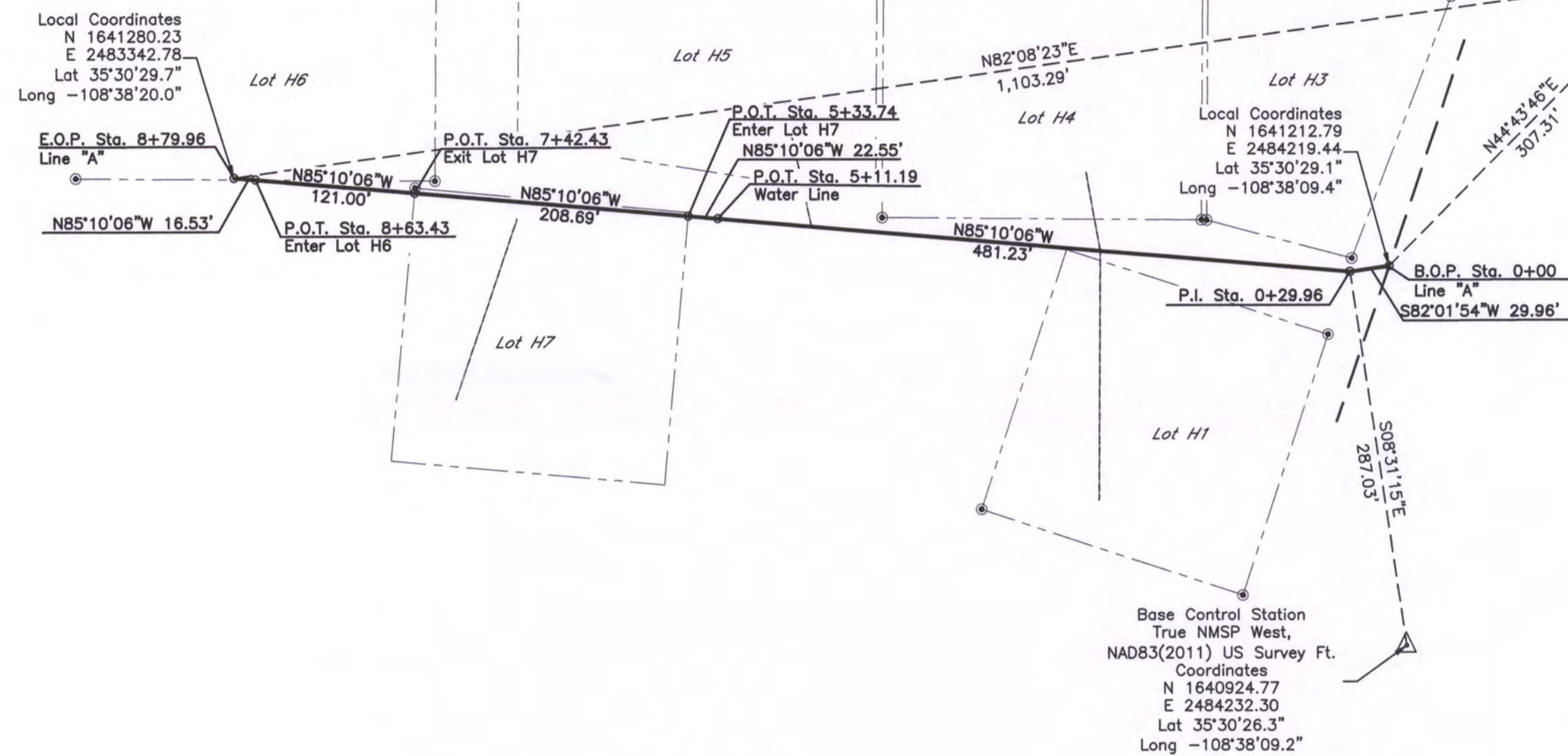
PERMIT MAP 1 OF 1

STATE	COUNTY	DETAIL
NM	MCKINLEY	

- LEGEND**
- Proposed Power Line
 - Existing Power Line
 - Lot Lines
 - Found BLM brass cap as shown
 - Set Base Control Station, 2 1/4" ACap, NMPLS 22500
 - Found rebar with PCap RLS 19633



T15N R17W



Section 28
NVT



SURVEYOR'S STATEMENT

This survey is subject to any facts that may be disclosed by a title search and abstract.

I, Katherine C. Gallegos, New Mexico Professional Land Surveyor Number 22500, do hereby state that this right-of-way easement plot is based on a field survey made by me or under my direct supervision; that this survey meets the "Minimum Standards for Surveying in New Mexico", and to the best of my professional knowledge, information, and belief, it correctly represents the facts found at the time of survey.

TRANSMISSION & DISTRIBUTION SERVICES, LLC

BY Katherine C. Gallegos
NMPLS No. 22500, Creds. No. 1602

Notary Public



OFFICIAL SEAL
JULIE GIERI-ALLEN
NOTARY PUBLIC - State of New Mexico
My Commission Expires 4/1/2021

APPLICANT'S CERTIFICATE

This is to certify that Katherine C. Gallegos of Transmission & Distribution Services, LLC., who subscribed the statement above is the person engaged by the undersigned applicant to prepare this map which has been adopted by the applicant as the location of the electric distribution line right-of-way easement thereby shown, and that this map is filed as part of the complete application, and in order that the applicant may obtain the benefits of the Act of February 5, 1948 (62 Stat. L. 17) (25 U.S.C. 323-328) Department Regulation 25 CFR, as amended, and we further certify that the right-of-way herein described is desired for the operation and maintenance of an electric distribution facility.

Secretary

Authorized Officer



DESCRIPTION

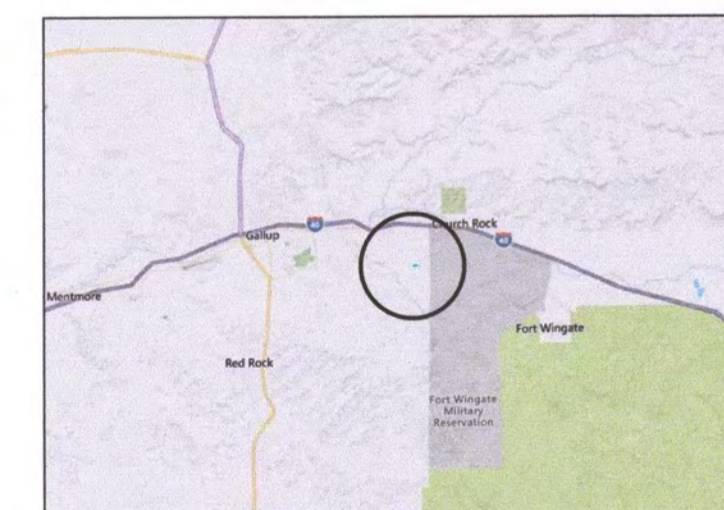
WIDTH OF RIGHT-OF-WAY EASEMENT TO BE 20 FEET

LENGTH OF RIGHT-OF-WAY EASEMENT ACROSS NAVAJO TRIBAL TRUST LAND TO BE 879.96 FEET (0.17 MILES). GUY EASEMENTS TO BE 100.00 FEET
TOTAL = 979.96 FEET

ACREAGE OF RIGHT-OF-WAY EASEMENT ACROSS NAVAJO TRIBAL TRUST LAND TO BE 0.40 ACRES. GUY EASEMENT ACREAGE TO BE 0.04 ACRES
TOTAL = 0.44 ACRES.

NOTES:

- BASIS OF BEARING -- Bearings shown hereon are based on the New Mexico State Plane Coordinate System, West Zone, North American Datum of 1983
Combined factor = 0.28963455
 $\Delta \alpha = -00^{\circ}27'58.16''$. All bearings are grid bearings, distances are ground distances.
Field data for this project was obtained using Trimble dual frequency GPS receivers in RTK and Static Mode. Horizontal and vertical control calibration was generated from National Geodetic Survey's Online Positioning User Service (OPUS) with and observation at the base control point.
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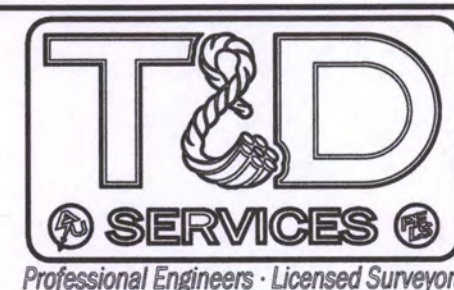
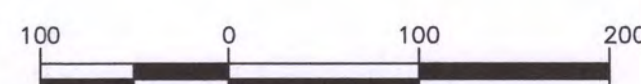


AREA MAP
N.T.S.

REFERENCES (including but not limited to): USGS 7.5 MIN. QUADS: Fort Wingate, NM
Churchrock, NM
Gallup East, NM
Breadsprings, NM

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SCALE:
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Albuquerque, NM 87113

F.B. NM22-13 Instrument TrimbleR10/TSC3

CONTINENTAL DIVIDE ELECTRIC CO-OP, INC.

GRANTS, NM

NEW MEXICO 22 MCKINLEY

DRAWN KCG

CHECKED XX

APPROVED

DATE 2/27/20

ENGRS. FILE NO. 200008

WORK ORDER NUMBER 86619

SUNDANCE NUMBER 2
POWER LINE PROJECT

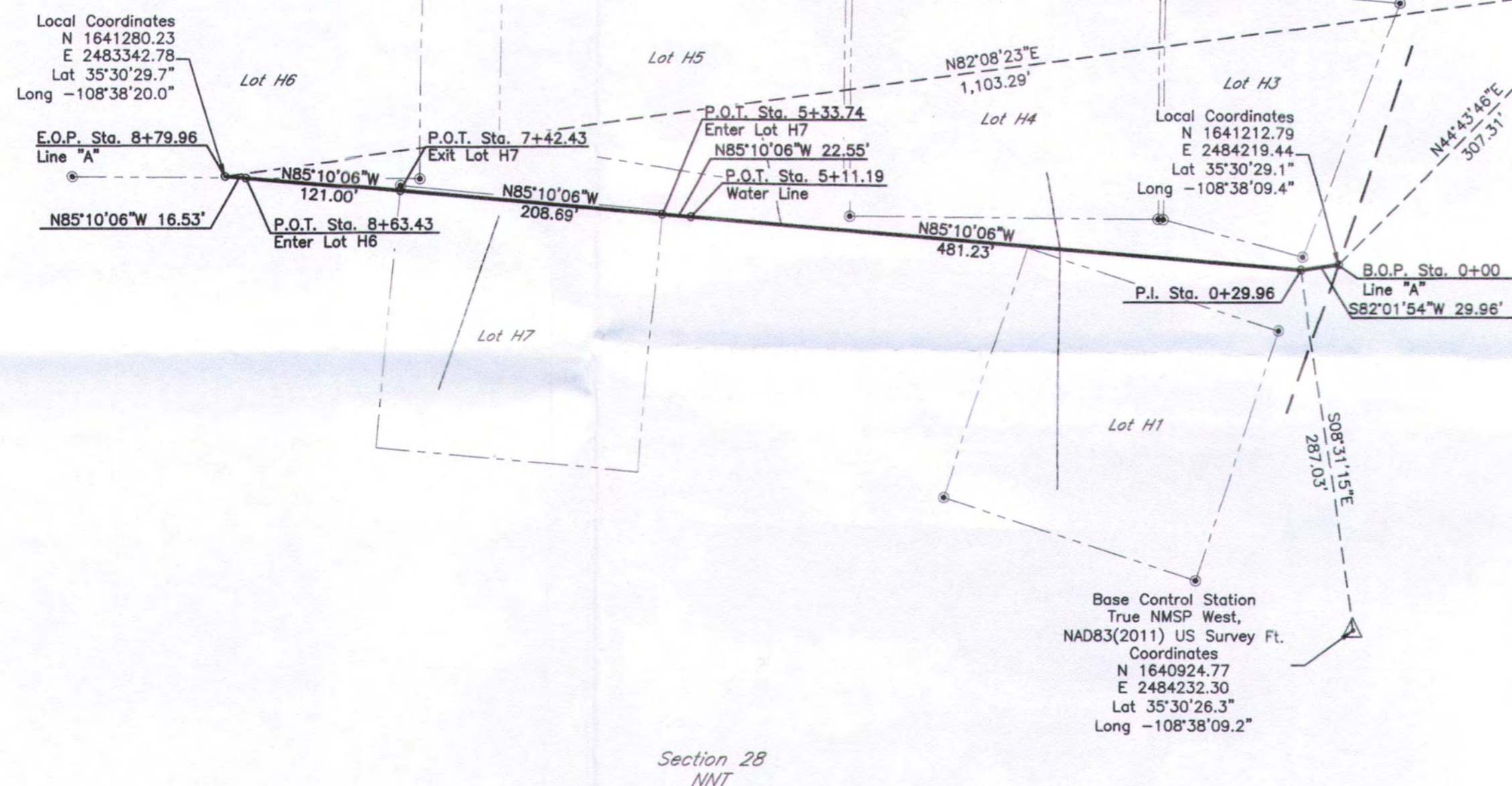
PERMIT MAP 1 OF 1

STATE	COUNTY	DETAIL
NM	MCKINLEY	

- LEGEND**
- Proposed Power Line
 - Existing Power Line
 - Lot Lines
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 - Found rebar with PCap RLS 19633



T15N R17W



SURVEYOR'S STATEMENT

This survey is subject to any facts that may be disclosed by a title search and abstract.

I, Katherine C. Gallegos, New Mexico Professional Land Surveyor Number 22500, do hereby state that this right-of-way easement plat is based on a field survey made by me or under my direct supervision; that this survey meets the Minimum Standards for Surveying in New Mexico, and to the best of my professional knowledge, information, and belief, it correctly represents the facts found at the time of survey.

TRANSMISSION & DISTRIBUTION SERVICES, LLC

BY Katherine C. Gallegos
NMPLS No. 22500, CFed. No. 1802
[Signature]
Notary Public

OFFICIAL SEAL
JULIE GIERI-ALLEN
NOTARY PUBLIC-STATE of New Mexico
My Commission Expires 7/3/21

APPLICANT'S CERTIFICATE

This is to certify that Katherine C. Gallegos of Transmission & Distribution Services, LLC, who subscribed the statement above is the person engaged by the undersigned applicant to prepare this map which has been adopted by the applicant as the location of the electric distribution line right-of-way easement thereby shown, and that this map is filed as part of the complete application, and in order that the applicant may obtain the benefits of the Act of February 5, 1948 (62 Stat. L. 17) (25 U.S.C. 323-328) Department Regulation 25 CFR, as amended, and we further certify that the right-of-way herein described is desired for the operation and maintenance of an electric distribution facility.

[Signature]
SECRETARY

[Signature]
AUTHORIZED OFFICER



DESCRIPTION

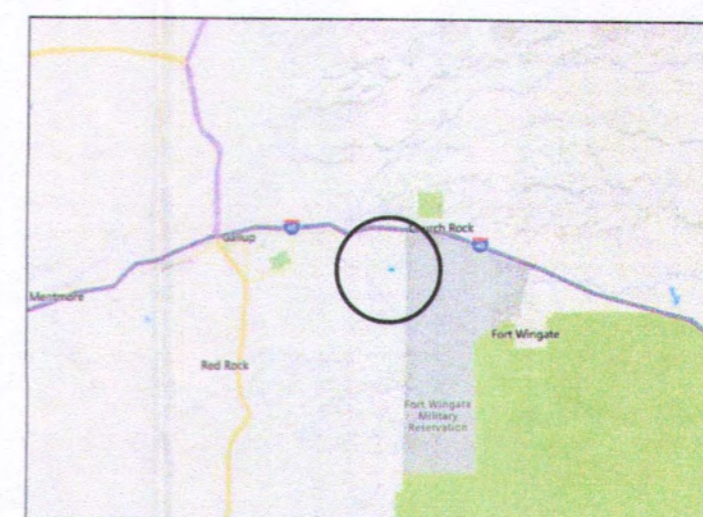
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NOTES:

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AREA MAP
N.T.S.

WORK ORDER NUMBER 86619

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CONTINENTAL DIVIDE ELECTRIC CO-OP, INC.

GRANTS, NM

NEW MEXICO 22 MCKINLEY

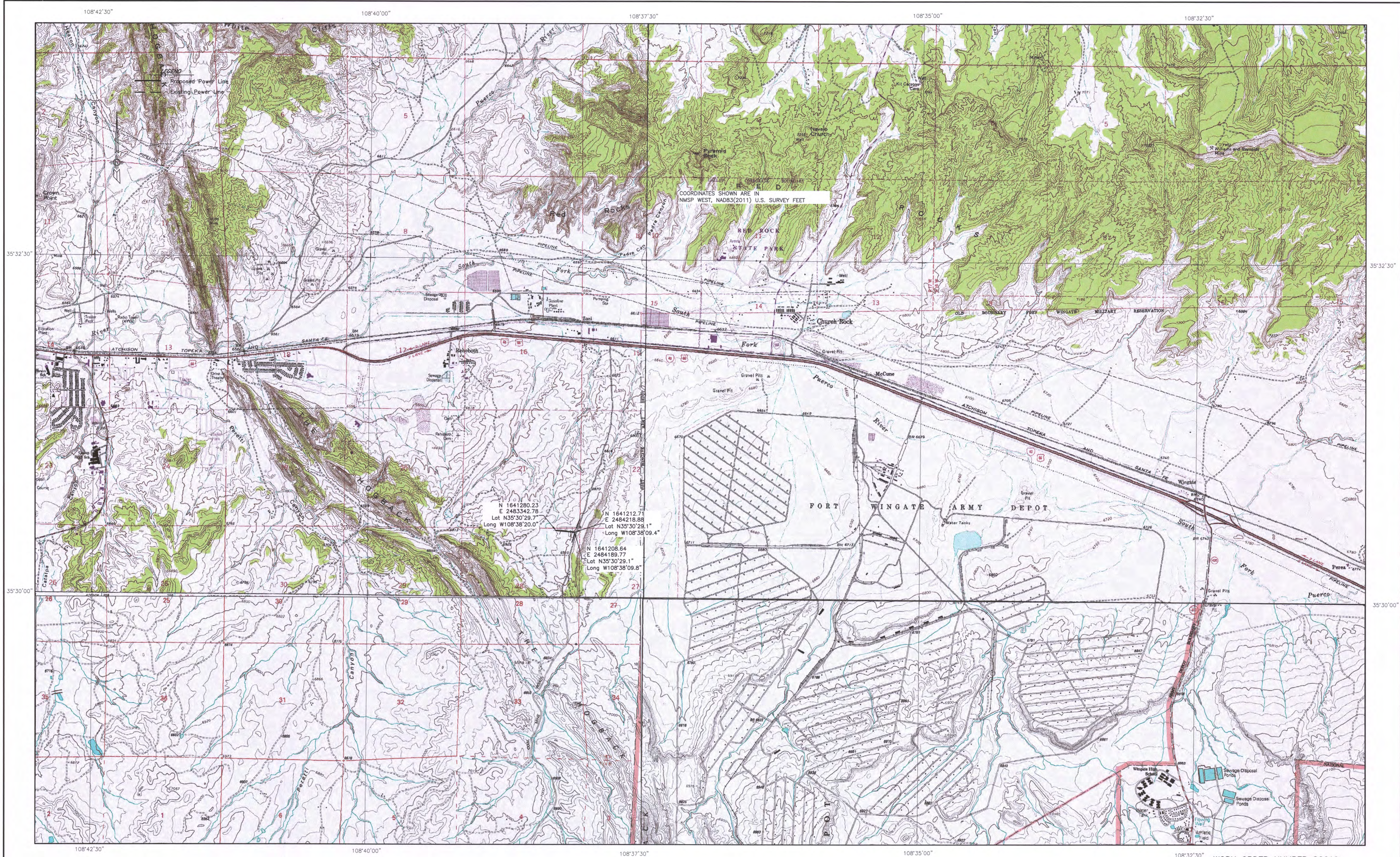
F.B. NM22-13 Instrument TrimbleR10/TSC3 DRAWN KCG CHECKED XX APPROVED DATE 2/27/20 ENGRS. FILE NO. 200008

DATE	REVISIONS

SUNDANCE NUMBER 2
POWER LINE PROJECT

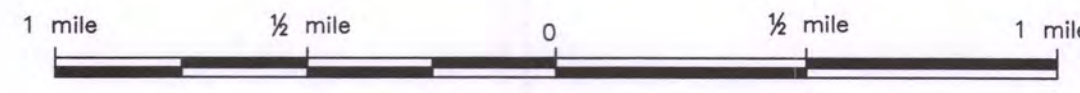
PERMIT MAP 1 OF 1

STATE	COUNTY	DETAIL
NM	MCKINLEY	



REFERENCES: USGS 7.5 MIN. QUADS: Fort Wingate, NM
Churchrock, NM
Gallup East, NM
Breadsprings, NM

SCALE:
1 INCH = 2000 FEET



T&D SERVICES
Professional Engineers - Licensed Surveyors
9550 San Mateo Blvd NE, Suite G
Albuquerque, NM 87113

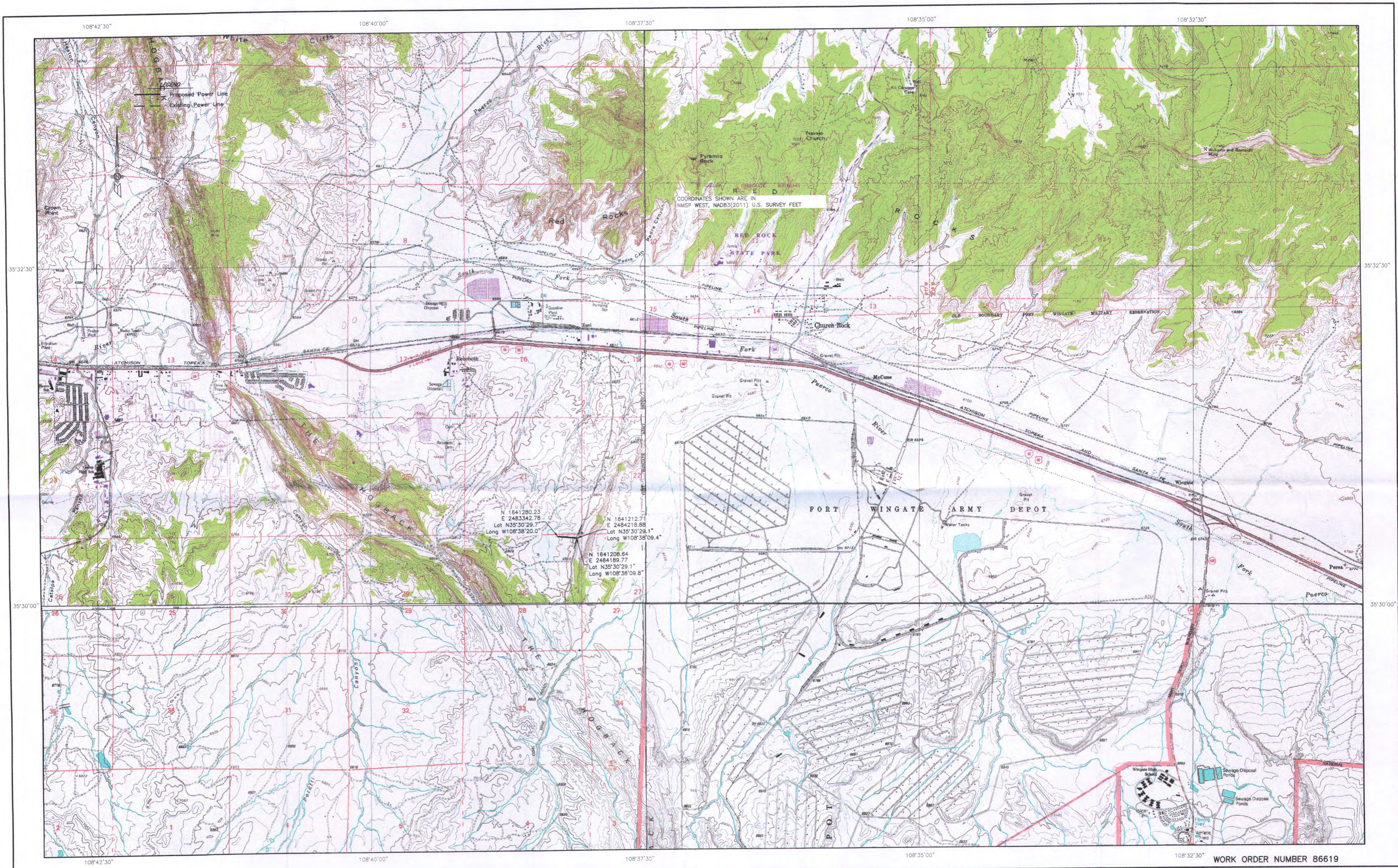
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CONTINENTAL DIVIDE ELECTRIC CO-OP, INC.
GRANTS, NM
NEW MEXICO 22 MCKINLEY

DRAWN KCG CHECKED XX APPROVED DATE 2/27/20 ENGRS. FILE NO. 200008

DATE	REVISIONS

WORK ORDER NUMBER 86619			
SUNDANCE NUMBER 2 POWER LINE PROJECT			
LOCATION MAP 1 OF 1			
STATE	COUNTY	DETAIL	
NM	MCKINLEY		



REFERENCES: USGS 7.5 MIN. QUADS: Fort Wingate, NM
Churchrock, NM
Gallup East, NM
Breed Springs, NM

SCALE:
1 INCH = 2000 FEET

1 mile 1/2 mile 0 1/2 mile 1 mile

T&D SERVICES
Professional Engineers - Licensed Surveyors
9550 San Mateo Blvd NE, Suite G
Albuquerque, NM 87113

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GRANTS, NM
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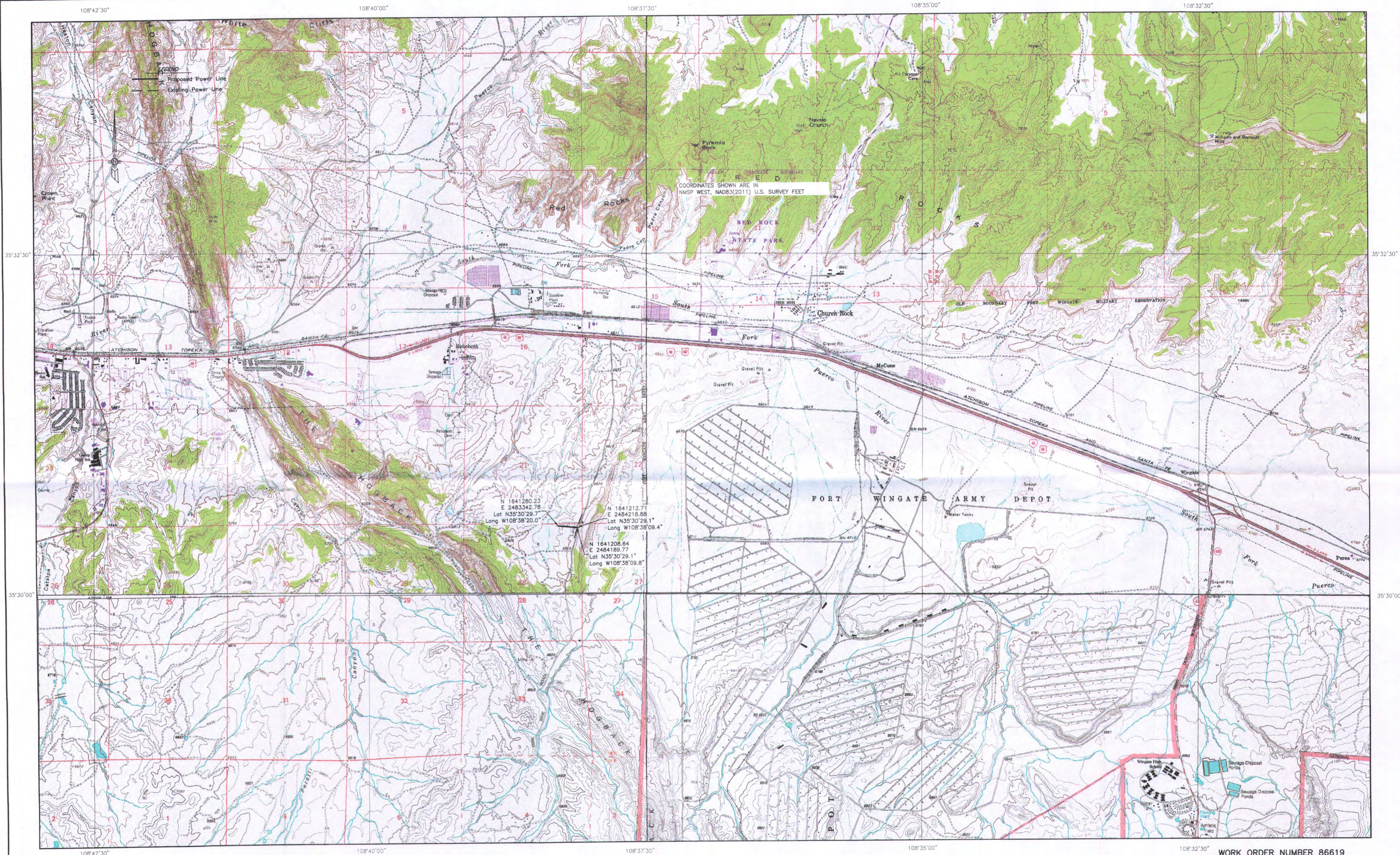
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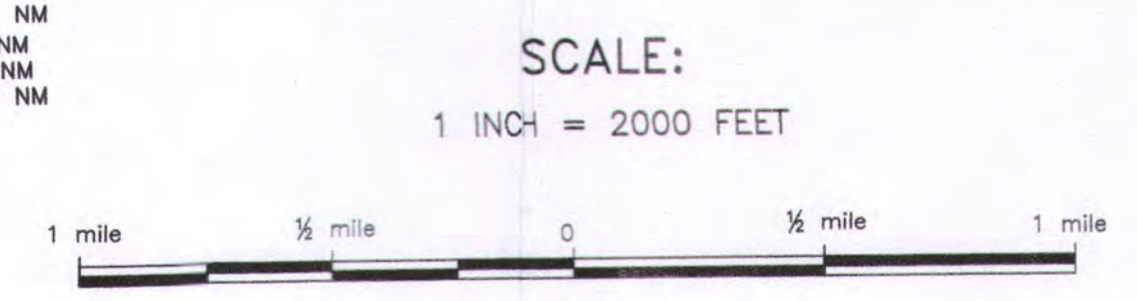
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**SUNDANCE NUMBER 2
POWER LINE PROJECT**
LOCATION MAP 1 OF 1

STATE	COUNTY	DETAIL
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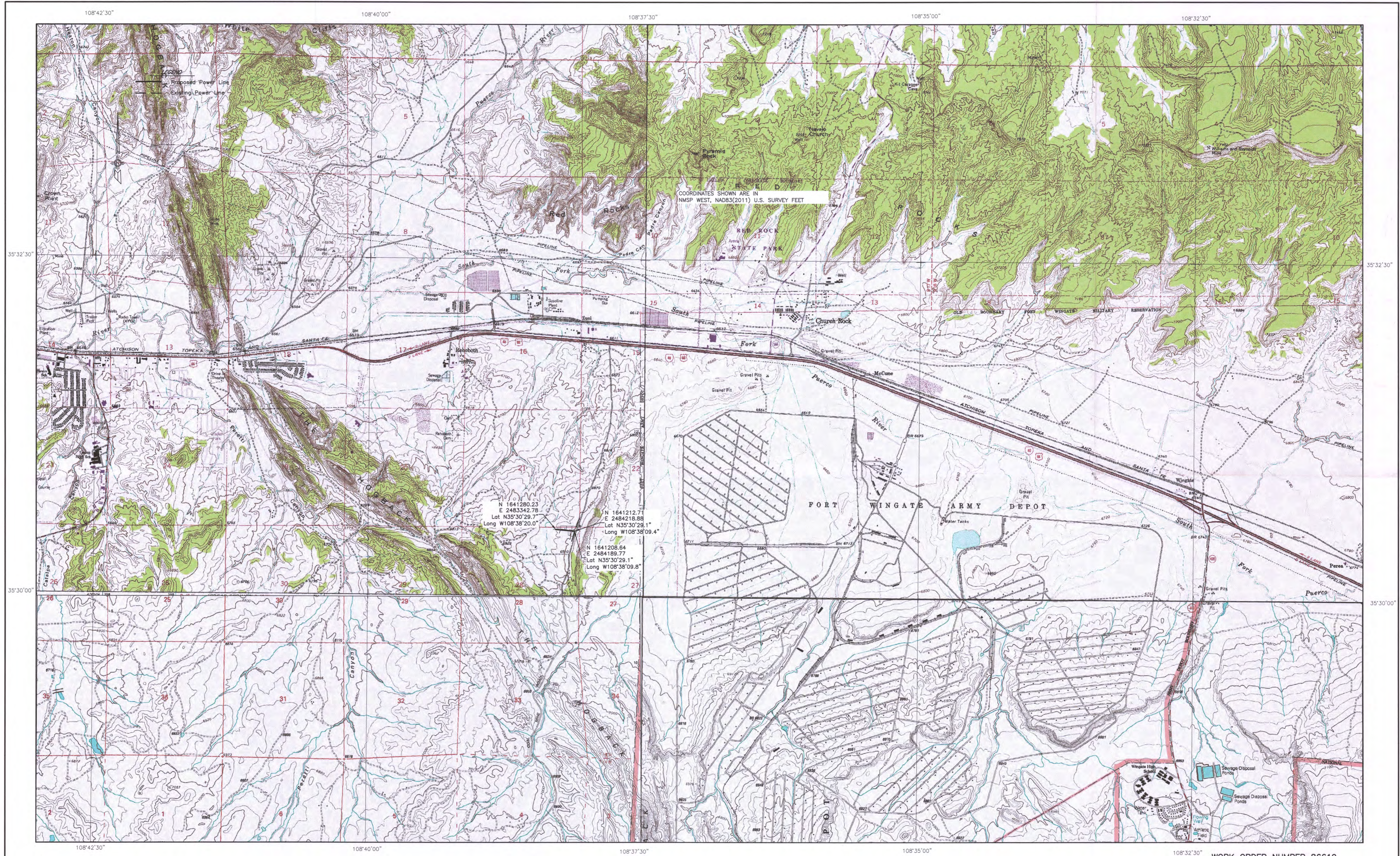


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GRANTS, NM
NEW MEXICO 22 MCKINLEY

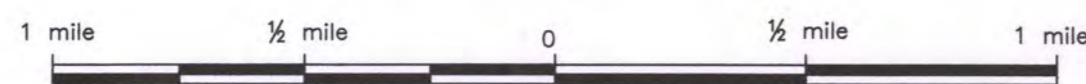
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WORK ORDER NUMBER 86619			
SUNDANCE NUMBER 2 POWER LINE PROJECT LOCATION MAP 1 OF 1			
STATE	COUNTY	DETAIL	
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GRANTS, NM

NEW MEXICO 22 MCKINLEY

DRAWN KCG

CHECKED XX

APPROVED

DATE 2/27/20

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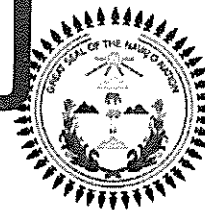
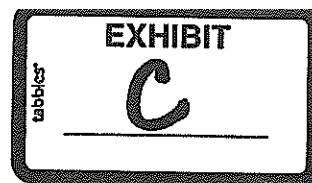
DATE	REVISIONS

WORK ORDER NUMBER 86619
SUNDANCE NUMBER 2
POWER LINE PROJECT

LOCATION MAP 1 OF 1

STATE	COUNTY	DETAIL
NM	MCKINLEY	

THE NAVAJO NATION



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. Use back if necessary to complete this form.

Project Applicant: Continental Divide Electric Cooperative, Inc.

Project Name/Type: Electrical Powerline Extension

Project Description: Right-of Way easement for construction, operation, & maintenance of 14.4/24.9 kv electrical distribution power line and fiber-optic line and its appurtenances to service CHURCHROCK CHAPTER "Sundance #2 Project" WO#86619

Location: Churchrock Chapter, Section 28, T15N, R17W, McKinley County New Mexico

Amount of land affected: .44 acres, 20' width, 979.96-ft length

Land Status: Trust X Fee _____ Other _____

List only valid Grazing Permittees (tally counts) whose grazing rights will be affected by project:

	Names	Permit Number	Type of Land Use Right
1	David Emerson	RU#38, Churchrock	Grazing Permit
2			
3			
4			
5			

ACKNOWLEDGEMENT

I acknowledge that due notice was given to the affected community of the proposed project and according to my records to the best of my knowledge, the list of individuals includes all land users who have land use rights in the affected lands.

11/02/21
Date

Anthony B...
Grazing Official or Land Board Member

16
District No.

Consent Form #1
(No Expected Damages)

CONSENT TO USE NAVAJO NATION LANDS

TO WHOM IT MAY CONCERN:

I, David Emerson, hereby grant consent to the Navajo Nation,
Window Rock, Arizona to permit Continental Divide Electric Cooperative
of PO Box 1087, 200 East High Street, Grants, NM 87020 to use a portion of my Grazing area for the
following purpose(s): Right-of way easement for construction, operation, & maintenance of 14.4/24.9 kv electric
distribution power line and fiber-optic line and its appurtenances to service Church Rock Chapter "Sundance #2"
as shown on the map that shows the location of the proposed project.

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

REMARKS:

people deserve need to help and I
am proud to provide that help.

9-24-21 David Emerson Church Rock RU#38
DATE GRAZING PERMITEE SIGNATURE PERMIT NO.
(OR THUMBPRINT)

PHONE NO. ADDRESS (P.O. BOX, CITY, STATE, ZIP)

WITNESS:

11/02/21 Anthony Buz 16
DATE GRAZING OFFICIAL OR LAND BOARD DISTRICT NO.

ACKNOWLEDGEMENT OF FIELD AGENT

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

[Signature]
Field Agent Signature

THE NAVAJO NATION

COPY



JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

November 1, 2021

TO: Anthony Begay, Land Board Member
Smith Lake/Mariano Lake Chapters

FROM:

A handwritten signature in black ink, appearing to read "Ivan Becenti", written over a horizontal line.

Ivan Becenti, Principal Extension Agent
Ranch and Eastern Land Management
Navajo Nation Department of Agriculture

SUBJECT: **DELEGATION FOR CHURCH ROCK CHAPTER**

The General Land Development Department (GLDD) is requesting for a Land Board to be delegated to work with them on an Infrastructure Right of Way improvement project within the Church Rock and surrounding areas. Mr. Emery Chee is the Land Board that is with that Chapter but due to some reasons he will be unable to work on that project. Therefore, I am delegating you to work with GLDD to complete this project. You will work closely with Mr. Howard Martinez on this request. Please keep me informed of the progress as well as issues that may arise.

If you have any questions please do not hesitate to contact me at 928-871-6605 or email ibecenti@navajo-nsn.gov. Your assistance will be greatly appreciated.

c: General Land Administration Department

Church Rock Chapter



United States Department of the Interior

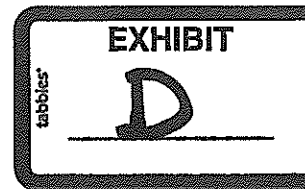
BUREAU OF INDIAN AFFAIRS

Navajo Regional Office

P.O. Box 1060

Gallup, New Mexico 87305

July 20, 2021



Mr. Leonard Robbins
Denali Environmental Services
Post Office Box 1127
Fort Defiance, Arizona 86504

Dear Mr. Robbins:

The Environmental Assessment (EA), **EA-20-080420-4 REVISED-1**, received August 3, 2020, for the Proposed **Continental Divide Electric Cooperative, Inc. (CDEC) Sundance #2 Power Line Right-of-Way (ROW) Churchrock Chapter, McKinley County, New Mexico, CDEC WO No. 86619**, was reviewed in the Office of Environmental Quality Act Compliance and Review, Navajo Regional Office.

Continental Divide Electric Cooperative, Inc. (CDEC) is proposing to construct, operate, and maintain a power line and extension in the vicinity of Churchrock Chapter, McKinley County, New Mexico. CDEC is asking for a new Right-of-Way (ROW) of 979.96±feet, 0.19±miles with 20-foot width corridor encompassing 0.44±acres, on Navajo Tribal Trust Land.

In accordance with Section 102 (2) (c) of the National Environmental Policy Act (NEPA) of 1969, as amended, and the Council of Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations (CFR) Parts 1500-1508), the Bureau of Indian Affairs, Navajo Regional Office, finds that the Proposed Action is not a major federal action that will significantly impact the quality of the human environment. Therefore, an Environmental Impact Statement is not required for implementing the Proposed Action. This Finding of No Significant Impact (FONSI) is supported by the Environmental Assessment (EA) and the supporting appendices and documents.

If you have questions, you may contact Mr. Leonard Notah, Supervisory Environmental Protection Specialist at (505) 863-8287.

Sincerely,

Acting 

Lester Tsosie
Acting Regional Director

Enclosure

FINDING OF NO SIGNIFICANT IMPACT
ENVIRONMENTAL ASSESSMENT EA-20-080420-4 *REVISED-1*
CONTINENTAL DEVIDE ELECTRIC COOPERATIVE, INC. SUNDANCE #2 POWER
LINE ROW CHURCHROCK CHAPTER, MCKINLEY COUNTY, NEW MEXICO,
CEDC WO No. 86619

CONTINENTAL DEVIDE ELECTRIC COOPERATIVE, INC.

Location: Sundance and Churchrock Chapter, McKinley County, State of New Mexico

Quadrangle: Gallup East, New Mexico Principal Meridian

Section NE/4 S28, T15N, R17W, USGS 7.5 Minute

Sundance, Church Rock Chapter, McKinley County, New Mexico

Continental Divide Electric Cooperative, Inc. (CDEC) is proposing to construct, operate, and maintain a power line and extension in the vicinity of Churchrock Chapter, McKinley County, New Mexico. CDEC is asking for a new Right-of-Way (ROW) of 979.96±feet, 0.19±miles with 20-foot width corridor encompassing 0.44±acres, on Navajo Tribal Trust Land.

The BIA's deliberation as to whether a Finding of No Significant Impact (FONSI) is appropriate or, whether an Environmental Impact Statement (EIS) should be prepared, took into consideration, the following issues, which are addressed in the environmental assessment (EA). This determination is supported by the following findings:

1. **Beneficial and adverse environmental impacts:** The EA demonstrates that there will be no significant adverse or beneficial impacts on the quality of the human environment, including: climate, air quality, geology and seismicity, fisheries, socioeconomics and environmental justice, land use and zoning, prime farmland, recreation, traffic, noise, floodplains, wetlands and riparian habitat, hazardous, toxic and radiological waste, topography and soils, water resources and water quality, vegetation and wildlife, threatened and endangered species, migratory birds, esthetics and visual resources, and cultural resources.
2. **Public health and safety:** The proposed power line is located in a predominately rural setting (EA Section 3.1.9 Traffic). Construction of a new access road to the proposed project site will not be required; existing roads will be used (EA Section 1.1 Description of the Proposed Action). Therefore, the impact to public health and safety will be minimal. The health and safety of the community will improve with the installation of the proposed power line.
3. **Clean Water Act (CWA) Compliance:** When a project spans, crosses or results in work in a river bed, stream bed or wetland, permits from the U.S. Army Corps of Engineers (ACOE) and/or the Navajo Nation Environmental Protection Agency, Water Quality Program may be required, including: Section 401, Water Quality Certification; Section 402(p), Storm Water Pollution Prevention Plan, if the project activity will disturb surfaces of ½ acre or more; and Section 404, Permit for Discharge of Dredge or Fill Material into Waters of the US. The applicant shall submit and obtain approval for all required applications prior to construction. The applicant shall adhere to all mitigation

measures and strategies developed with the U.S. Army Corps of Engineers and the Navajo Nation Environmental Protection Agency: Based on the EA, this project does not cross or span any waters of the U.S. The proposed project and action area would not traverse any wetland or riparian habitat on or adjacent to the proposed tract.

The Gallup, NM National Wetlands Map was reviewed. There are no wetlands or riparian occurrences on or near the proposed project area alignments. No mitigation measures are recommended for wetlands/riparian areas.

Continental Divide Electric Cooperative, Inc. will contact ACOE and Navajo Nation EPA for consultation to ensure no permits are needed prior to construction.

4. **Unique characteristics of the geographic area:** The project area is not unique within its geographical setting and is similar to other areas in the region. There are no prime farmlands, wild and scenic rivers, wilderness areas, refuges, park lands, unique ecological areas, or other unique or rare characteristics of the land and aquatic environs that will be significantly affected.
5. **Degree to which the effects on the quality of the human environment are likely to be highly controversial:** There are no known scientific controversies over the effects of the proposed project on the human environment.
6. **Degree to which the effects are highly uncertain or involve unique or unknown risks:** There are no known effects on the human environment that are highly uncertain or involve unique or unknown risks.
7. **Degree to which this action will establish a precedent for future actions with significant effects:** This project will not set a precedent for similar projects that may be implemented by the BIA or other agencies.
8. **Relationship to other actions with cumulatively significant impacts:** There are no known incremental effects of the action that become significant when added to other past, present, or reasonably foreseeable future actions that have affected, or will affect, the project area.
9. **Degree to which the action may affect districts, sites, objects, or structures listed on, or eligible for, the National Register of Historic Places, or may cause loss of significant cultural resources:** The Navajo Nation Historic Preservation Department (NNHPD) issued Cultural Resources Compliance Form (CRCF) with NNHPD No. HPD-20-251 on May 20, 2020. The Cultural Resource Compliance Form finds that proposed project will have a "No Historic Properties Will Be Affected" within the area of this undertaking with conditions. Archaeological approval is hereby granted for the undertaking within the area noted in attachments.

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

10. **Degree to which the action may affect threatened, endangered, or sensitive species or their habitat:** A Biological Resources Compliance Form (BRCF) with Navajo Nation Department of Fish and Wildlife (NNDFW) Review No. 20dan1102-tk was issued by the NNDFW on June 10, 2020, approving the proposed action with the following avoidance/mitigation measures:

CDEC will implement mitigation measures to ensure that there are no impacts to migratory birds that could potentially nest in and adjacent to the construction corridor. CDEC will reclaim all areas of ground disturbance caused by power line construction activities.

11. **Whether the action violates Federal or local laws or requirements imposed for the protection of the environment:** The proposed project will not violate any Federal or Tribal environmental laws or requirements.

12. **Indian Trust Assets:** To minimize negative impacts (direct, indirect and cumulative) to the Navajo Nations forest resources. Avoid unnecessary ground disturbance and removal of vegetation/forest products within and adjacent to the right-of-way corridor during the construction period and maintenance of the power lines by use of vehicles, construction equipment, and machinery.

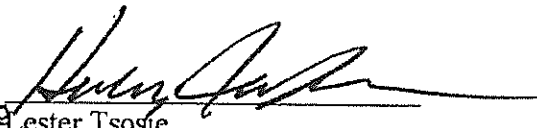
The proposed project area does not contain any Indian Trust Assets in the form of perennial water resources, fisheries, saleable timber, paleontology resources or agricultural resources. The proposed project area is not part of any right-of-way avoidance and exclusion areas, wilderness area, special management area, area of critical environmental concern, or other protected area.

13. **Climate Change, its effects on the proposed action and its environmental impacts:** The proposed action will have little to no effect on climate change. To minimize dust and vehicle emissions, the vehicles are equipped with regular exhaust mufflers. A mechanic is scheduled to make routine preventive maintenance for vehicles, equipment, and other machinery at the job sites.

CONCLUSION

The proposed action is the Preferred Alternative. It does not constitute a major federal action, which normally requires preparation of an environmental impact statement (EIS).

Based on the foregoing, it has been determined that an EIS is not required for this project and thus will not be prepared.


Acting Lester Tsosie
Acting Regional Director, Navajo
Bureau of Indian Affairs
U.S. Department of the Interior

7/23/2021
Date



THE NAVAJO NATION
HERITAGE & HISTORIC PRESERVATION DEPARTMENT

PO Box 4950, Window Rock, Arizona 86515
TEL: (928) 871-7198 FAX: (928) 871-7886

CULTURAL RESOURCES COMPLIANCE FORM

EXHIBIT

tabbles

E

ROUTE COPIES TO:

☒ CAG

NNHPD NO.: **HPD-20-251**

OTHER PROJECT NO.: **CAG 20-04**

PROJECT TITLE:

A Cultural Resources Inventory of the Proposed Continental Divide Electrical Cooperative Sundance No. 2 Powerline in the Church Rock Chapter, McKinley County, New Mexico

LEAD AGENCY:

BIA/NR

SPONSOR:

Steven Morales, GIS Analyst/ROW, Continental Divide Electric Cooperative, Inc., PO Box 1087, Grants, New Mexico 87020

PROJECT DESCRIPTION:

CDEC is proposing to construct, operate & maintain a single-phase powerline to serve a Navajo residence. The construction, operation & maintenance of the powerline will consist of vehicular traffic within the 20-ft. right-of-way, minimal removal of vegetation, excavation & placement of electrical poles & hardware, and continued maintenance. The powerline measures a total of 979.96-ft and the area of effect measures 0.44-acre.

LAND STATUS:

Navajo Tribal Trust Land

CHAPTER:

Church Rock

LOCATION:

Powerline is located on the Gallup East Quadrangle, McKinley County, New Mexico NMPM

T. 15N, R. 17W – Sec. 28

<u>BOL</u>	<u>714402 E</u>	<u>3931959 N</u>
<u>B1</u>	<u>714391 E</u>	<u>3931959 N</u>
<u>EOL</u>	<u>714134 E</u>	<u>3931971 N</u>

PROJECT ARCHAEOLOGIST:

Brandi Bitsilli

NAVAJO ANTIQUITIES PERMIT NO.:

B20066

DATE INSPECTED:

02/21/20

DATE OF REPORT:

04/13/20

TOTAL ACREAGE INSPECTED:

20.02 – ac total

METHOD OF INVESTIGATION:

Class III pedestrian inventory with transects spaced 10 m apart.

LIST OF CULTURAL RESOURCES FOUND:

(1) IN-USE SITE (IUS)

LIST OF ELIGIBLE PROPERTIES:

NONE

LIST OF NON-ELIGIBLE PROPERTIES:

(1) IN-USE SITE (IUS)

-DOCUMENT IS VOID IF ALTERED-

LIST OF ARCHAEOLOGICAL RESOURCES:

NONE

EFFECT/CONDITIONS OF COMPLIANCE: No Historic Properties Effected.

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

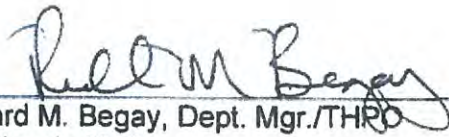
FORM PREPARED BY: Tamara Billie

FINALIZED: May 5, 2020

Notification to Proceed
Recommended☒ Yes ☐ No

Conditions:

☐ Yes ☒ No


Richard M. Begay, Dept. Mgr./THRO
The Navajo Nation
Heritage & Historic Preservation Department

05/06/2020
Date

Navajo Region Approval

☒ Yes☐ No

BARTHOLOMEW
STEVENS

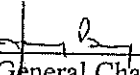
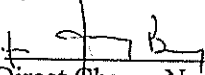
Digitally signed by
BARTHOLOMEW STEVENS
Date: 2020.05.20 08:32:03 -06'00'

BIA - Navajo Regional Office

Date

-DOCUMENT IS VOID IF ALTERED-

ARCHAEOLOGICAL INVENTORY REPORT (AIRs) DOCUMENTATION PAGE

1. RECEIPT'S ACCESSION NO:	2. (FOR HPD USE ONLY)	3. HPD REPORT NO.
4. TITLE OF REPORT: A Cultural Resources Inventory of the Proposed Continental Divide Electrical Cooperative Sundance No. 2 Powerline in the Church Rock Chapter, McKinley County, New Mexico. Author (s): Brandi Bitsilli, et al.		5. FIELDWORK DATES: February 21 st , 2020
7. CONSULTANT'S NAME AND ADDRESS: Gen. Charge: Jeremy Begay, Senior Archaeologist Org. Name: Carrizo Archaeological Group Org. Address: 1201 N. Mesa Verde Avenue Farmington, NM 87401 Phone: (505) 320-9013		6. REPORT DATE: April 13, 2020
10. SPONSOR'S NAME AND ADDRESS: Ind. Responsible: Steven Morales, GIS Analyst/ROW Org. Name: Continental Divide Electric Cooperative, Inc. Org. Address: P.O. Box 1087 Grants, New Mexico 87020 Phone: (505) 285-6656		8. PERMIT NO.: B20066
13. LOCATION: a. Chapter: Church Rock b. Agency: Eastern c. County: McKinley d. State: New Mexico e. Land Status: Tribal Trust		9. CONSULTANT'S REPORT NO.: CAG 20-04
14. REPORT OR SUMMARY: <i>(Attach additional pages if necessary)</i> a. Description of Undertaking: See Supplemental Sheet b. Existing Data Review: See Supplemental Sheet c. Environmental & Cultural Setting: See Supplemental Sheet d. Field Methods: See Supplemental Sheet: See Supplemental Sheet		11. SPONSOR'S PROJECT NO.: Work Order # 86619
15. CULTURAL RESOURCE FINDINGS: <i>(Attach additional pages if necessary)</i> a. Location/Identification of Each Resource: One in-use site (IUS1) was encountered consisting of a mobile home with no associated features. b. Evaluation of Significance of Each Resource: The documented resource is not eligible under NRHP, ARPA, AIRFA, or NAGPRA.		12. AREA OF EFFECT: 0.44 acres (0.17 ha.) AREA SURVEYED: 2.02 acres (0.81 ha.)
16. MANAGEMENT SUMMARY/RECOMMENDATIONS: Archaeological clearance is recommended for the proposed undertaking with no stipulations since no significant cultural resources were encountered. If any undocumented resources are discovered during construction, CDEC must immediately halt all construction activity and report to the NNHPD in Window Rock, Arizona.		
17. CERTIFICATION:		
<p>Signature:  Date: <u>4/13/2020</u> General Charge Name: <u>Jeremy Begay, Senior Archaeologist</u></p> <p>Signature:  Date: <u>4/13/2020</u> Direct Charge Name: <u>Brandi Bitsilli, Senior Archaeologist</u></p>		

13. LOCATION

Table 1. Legal Description for the project.

Land Status	Section	Township	Range	7.5 min USGS Map Name
Tribal Trust	28	15N	17W	Gallup East, N. Mex P.R. 1979

Table 2. Designation, UTM Coordinates, Legal Description, and USGS Quad(s) for the project.

Designation	UTM Coordinates: Zone 12 (NAD 83)		Legal Description						7.5 min USGS Map
	Northing	Easting	¼	¼	¼	Sec	T	R	
BOL	3931959	0714402	NE	NE	NE	28	15N	17W	Gallup East, N. Mex P.R. 1979
B1	3931959	0714391	NE	NE	NE	28	15N	17W	
EOL	3931971	0714134	NW	NE	NE	28	15N	17W	

BOL denotes Beginning of Line

B denotes Bend in Line

EOL denotes End of Line

14. REPORT

a. Description of Undertaking

Continental Divide Electric Cooperative (CDEC) proposes to construct and maintain 979.96 feet (298.69 m.) of a single-phase powerline to a Navajo residence in the Church Rock Chapter, McKinley County, New Mexico. Construction activities will consist of minimal traffic within the ROW, installation of associated facilities, and finally the maintenance of the powerline. The area of effect measures 0.44 acres (0.17 ha.).

b. Existing Data Review

Prior to field work, a literature search was conducted at the Navajo Nation Historic Preservation Department's (NNHPD) Cultural Compliance Section (CRCS) and the Traditional Culture Program (TCP), located in Window Rock, Arizona. The CRCS records indicated two previous projects have been conducted within 300 feet (91 meters) of the project area. One archaeological site was previously recorded in conjunction with the one of the previous projects. A thorough field check of the site area determined that the previous archaeological site was outside of the current project area and will not be impacted by the proposed undertaking.

A file search at the NNHPD Traditional Cultural Program's sacred sites archives indicated four sacred areas are located within a 5-mile (8.04 km) radius of the project area. Consultations with NNHPD TCP personnel determined that the project can proceed as planned.

c. Environmental and Cultural Setting

The Zuni Uplift is a large sedimentary landmass that was uplifted during the onset of the Laramide Orogeny during the Cretaceous-Tertiary transition. A considerable amount of tectonic activity during this time is responsible for exposing numerous geologic facies ranging in age from the Neogene Period to the Precambrian. Erosion of the numerous facies have produced a multitude of geographic features and geologic structures such as the Hogback, Fenced Up Horse Canyon, Zuni Mountains, Oso Ridge, and the Malpais badlands. Within the uplift, strata

representing marine transgressive and nonmarine regressive cycles have been exposed as well as Precambrian basement rock which have produced redeposited packages of fine to coarse grained alluvial, fluvial, colluvial, residual, and aeolian sand, silt, clay, and multi-lithic sand. Outcrops of sedimentary, metamorphic, and igneous bedrock as well as pebble to boulder sized clasts derived from these outcrops are scattered throughout the region. Situated in the mixed conifer environ, the Zuni Uplift supports flora such as; Ponderosa and pinion pine, juniper, gambel oak, Aspen, green ephedra, sagebrush, Indian rice grass, ring muhly, blazing star, alkali sacaton, amaranth, drop seed, narrow and broad leaf yucca, prickly pear and cholla cacti, and Russian thistle.

d. Field Methods

On February 21st, 2020, Brandi Bitsilli and Jeffrey Begay, archaeologists with Carrizo Archaeological Group (CAG), conducted the cultural resources inventory of the project area. The proposed powerline route was flagged and staked by T&D surveyors prior to the archaeological inventory. The project area was surveyed by walking parallel transects, spaced no more than 10 meters (32 feet) apart. A 35 ft. cultural buffer zone was added to the project area to both sides of the 20 foot (6.09 m.) Right-of-Way. A total area of 2.02 ac. (0.81 ha.) was surveyed in conjunction with this project.

Per NNHPD policy, CAG archaeologists attempted to contact the homeowners near the project area to obtain information regarding any TCPs or burials in the project area. No residents were at home at the time of the inventory. Prior to fieldwork, CAG archaeologists notified Church Rock Chapter House officials about their presence in the area. Ms. Vera Morgan, the Church Rock Community Service Coordinator, stated that she did not know of any TCPs or marked and unmarked burials near the project area.

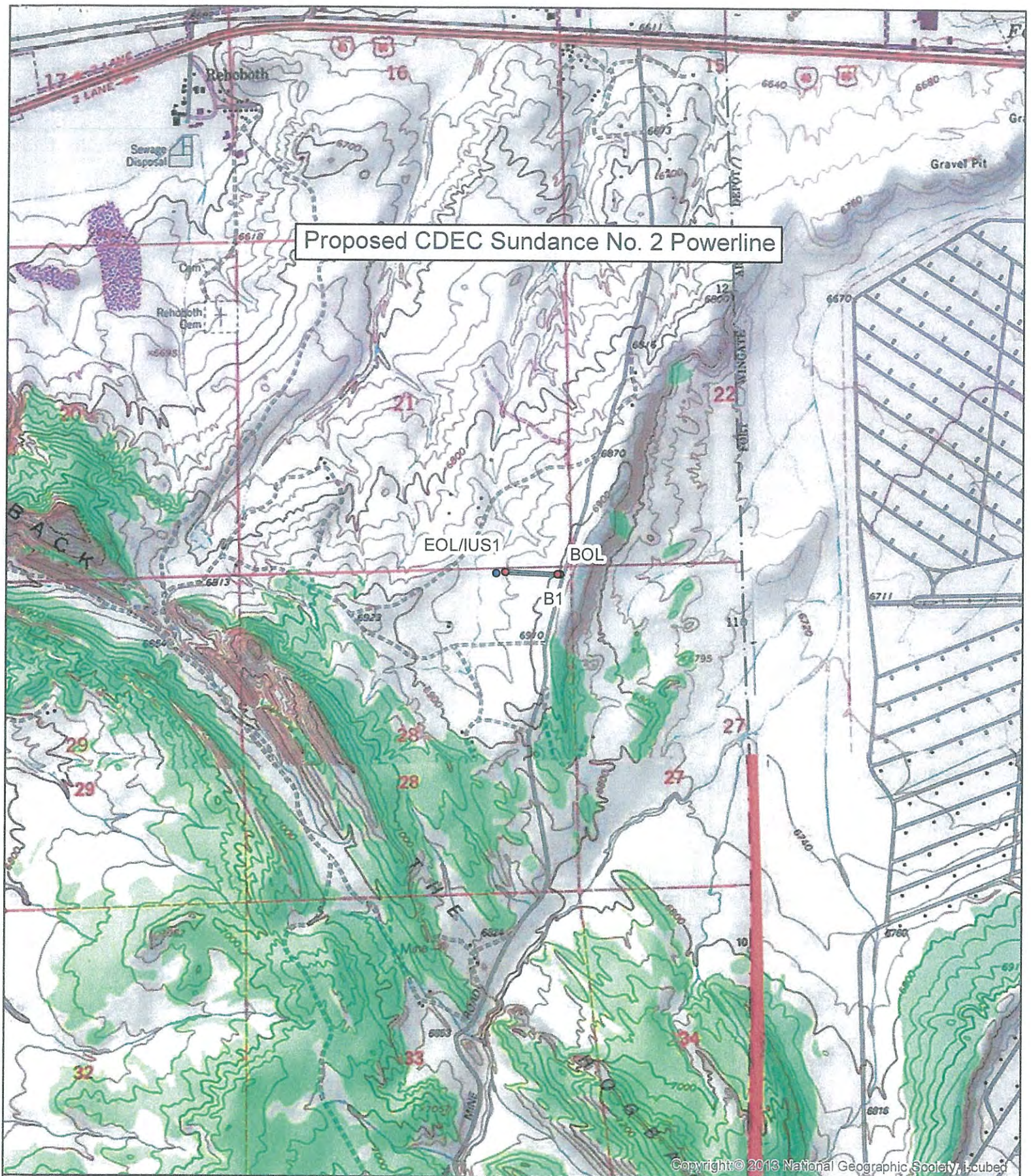
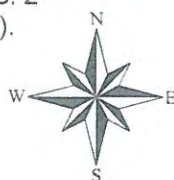


Figure 1: Map showing the proposed CDEC Sundance No. 2 project area and identified cultural resources, (CAG20-04).

Gallup East, N. Mex., PR 1979

Scale: 1 : 24,000
1 inch = 2,000 ft



Legend

- Project Points
- Powerline
- Buffer Zone
- IUS



THE NAVAJO NATION
Historic Preservation Department

PO Box 4950, Window Rock, AZ 86515
TEL: (928) 871-7198 / 7134 FAX: (928) 871-7886

TRADITIONAL CULTURAL PROPERTY (TCP) RECORD
SEARCH VERIFICATION FORM

****TCP WILL NOT SIGN/APPROVE IF THIS PORTION IS LEFT BLANK****

Project Information:

DATE	2/14/2020
RESEARCHER & COMPANY	Jeremy Begay, Jeffrey Begay, Brandi Bitsilli, Rius Goodman (CAG)
PROJECT NAME	A CRI of the proposed Sundance No. 2 Powerline Extension for Continental Divide Electrical Coop.
PROJECT/PERMIT NUMBER	CAG20-04 B20066
PROJECT LOCATION	Church Rock, McKinley Co, NM

*****TO BE FILLED OUT & SIGNED BY AUTHORIZED NNHPD STAFF ONLY*****

A literature search of TCP Records at NNHPD on the above date indicates the following:

<input checked="" type="checkbox"/>	There are <u>no</u> TCP(s) present within the project area and/or buffer zone. The project may proceed as proposed.
<input type="checkbox"/>	TCP(s) <u>are</u> present within the project area and/or buffer zone. Project may have the potential to adversely affect TCP(s). Please document TCP(s) as a summary (with only general location information) in the body of reports submitted for review to HPD/CRCs. Give full detail on the TCP Documentation Forms in a separate, and clearly labeled, confidential appendix.
<input type="checkbox"/>	Project may proceed with the following stipulations:
<input type="checkbox"/>	Further consultation is required. Consult with the following:
<input type="checkbox"/>	There are no mitigative measures. Project may not proceed.

NNHPD/TCP Program
Reviewer:

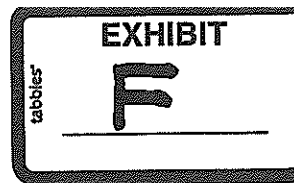
John C. B...

Date:

2/14/20

****Return this form along with report to the NNHPD/Compliance Section****

Note: In addition to the TCP Record search, the consultant must demonstrate that a good-faith effort to consult with 1.) Surface user(s): grazing-permit holder(s) (individuals whose consents for right-of-way have been sought by developer); any other residents in or within view of the proposed project area. 2. Chapter(s) within which the proposed project is located: chapter officers and/or delegate(s) of the Navajo Nation Council; at the request of any of these individuals, the developer's consulting anthropologist will also make a presentation at a meeting of general chapter membership. 3. Other knowledgeable people recommended by the present surface user(s), chapter officials, and chapter members.



NNDFW Review No. 20danl102-tk

**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.: SUNDANCE #2 - POWER LINE PROJECT WO # 86619

DESCRIPTION: CDEC proposes to construct, operate, and maintain a single phase 14.4 kV power line in a 20-ft. wide right-of-way corridor. Vegetation within the ROW would be removed and/or disturbed. Total length (power line & guy) would be 979.96 feet, encompassing 0.44 total acres.

LOCATION: NE¼ of Section 28, T15N, R17W, Church Rock, McKinley County, New Mexico

REPRESENTATIVE: Leonard Robbins, Denali Environmental Services for Continental Divide Electric Cooperative, Inc. (CDEC)

ACTION AGENCY: Bureau of Indian Affairs and Navajo Nation

B.R. REPORT TITLE / DATE / PREPARER: BE-Sundance #2 - Kee Tom Power Line Project WO # 86619/APR 2020/Leonard Robbins

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: CDEC will implement mitigation measures to ensure that there are no impacts to migratory birds that could potentially nest in and adjacent to the construction corridor. CDEC will reclaim all areas of ground disturbance caused by power line construction activities.

CONDITIONS OF COMPLIANCE*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/10 JUN 2020

COPIES TO: (add categories as necessary)





2 NTC § 164 Recommendation:

Signature

Date

☒ Approval

☐ Conditional Approval (with memo)

☐ Disapproval (with memo)

☐ Categorical Exclusion (with request letter)


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

6/10/20

☐ None (with memo)

*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.

**SUNDANCE #2 POWER LINE PROJECT WO # 86619
BIOLOGICAL EVALUATION FOR RIGHT OF WAY APPLICATION
CHURCHROCK CHAPTER, NEW MEXICO**



**BOP - PLS: NE/4 Section 28 Township 15 North Range 17 West
L&L 35° 30' 29.1" N 108° 38' 09.4" W
UTM: 714,400 m E 3,931,964 m N
Elevation: 6,908' amsl**

Prepared by

**CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.
200 East High Street / P.O. Box 1087
Grants, New Mexico 87020**

**DENALI ENVIRONMENTAL SERVICES
P.O. Box 1127
Fort Defiance, Arizona 86504
denali1946@msn.com**

April, 2020

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1.0 Project Description and Project Location.....	3
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4.0 Findings and Determination of Effect / Mitigation.....	5
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Appendix A Navajo Department of Fish & Wildlife Data Response Letter	

**SUNDANCE #2 POWER LINE PROJECT WO# 86619
BIOLOGICAL EVALUATION FOR RIGHT OF WAY APPLICATION**

INTRODUCTION

Continental Divide Electric Cooperative, Inc. (CDECI) of Grants, New Mexico is proposing to acquire right of way for the Sundance # 2 Power Line Project in Sundance, New Mexico. The proposed power line would provide service to the an existing residence. The right of way application would require an environmental document, including a biological evaluation to support the Federal decision-making process.

1.0 DESCRIPTION OF THE PROPOSED ACTION AND PROJECT LOCATION

1.1 Description of the Proposed Action

The proposed Kee Tom electrical service line would be a single phase 14.4 kilo volt line, with a 20 feet width right of way. Table 1 below indicates the combined length (power line & guy) at 979.96 feet, encompassing 0.44 total acres. The proposed electrical service line would be located on Navajo Tribal Trust land as shown in Table 1 below.

Table 1. Continental Divide Electric Cooperative, Inc. Proposed Kee Tom Service Line A on Navajo Tribal Trust Land at Section 28 T15N R17W.

Power Line Right of Way Dimensions and Acreage									
Segment	Land Status	PL Footage	PL Miles	Width	PL Acreage	Guy Footage	Guy Acreage	Total Acreage	Total Footage
Line A	NTT	879.96'	0.17	20'	0.40	100.00'	0.04	0.44	979.96'
Total								0.44	979.96'

The power line right of way will not be bladed. Small surface trees and shrubs would be trimmed along the electrical right of way. Large trees under the line will be cut to avoid any physical interference and to avoid fires. Construction of a new access road to the proposed project site will not be required. Existing access roads are adequate for the utility access.

1.2 Purpose and Need

The proposed rights of way would serve one local family with electricity to their home. Other families may tap on the proposed power line in the future. The power line initiative would enable families to refrigerate meat, milk and eggs for longer periods and buy additional perishable grocery items that would otherwise spoil. Television news media and entertainment can now be enjoyed by the families. School age kids can now do their homework via satellite internet. The proposed initiative would also provide telecommunication via direct telephone communication. Overall, the proposed utility would play a vital part in serving the needs and interest of the people and community, often in remote and underserved regions of the Navajo Nation.

1.3 Location

Figure 1 illustrates the project location on the *Gallup East, NM*, USGS quadrangle map. The proposed service line extension would be located on Navajo trust land. Service line location coordinates are described in Table 2 below.

Table 2. Location of CDECI Sundance #2 – Electrical Service Line.

Description	USGS Quadrangle	Public Land Survey	Latitude and Longitude NAd 83	UTM, Zone 12
BOP	Gallup East, NM	NE/4 Section 28 T15N R17W	35° 30' 29.1" N 108° 38' 09.4" W	714,400 m E 3,931,964 m N
EOP	Gallup East, NM	NE/4 Section 28 T15N R17W	35° 30' 29.8" N 108° 38' 20.2" W	714,132 m E 3,931,970 m N

At an elevation of 6,908' feet amsl, the project area is located in Sundance, Churchrock Chapter, McKinley County, New Mexico. Project area land use is primarily residential home sites and rangeland.

2.0 ENDANGERED SPECIES ACT / NAVAJO SPECIES OF CONCERN LIST / MIGRATORY BIRD TREATY ACT

The listing of threatened and endangered species (T&E) in this document is compiled by the Navajo Department of Fish and Wildlife, Natural Heritage Program (NDF&W). The Program, under a Public Law 93-638 contract with the Navajo Regional Office, Bureau of Indian Affairs, would review the T&E data request and craft a data response letter (listing) for the proposed undertaking. The NDF&W data response letter is shown at Appendix A.

2.1 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)

ESA requires all federal departments and agencies to conserve threatened and endangered species and the habitats on which they depend, and to consult with the U. S. Fish and Wildlife Service (USFWS), on all actions authorized, funded or carried out by the agency to ensure that the action will not likely jeopardize the continued existence of any threatened and endangered species or adversely modify critical habitat. Under contract, authorized by Public Law 93-638 the Indian Self Determination and Education Assistance Act of 1993, NDF&W carries out the ESA consultation function for the Navajo Regional Office, Bureau of Indian Affairs. NDF&W would review the biological evaluation document for the proposed project and would approve the report via a Biological Resource Compliance Form.

2.2 Navajo Species of Concern List (NESL)

The Resource Committee of the Navajo Nation Council, Resolution RCS-41-08, mandates the consideration of Navajo Endangered Species List (NESL) special management species. The NESL species listed are specially managed in order to prevent or reduce the need to list the species as



REFERENCES: USGS 7.5 MIN. QUAD: Fort Worth, NM
 Grants, NM
 Broomfield, NM

SCALE:
 1 INCH = 2000 FEET



CONTINENTAL DIVIDE ELECTRIC CO-OP, INC.
 GRANTS, NM

NEW MEXICO 22 MCKINLEY

DATE: _____
 REVISIONS: _____

WORK ORDER NUMBER 88619

SUNDANCE NUMBER 2
 POWER LINE PROJECT
 LOCATION MAP 1 OF 1

STATE	COUNTY	DETAIL
NM	MCKINLEY	

threatened or endangered in the future. The NDF&W will actively seek information on those species to determine if they warrant inclusion in a different group or removal from the list (NDF&W-NHP, 2008).

2.3 Migratory Bird Treaty Act, as amended (16 U.S.C. 703 et seq.)/ EO 13186

Migratory birds and their habitats are protected under the Migratory Bird Treaty Act (MBTA) (16 USC §703-712) and EO 13186. All federal agencies are required to consider management impacts to protect migratory non-game birds. Executive Order 13186 calls for increased efforts to more fully implement the MBTA.

3.0 METHOD OF SURVEY

3.1 Offsite Survey Methods

The NDF&W-NHP was consulted via a data request letter. The project data response letter 20danl102 regarding Federal listed threatened and endangered species, and Navajo Endangered Species of concern list was received from the Natural Heritage Program, Navajo Department of Fish and Wildlife February 25, 2020, at Appendix A.

The Migratory Bird Treaty Act (MBTA) listing on the Colorado Plateau was accessed using the USFWS website, activated January 4, 2020 at Table 3.

The Navajo Department of Fish and Wildlife's website was consulted and the *Biological Resource Land Clearance Policy and Procedures* (BRLCP&P) and *Chapter Land Use Planning Website* were consulted. An initial project briefing meeting with NHP was conducted as well.

The concepts of the 1987 Wetland Delineation Manual, developed and used by the Army Corps of Engineers, were used in this survey. The Grants, New Mexico National Wetlands Inventory Map (USFWS, 1984) was reviewed for wetlands resources. The map was used to search for wetland resources in the proposed project.

3.2 Onsite Survey Methods

Onsite pedestrian surveys of the proposed commercial tracts were conducted March 5 & 6, and May 4, 2020. The entire project area was covered during the field survey. All plant and wildlife species and signs of wildlife observed in the project area were recorded and digital photos of the project area were taken. Binoculars were used to survey for raptors and potential nesting sites on nearby mesas. Onsite habitat was evaluated for all ESA, NESL, and MBTA species. All conservation status species that have the potential to occur in the proposed project and action areas were evaluated at Tables 2 and 3.

The entire right of way was checked. Where accessible, the zone of influence was covered by driving (wind-shield reconnaissance). Samples of individual plant species were collected and later identified.

From elevated knolls along the proposed right of way, binoculars were used to scope the adjoining property. The following equipment was used for the survey: a ten-power binoculars, GPS Garmin Map 76, Garmin Montana 6501, and 7.5 minute topographic maps.

3.3 Action Area

A zone of influence of one-eighth mile was established outside the perimeter of the right of way. The zone of influence was used during the field surveys, specifically for raptor nesting locations. No transects were established. The entire right of way was checked. Where accessible, the zone of influence was covered by driving (wind-shield reconnaissance). Samples of individual plant species were collected and later identified.

4.0 FINDINGS AND DETERMINATION OF EFFECT

4.1 Existing Land Use

The proposed power line right of way would be located on Navajo tribal trust lands. Land use in the project area is primarily residential home sites and infrastructure development. Numerous Navajo Indian families reside in the proposed project area. The old Sundance Coal Mine Road (County Road 16) traverses the Sundance Community at five miles from the US Highway 66 junction to the old mine. The county road serves as the major access to homes along the way. The project area is subdivided for housing development. Electrical power in the region is provided by Continental Divide Electric Cooperative, Inc. Navajo Tribal Utility Authority maintains the Sundance Community Water System.

The Navajo Department of Fish and Wildlife *Biological Resource Land Clearance Policy and Procedures* (BRLCP&P) indicates the proposed power line is located in an Area 3 land sensitivity designation, an area of low biological resource sensitivity.

4.2 Pinyon-Juniper Savannah Ecosystem

4.2.1 Existing Condition

The proposed service line is located in the Pinyon-Juniper Savannah biotic community. In this biome Pinyon pine and Juniper trees (P-J), sagebrush and grasses are located on the entire project area. Under natural conditions, growing amid the P-J canopy under story are shrubs, grasses, forbs and annuals. These plants form the ecological backbone of the savannah ecosystem: they provide food, shelter, and nesting sites for birds, mammals, insects, and reptiles. Under natural conditions, understory shrubs include sagebrush, rabbit brush, yucca and snakeweed. Grass cover may be almost a mixture of dropseeds, galleta, blue grama and others (Brown, D.E., and C.H. Lowe, 1994).

The natural open areas are typically composed of grasses, e.g., cheatgrass *Bromus tectorum* blue grama *Bouteloua gracilis*, galleta *Pleuraphis jamesii*, dropseeds *Sporobolus cryptandrus* and Indianrice grass *Oryzopsis hymenoides*, and shrubs, e.g., rabbitbrush *Chrysothamnus nauseosus*, sagebrush *Artemisia spp.*, threadleaf groundsel *Senecio flaccidus*, banana yucca *Yucca baccata* and broom snakeweed *Gutierrezia sarothrae*.

Annual plants such as cheatgrass *Bromus tectorum*, Russian thistle *Salsolia kali*, tansy mustard *Descurainia obtusa*, sun flower *Helianthus annuus* and kochia weed *Bassia hyssopifolia* occur onsite.

The fauna of the Juniper Savannah is somewhat diverse than that of other habitats. Mule deer *Odocoileus hemionus* and elk *cervus canadensis* may roam the area in transit during late fall and winter months. Construction of the proposed site in this residential and rural setting will not have an effect on the natural habitat necessary for the continued survival of these species.

Most abundant small mammals include blacktail jack rabbits *Lepus californicus*, mountain cottontails *Sylvilagus nuttalli*, pinyon mice *Peromyscus truei*, valley gophers *Thomomys bottae*, porcupines *Erethizon dorsatum*, Mexican woodrats *Neotoma mexicana* and Ord's kangaroo rats *Dipodomys ordi*.

Characteristic breeding birds of this ecosystem include common night hawks *Chordeiles minor*, pinyon jay *gymnorhinus cyanocephalus*, Northern flickers *Colaptes auratus*, Western kingbirds *Tyrannus verticalis*, horned larks *Eremophila alpestris*, loggerhead shrikes *Lanius ludovicianus*, sparrows *Spizella* spp., grey-headed juncos *Junco hyemalis* and common ravens *Corvus corax*.

Reptiles include striped plateau lizards *Sceloporus virgatus*, plateau whiptails *Cnemidophorus velox* and short-horned lizards *Phrynosoma douglassii*.

4.2.2 Effects

The proposed project is located in a human activity area. Numerous existing houses are located in the project area. Rangeland, infrastructure development, and home site leases are the dominant land uses the project area (§ 4.1). Local residents use the County Road 16 to commute daily to and from work. Power line construction traffic and traffic noise would be low and frequent.

4.2.3 Mitigation

The single phase electrical powerline would be designed according to the avian protection on power lines. The *Navajo Nation Raptor Electrocution Prevention Regulations*, Navajo Council Resource and Development Committee Resolution RCS-43-08, would be complied with to reduce the unlikelihood of potential raptor electrocution. All single or three phase electrical power poles and cross arms would follow the design standards to protect Golden Eagles and Ferruginous Hawks. No other direct mitigation is recommended for the fauna species.

4.3 Federal Endangered Species Act Species and Navajo Endangered Species List (NESL).

4.3.1 Existing Conditions

The predominant land use is rangeland, infrastructure, and residential home sites. The proposed power line is located in the Pinyon-Juniper Woodland Ecosystem. The project data response letter 20danl102 regarding Federal listed threatened and endangered species, and Navajo Endangered Species of concern list was received from the Natural Heritage Program, Navajo Department of Fish and Wildlife February 25, 2020 at Appendix A.

With respect to the data request consultation, a field survey of the proposed Kee Tom service line was conducted February 20 & 21, and May 13, 2020. The field survey was conducted to determine

existing condition of wildlife habitat (cover, shelter/nesting activity, watering, forage condition & space), current land use and impacts of human activity, and possible project mitigation. The field survey also included a reconnaissance of wetland resources.

4.3.2 Effects

The proposed project is located in a developed residential and human activity area. Residential home sites, infrastructure and rangeland are the dominant land uses the project area. Local residents use the Sundance Coal Mine Road to commute daily to and from work. During the proposed power line construction, traffic and traffic noise would be low and frequent. Table 3 describes the species existing condition/habitat requirements, species effects/occurrence, and mitigation. Approval of the proposed right of way would not have a long-term adverse effect on these species, as these species are not present on the proposed project area.

4.3.3 Mitigation

We conclude disturbed surface would be at a temporary loss. In the aftermath of construction, the reclaimed right of way would likely again contain favorable wildlife habitat, forage and cover, required for all species, including the threatened and endangered. This indirect mitigation is recommended for all fauna and flora on the proposed right of way, including ESA and NESL species. Natural vegetative cover can be restored over time. The power line right of way will not be bladed. Small surface trees and shrubs would be trimmed along the electrical right of way. Large trees under the line will be cut to avoid any physical interference and to avoid fires. Construction of a new access road to the proposed project site will not be required.

Table 3. Endangered Species Act and Navajo Endangered Species List and their Potential to Occur in the Project Action Areas Based Upon Habitat Associations.

SPECIES /NESL STATUS	HABITAT ASSOCIATIONS	POTENTIAL TO OCCUR IN PROJECT OR ACTION AREA
FAUNA		
Golden Eagle <i>Aquila chrysaetos</i> (NESL G3)	Nest on steep cliffs, normally adjacent to foraging habitat of desert grasslands or desertscrub. Nests are reused and tend to become a huge mass of sticks and debris. Generally, Golden Eagle foraging habitat is present inside the project area. The onsite shrub/grassland adjacent to the action area would provide foraging habitat for the raptor, as a variety of small mammals would inhabit the grassland. These small mammals, of marginal abundance, would serve as prey for the raptor.	S - Habitat is marginally suitable, and the species can be suspected to occur within the project area. The natural area contains large expanses of sagebrush grassland and Pinyon-Juniper, which would support rodent populations suitable for foraging habitat. Future project mitigation for raptor species would include electrical power line design and construction according to <i>Navajo Nation Raptor Electrocution Prevention Regulations</i> .

Bald Eagle <i>Haliaeetus leucocephalus</i> NESL G2	The Bald Eagle typically nest within trees in forested areas, especially mature and old-growth stands, adjacent (usually <2 km) to large bodies of water, with suitable forage of waterfowl and fish; rarely uses cliff face adjacent to large body of water. Winter roost in large trees in forests, river bottoms, or near canyon rims, usually within a few miles of ponds, lakes and rivers with adequate prey. Ponds and lakes are used until completely iced-over and prey availability is reduced.	NP – No suitable habitat and species is not suspected to occur within the project area. The action area contains large expanses of P-J woodland habitat, not suitable for Bald Eagle foraging, and nesting. The specie was not present during the field surveys. Future project mitigation for raptor species would include electrical power line design and construction according to <i>Navajo Nation Raptor Electrocution Prevention Regulations</i> .
Leopard Frog <i>Lithobates pipiens</i> NESL G2	Species requires wetland and aquatic habitats. It inhabits wet meadows and fields bordering springs, slow streams, marshes, bogs, ponds, canals, flood plains, reservoirs, lakes, and is usually found near permanent water with rooted aquatic vegetation.	NP –The project area contains open grassland, sagebrush & Pinyon-Juniper. Suitable aquatic habitat for the frog is not present on the proposed project area.
FLORA		
Sivinski's Fleabane <i>Erigeron sivinskii</i> (NESL G4)	The Sivinski's fleabane <i>Erigeron sivinskii</i> ranges from Apache County, Arizona and McKinley County, New Mexico. The fleabane occurs on steep barren ground, shale slopes of the Chinle Formation, in pinyon-juniper woodland, and the Great Basin Desert Scrub communities. Known populations occur at 6100 feet to 7400 feet elevation. Suitable habitat can be identified year around.	NP The plant species was not present during the field surveys. No mitigation is recommended for the fleabane.
K – Known, documented observation within project area.		
S – Suitable habitat and species suspected to occur within the project area.		
NS – Habitat suitable but species is not suspected to occur within the project area.		
NP – Habitat not present and species unlikely to occur within the project area.		

4.4 Migratory Bird Treaty Act- Birds

4.4.1 Existing Conditions

Migratory birds and their habitats are protected under the Migratory Bird Treaty Act (MBTA) (16 USC §703-712) and EO 13186. All federal agencies are required to consider management impacts to protect migratory non-game birds. Executive Order 13186 calls for increased efforts to more fully implement the MBTA. In 2008, the U.S. Fish and Wildlife Service (USFWS) list of "Birds of Conservation Concern" was reviewed, specifically as they pertain to the Colorado Plateau physiographic area. The area indicates there are 27 avian species occurring on the southern Rocky Mountains and Colorado Plateau. With respect to Table 4, the proposed construction would have no significant effect on the migratory bird species or their habitat.

4.4.2 Effects

Although migratory birds could potentially occur in the area, none were observed during the environmental site visits. The proposed action alternative would result in a short-term and small scale loss of vegetation due to construction. No permanent loss of native vegetation is anticipated at the project area. Eolian deposits of native seed from the undisturbed vegetation would also help to propagate native plant species.

Once the habitat has reestablished, wildlife and migratory bird species would be expected to return to the area. To avoid any potential effects to migratory bird species or migratory bird habitat, the construction of the project would take place outside the nesting season. No long-term loss of vegetation or wildlife habitat is expected. As a result, the proposed replacement action would have no significant effects on migratory bird species.

4.4.3 Mitigation of Migratory Birds

The proposed project construction would have no significant effect on the migratory bird species or their habitat. NDF&W policy mandates that prior to construction the proposed activity would require a preconstruction survey of potential nesting birds on the tract, should construction occur during the breeding season. Any bird nests found within the proposed project area will be reported to the NDF&W biologist for appropriate mitigation prior to construction activities.

The activity will minimize the possibility of unintentional take of migratory birds. The proposed construction would involve vegetative disturbance (brush and tree removal). Construction activities from May 15 to July 31 will not be permitted without a migratory bird nest survey. If any active nests are located within the proposed project area, projects activities will not be permitted until written approval by NDF&W biologist. The operator will monitor any active nests located from a nest survey.

Table 4. U.S. Fish and Wildlife Service, Division of Migratory Bird Management "Bird of Conservation Concern 2008" for the Southern Rockies/ Colorado Plateau (US F&WS, 2008).

SPECIES	HABITAT ASSOCIATION	EFFECTS	EFFECT RATING
Gunnison Sage Grouse <i>Centrocercus minimus</i>	Inhabits shrub-steppe dominated by sagebrush that provide canopy cover, shelter, & forage.	No suitable habitat.	Zero
American Bittern <i>Botaurus lentiginosus</i>	Wading bird inhabits wetlands, usually dense marsh reeds, rushes and sedges.	No suitable habitat present.	Zero
Bald Eagle <i>Haliaeetus leucocephalus</i>	Nests in old growth ponderosa pine and Douglas fir forest. Forages on fish and waterfowl. Inhabits the coast, rivers, large lakes; also mountain open country.	Generally, the Montane Ponderosa Pine forest with rivers & lakes is suitable habitat for the Bald Eagle.	Zero
Ferruginous hawk <i>Buteo regalis</i>	Inhabits open grasslands or desert scrub ecosystems. Nest often occurs on rock spires and butte formations.	Little conflict anticipated	Low

	In woodland edge habitat, nests on flat-topped junipers.		
Golden Eagle <i>Aquila crysaetos</i>	Open grasslands or desert scrub, In mountainous canyon terrain. Nest on cliffs and trees	Little conflict anticipated	Low
Peregrine Falcon <i>Falco peregrinus</i>	Inhabits rugged terrain with rocky cliffs and canyons 30 to 1,000 ft. high, adjacent to rivers lakes, or streams. Urban areas with towers and buildings are also inhabited	Little conflict anticipated.	Low
Prairie Falcon <i>Falco mexicanus</i>	Nests and forages in grassland, and open Juniper Savannah.	No conflict anticipated.	Zero
Snowy Plover <i>Charadrius alexandrinus nivosus/tenuirostris</i>	Shore bird inhabits barren sandy beaches and flats.	Suitable habitat not present, no conflict anticipated.	Zero
Mountain Plover <i>Charadrius montanus</i>	Inhabits grassland plains; usually found on grassy or bare dirt fields.	Suitable habitat not present, no conflict anticipated.	Zero
Long-billed Curlew <i>Numenius americanus</i>	Nests in wet & dry upland fields. In migration, a shore bird of wetlands and agriculture fields.	Suitable habitat not present, no conflict anticipated.	Zero
Yellow-billed Cuckoo <i>Coccyzus americanus</i>	No suitable riparian habitat present. Inhabits open woods, orchards, and streamside willow and alder groves.	No conflict anticipated	Zero
Flammulated Owl <i>Otus flammcolus</i>	Inhabits pine-oak woodland, ponderosa pine forest.	Suitable habitat present.	Low

Burrowing Owl <i>Athene cunicularia</i>	Inhabits grassland shrub-steppe dominated by mixed grasses. Casual vagrant to prairie dog colonies, occupying abandoned holes.	Little conflict anticipated.	Low
Lewis's Woodpecker <i>Melanerpes lewis</i>	Inhabits woodland forests of pine-oak. Nests in oak cavities and pine snags. Forages and stores acorns and insects.	Little conflict anticipated.	Low
Willow Flycatcher <i>Empidonax traillii</i>	Inhabits brushy habitats in wet areas; also in pastures, mountain meadows.	No suitable habitat.	Zero
Gray Vireo <i>Vireo vicinior</i>	Found in juniper savannah and open JP woodland, with scrub component. Inhabits mountains and chaparral-juniper scrubland.	No suitable habitat. Little conflict anticipated.	Low
Pinyon Jay <i>Gymnprjomus cyanocephalus</i>	Juniper Savannah, woodland, pine-oak ecosystems associated with high open habitats w/ openings, scattered trees or shrub components.	A multi ecosystem inhabitant, little conflict anticipated.	Low
Juniper Titmouse <i>Baeolophus ridgwayi</i>	Inhabits juniper-pinyon woodland.	Little conflict anticipated.	Low

Veery <i>Catharus fuscescens</i>	Inhabits dense moist woodlands and streamside thickets. Casual in the Southwest.	No suitable habitat.	Zero
Bendire's Thrasher <i>Toxostoma bendirei</i>	Brushy desert shrub, especially areas of tall vegetation, cholla cactus, creosote bush and yucca.	No suitable habitat.	Zero
Grace's Warbler <i>Dendroica graciae</i>	Inhabits coniferous or mixed forests of southwest mountains, especially yellow pines. Usually forages high in the trees.	Suitable habitat present. Little conflict anticipated	Low
Brewer's Sparrow <i>Spizella breweri</i>	Inhabits mountain meadows and sagebrush flats.	Little conflict anticipated	Low
Grasshopper Sparrow <i>Ammodramus savannarum</i>	Inhabits moderately open grassland habitats, with patchy bare ground, and avoid areas with extensive shrub cover. Feeds and nests on ground.	No suitable habitat.	Zero
Chestnut-collared Longspur <i>Calcarius ornatus</i>	Inhabits upland grassland, generally found in dense grass; gregarious in fall and winter.	No suitable habitat.	Zero
Black Rosy-Finch <i>Leucosticte atrata</i>	Inhabits high mountains, rocky summits, alpine cirques and snowfields; winters in open country at lower elevations, spreading onto the plains.	Project area may contain suitable habitat.	Low
Brown-capped Rosy Finch <i>Leucosticte australis</i>	Inhabits high mountains, rocky summits, alpine cirques and snowfields; winters in open country at lower elevations, spreading onto the plains..	Project area may contain suitable habitat.	Low
Cassin's Finch <i>Carpodacus cassinii</i>	Woodland Ecosystem. Species inhabits evergreen woodlands.	Project area may contain suitable habitat.	Low

4.5 Wetlands and Riparian Habitat

The proposed project and action area would not traverse any wetland or riparian habitat on or adjacent to the proposed tract. The Gallup, New Mexico National Wetlands Map was reviewed. There are no jurisdictional wetlands within the project area. Nearby existing watering impoundments in the vicinity do not exhibit hydric soils, nor hydrophilic vegetation, nor do they support a wetland hydrology (U.S. ACOE, 1987). There are no wetlands or riparian habitat occurrences on or near the proposed project area. No mitigation measures are recommended for wetland / riparian areas.

5.0 CONCLUSION /MITIGATION

As initial field surveys indicate, the four *potential* flora and fauna T&E species are not present in the proposed project area. Temporary loss of native vegetation is anticipated. The proposed project would cause some loss of potential nesting, and foraging habitat. Once the power line is constructed, natural vegetation and wildlife species are expected to return to the area. Approval of the proposed right of way would not have a long-term adverse effect on sensitive species, as these species are not present on the proposed project area. No threatened or endangered species were observed on the proposed project area.

Mitigation: the single phase electrical powerline would be designed according to the avian protection on power lines. The *Navajo Nation Raptor Electrocutation Prevention Regulations*, Navajo Council Resource and Development Committee Resolution RCS-43-08, would be complied with to reduce the unlikelyhood of potential raptor electrocution. All single or three phase electrical power poles and cross arms would follow the design standards. No other direct mitigation is recommended for the fauna species. The proposed power line project should not impact any threatened & endangered species or their habitat.

The power line right of way will not be bladed. Small trees and shrubs would be trimmed along the electrical right of way. Large trees under the line will be cut to avoid any physical interference and to avoid fires. Construction of new access roads to the project will not be required. Existing access roads are adequate for the utility access.

RCP Designation/BRCF Request

Relative to the Navajo Department of Fish and Wildlife Biological Resource Land Clearance Policies and Procedures (RCP), the CLUP biological resource sensitivity map indicates the proposed power line to be in an Area 3 - Less Sensitive Area - An area with fewest restrictions on development, with the least impact on wildlife species. We request a biological resource compliance form for the proposed action.

6.0 LIST OF EA DOCUMENT PREPARERS AND COOPERATING ENTITY/AGENCY

BE document was prepared by Mr. Leonard Robbins, PES, Denali Environmental Services, Fort Defiance, Arizona 86504

Table 5. Primary Contacts Made During Preparation of this Document.

PUBLIC CONTACT	TITLE	ORGANIZATION	PRESENT AT ONSITE ?
Leonard Robbins	Environmental Specialist	Denali Environmental Services	Yes
Pam Kyselka	T&E Wildlife Biologist	NDF&W-NHP	No
Dexter D. Prall	GIS Supervisor	NDF&W-NHP	No

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Navajo Department of Fish and Wildlife, 2007. Chapter Land Use Planning Website, Department's Biological Resource Land Clearance Policy & Procedure, Navajo Department of Fish and Wildlife, Window Rock, Arizona.

Navajo Natural Heritage Program (NNHP) 2006. Navajo Nation Endangered Species List Species Account Book. Navajo Fish and Wildlife Department, Window Rock, Arizona.

U.S. Fish and Wildlife Service, 1984. Gallup, New Mexico National Wetlands Inventory Map, Region 11, U.S. Fish and Wildlife Service, Albuquerque, New Mexico.

APPENDIX A

Threatened & Endangered Species Data Response Letter

**Navajo Department of Fish & Wildlife
Division of Natural Resources, Navajo Nation**



PO BOX 1480
Window Rock, AZ 86515

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25-February-2020

20dan1102

Leonard Robbins
Denali Environmental Services
PO Box 1127
Fort Defiance, AZ 86504

SUBJECT: Electrical Power Lines for Dan Martinez and Kee Tom

Leonard Robbins,

NNHP has performed an analysis of your project in comparison to known biological resources of the Navajo Nation and has included the findings in this letter. The letter is composed of seven parts. The sections as they appear in the letter are:

1. **Known Species** – a list of all species within relative proximity to the project
2. **Potential Species** – a list of potential species based on project proximity to respective suitable habitat
3. **Quadrangles** – an exhaustive list of quads containing the project
4. **Project Summary** – a categorized list of biological resources within relative proximity to the project grouped by individual project site(s) or quads
5. **Conditional Criteria Notes** – additional details concerning various species, habitat, etc.
6. **Personnel Contacts** – a list of employee contacts
7. **Resources** – identifies sources for further information

Known Species lists "species of concern" known to occur within proximity to the project area. Planning for avoidance of these species is expected. If no species are displayed then based upon the records of the Navajo Nation Department of Fish and Wildlife (NNDFW) there are no "species of concern" within proximity to the project. Refer to the Navajo Endangered Species List (NESL) Species Accounts for recommended avoidance measures, biology, and distribution of NESL species on the Navajo Nation (www.nndfw.org/nnhp/sp_account.htm).

Potential Species lists species that are potentially within proximity to the project area and need to be evaluated for presence/absence. If no species are found within the Known or Potential Species lists, the project is not expected to affect any federally listed species, nor significantly impact any tribally listed species or other species of concern. Potential for species has been determined primarily on habitat characteristics and species range information. A thorough habitat analysis, and if necessary, species specific surveys, are required to determine the potential for each species.

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 legally protected species, the following tribal and federal statuses are indicated: 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, NESL group 4 status, and species listed on the Sensitive Species List. Please be aware of

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

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

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

Species

None

2. Potential Species

Species

AQCH = Aquila chrysaetos / Golden Eagle NESL G3
 ATCU = Athene cunicularia / Burrowing Owl NESL G4
 EMTREX = Empidonax traillii extimus / Southwestern Willow Flycatcher NESL G2 FE
 ERAC = Erigeron acomanus / Acoma Fleabane NESL G3
 ERRH = Erigeron rhizomatus / Rhizome Fleabane/zuni Fleabane NESL G2 FT
 ERSI = Erigeron sivinskii / Sivinski's Fleabane NESL G4
 FAPE = Falco peregrinus / Peregrine Falcon NESL G4
 HALE = Haliaeetus leucocephalus / Bald Eagle NESL G2
 LENA = Lesquerella navajoensis / Navajo Bladderpod NESL G3
 LIPI = Lithobates pipiens / Northern Leopard Frog NESL G2

3. Quadrangles (7.5 Minute)

Quadrangles

Gallup East (35108-E6) / NM
 Pine Canyon (35108-C2) / NM

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

SITE	EO1MI	EO3MI	QUAD	MSO	POTS	RCP
Dan Martinez Power Line	None	None	Gallup East (35108-E6) / NM	None	AQCH, ATCU, EMTREX, ERAC, ERRH, ERSI, FAPE, LENA	Area 3
Kee Tom Power Line	None	None	Pine Canyon (35108-C2) / NM	None	AQCH, ERSI, HALE, LIPI	Area 3

5. Conditional Criteria Notes *(Recent revisions made please read thoroughly. For certain species, and/or circumstances, please read and comply)*

A. Biological Resource Land Use Clearance Policies and Procedures (RCP) - The purpose of the RCP is to assist the Navajo Nation government and chapters ensure compliance with federal and Navajo laws which protect, wildlife resources, including plants, and their habitat resulting in an expedited land use clearance process. After years of research and study, the NNDFW has identified and mapped wildlife habitat and sensitive areas that cover the entire Navajo Nation.

The following is a brief summary of six (6) wildlife areas:

1. **Highly Sensitive Area** – recommended no development with few exceptions.
2. **Moderately Sensitive Area** – moderate restrictions on development to avoid sensitive species/habitats.
3. **Less Sensitive Area** – fewest restrictions on development.
4. **Community Development Area** – areas in and around towns with few or no restrictions on development.
5. **Biological Preserve** – no development unless compatible with the purpose of this area.
6. **Recreation Area** – no development unless compatible with the purpose of this area.

None - outside the boundaries of the Navajo Nation

This is not intended to be a full description of the RCP please refer to the our website for additional information at www.nndfw.org/clup.htm.

B. Raptors – If raptors are known to occur within 1 mile of project location: Contact the NNHP zoologist at 871-7070 regarding your evaluation of potential impacts and mitigation.

Golden and Bald Eagles- If Golden or Bald Eagle are known to occur within 1 mile of the project, decision makers need to ensure that they are not in violation of the *Golden and Bald Eagle Nest Protection Regulations* found at www.nndfw.org/nnhp/docs_reps/gben.pdf.

Ferruginous Hawks – Refer to Navajo Nation Department of Fish and Wildlife's *Ferruginous Hawk Management Guidelines for Nest Protection* (www.nndfw.org/nnhp/docs_reps.htm) for relevant information on avoiding impacts to Ferruginous Hawks within 1 mile of project location.

Mexican Spotted Owl - Please refer to the *Navajo Nation Mexican Spotted Owl Management Plan* (www.nndfw.org/nnhp/docs_reps.htm) for relevant information on proper project planning near/within spotted owl protected activity centers and habitat.

C. Surveys – Biological surveys need to be conducted during the appropriate season to ensure they are complete and accurate please refer to NN Species Accounts www.nndfw.org/nnhp/sp_account.htm. Surveyors on the Navajo Nation must be permitted by the Director, NNDFW. Contact Jeff Cole at (928) 871-6450 for permitting procedures. Questions pertaining to surveys should be directed to the NNDFW the NNHP Zoologist for animals, and the NNHP Botanist for plants. Questions regarding biological evaluation should be directed to Jeff Cole at 871-6450.

D. Oil/Gas Lease Sales – Any settling or evaporation pits that could hold contaminants should be lined and covered. Covering pits, with a net or other material, will deter waterfowl and other migratory bird use. Lining pits will protect ground water quality.

E. Power line Projects – These projects need to ensure that they do not violate the regulations set forth in the *Navajo Nation Raptor Electrocution Prevention Regulations* found at www.nndfw.org/nnhp/docs_reps/repr.pdf.

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

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

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

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

Agency's Water Quality Program.

J. Life Length of Data Request – The information in this report was identified by the NNHP and NNDFW'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 necessary. 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 NNDFW information is continually updated, any given information response is only wholly appropriate for its respective request.

K. Ground Water Pumping - Projects involving the ground water pumping for mining operations, agricultural projects or commercial wells (including municipal wells) will have to provide an analysis on the effects to surface water and address potential impacts on all aquatic and/or wetlands species listed below. NESL Species potentially impacted by ground water pumping: *Carex specuicola* (Navajo Sedge), *Cirsium rydbergii* (Rydberg's Thistle), *Primula specuicola* (Cave Primrose), *Platanthera zothecina* (Alcove Bog Orchid), *Puccinellia parishii* (Parish Alkali Grass), *Zigadenus vaginatus* (Alcove Death Camas), *Perityle specuicola* (Alcove Rock Daisy), *Symphotrichum welshii* (Welsh's American-aster), *Coccyzus americanus* (Yellow-billed Cuckoo), *Empidonax traillii extimus* (Southwestern Willow Flycatcher), *Rana pipiens* (Northern Leopard Frog), *Gila cypha* (Humpback Chub), *Gila robusta* (Roundtail Chub), *Ptychocheilus lucius* (Colorado Pikeminnow), *Xyrauchen texanus* (Razorback Sucker), *Cinclus mexicanus* (American Dipper), *Speyeria nokomis* (Western Seep Fritillary), *Aechmophorus clarkia* (Clark's Grebe), *Ceryle alcyon* (Belted Kingfisher), *Dendroica petechia* (Yellow Warbler), *Porzana carolina* (Sora), *Catostomus discobolus* (Bluehead Sucker), *Cottus bairdi* (Mottled Sculpin), *Oxyloma kanabense* (Kanab Ambersnail)

**SUNDANCE #2 POWER LINE ENVIRONMENTAL ASSESSMENT
RIGHT OF WAY FOR WO# 86619
CHURCHROCK CHAPTER, NEW MEXICO**



**PLS: NE/4 Section 28 Township 15 North Range 17 West
Latitude & Longitude: 35° 30' 29.1" N 108° 38' 09.4" W
UTM: 714,400 m E 3,931,964 m N
Elevation: 6,908' amsl**

Prepared by

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- Appendix D Biological Resource Compliance Form

SUNDANCE NUMBER TWO POWER LINE ENVIRONMENTAL ASSESSMENT

Continental Divide Electric Cooperative, Inc. (CDEC) of Grants, New Mexico proposes to make application for a power line right of way to the Navajo Nation and the Bureau of Indian Affairs for the proposed Sundance No. 2 Power Line, east of Gallup, New Mexico. The proposed federal action is approval of an electrical right of way application on Navajo trust land. The power line would provide electrical service to families in Sundance, New Mexico.

1.0 THE PROPOSED PROJECT AND LOCATION

1.1 Description of the Proposed Action

The proposed Sundance #2 electrical service line would be a single phase 14.4 kilo volt line, with a 20 feet width right of way. Table 1 below indicates the combined length (power line & guy) at 979.96 feet, 0.19 total miles, and encompassing 0.44 total acres. Project land survey plat is shown at Appendices A. The proposed electrical service line would be located on Navajo Tribal Trust land as shown in Table 1 below.

Table 1. Continental Divide Electric Cooperative, Inc. Proposed Sundance #2 Service Line A on Navajo Tribal Trust Land at Section 28 T15N R17W.

Power Line Right of Way Dimensions and Acreage									
Segment	Land Status	PL Footage	Width	PL Acreage	Guy Footage	Guy Acreage	Total Acreage	Total Footage	Total Miles
Line A	NTT	879.96'	20'	0.40	100.00'	0.04	0.44	979.96'	0.19
Total							0.44	979.96'	0.19

Actual land disturbance during construction would involve drilling and setting the electrical poles at a pre-determined distance. The power line right of way will not be bladed. Actual land disturbance during construction would involve drilling and setting the electrical poles at a pre-determined distance. Small surface trees and shrubs would be trimmed along the electrical right of way. Large trees under the line will be cut to avoid any physical interference and to avoid fires. Construction of a new access road to the proposed project site will not be required. Existing access roads are adequate for the utility access.

1.2 Purpose and Need

The proposed right of way would serve one local family with electricity to their home. Other families may tap on the proposed power line in the future. The power line initiative would enable families to refrigerate meat, milk and eggs for longer periods and buy additional perishable grocery items that would otherwise spoil. Television news media and entertainment can now be enjoyed by the families. School age kids can now do their homework via satellite internet. The proposed initiative would also provide telecommunication via direct telephone communication. Overall, the proposed utility would play a vital part in serving the needs and interest of the people and community, often in remote and underserved regions of the Navajo Nation.

1.3 Location

USGS map at Figure 1 illustrates the project location on the *Gallup East, NM* quadrangle. The proposed service line extension would be located on Navajo trust land. The service line location coordinates are described in Table 2 below.

Table 2. Location of CDECI Sundance #2 Electrical Power Line.

Description	USGS Quadrangle	Public Land Survey	Latitude and Longitude NAd 83	UTM, Zone 12
BOP	Gallup East, NM	NE/4 Section 28 T15N R17W	35° 30' 29.1" N 108° 38' 09.4" W	714,400 m E 3,931,964 m N
EOP	Gallup East, NM	NE/4 Section 28 T15N R17W	35° 30' 29.8" N 108° 38' 20.2" W	714,132 m E 3,931,970 m N

At an elevation of 6,908 feet amsl, the project area is located in Sundance, Churchrock Chapter, McKinley County, New Mexico. Project area land use is primarily residential home sites and rangeland.

1.4 Project Authorization

This project was authorized by the Navajo Nation Code, Title 16 Land, Chapter 11 § 1101, land for public community purposes. NNC authorizes the Navajo Nation to participate and manage land use leases on the Navajo Indian Reservation projects in rural Arizona, New Mexico, and Utah.

The Bureau of Indian Affairs is the lead Federal agency, as authorized by the Snyder Act of November 20, 1921, 25 USC Chapter 1 § 13, which establishes appropriation for BIA permitting and leasing activity. The proposed right of way approval would allow CDECI to acquire the power line property long term, construct the 14.4 kv electrical power line, and provide electrical service to the residents.

The Churchrock Chapter has passed a resolution approving the proposed power line extension. See Appendix B.

2.0 ALTERNATIVES

2.1 Alternate Site Locations

Alternate alignments, of sufficient width and length at locations as convenient as the proposed locations, are not available. Due to the size of grazing permitted areas needed to sustain livestock herds, right of ways become impossible to acquire with respect to Indian allotment and trust land status. Open flat areas in the community are used for rangeland and the traditional family way of life. Individual Indian allotment and trust land holders generally try to retain their rangeland intact, and not to become fragmented. Holistic grazing areas, on trust and allotted land, are needed to sustain livestock herds. Other power line alignments in the area would become difficult to acquire.

An alternate site location, on trust land or allotments, would be subject to the same assessments, approvals and clearance process as the preferred alternative. Numerous potential archaeological occurrences could render the other sites unfeasible for the proposed use. Potential grazing permit holders may reverse their decisions and reject the alternate location.

2.2 No Action Alternative

If the no action alternative is taken, the proposed long term right of way would not be approved. The proposed electrical power line would not go as planned. Although a short distance, the proposed power line alignment would not be elevated to a higher productive state.

2.3 Electrical Power Line Right of Way, the Preferred Alternative

The preferred alternative involves approval of the proposed right of way, which would allow for the construction of the proposed electrical power line. The proposed right of way location, on Navajo trust land, adjacent to existing roads would be the best alternatives. The proposed power line is direct, designed at the shortest route, which would have the least amount of environmental impact. Eastern Navajo Agency, and the Navajo Regional Office, BIA, would provide final approval.

3.0 AFFECTED RESOURCES AND ENVIRONMENTAL EFFECTS

3.1 Resources Not Considered in Detail

3.1.1 Climate

The Gallup Municipal Airport is the nearest weather station to the project area. The proposed power line project is located in a semi-arid climate. The project area experiences four distinct climatic seasons and has an annual average maximum temperature of 66.0°F and average minimum temperature of 44.3°F (WRCC 2015). Due to the small size and nature of the proposed lease area, the proposed project would have no effect on climate. Since there would be no effects on climate, no mitigation would be required.

Climate change results from the incremental addition of greenhouse gases a (GHG) emissions from millions of individual sources, which collectively have a large impact on a global scale. Climate change is a particularly complex challenge given its global nature and the inherent interrelationships among its sources, causation, mechanisms of action, and impacts (CEQ, 2016). Relative to cumulative impacts on regional air quality and climate change from greenhouse gas emissions, the lack of scientific tools designed to predict climate change on regional or local scales limits the ability to quantify potential future impacts of the proposed project. Analyzing greenhouse gases emission and the effects of climate change relevant to a proposed action – particularly how climate change may change an action's effects of a propose project – is currently not available. The propose action, construction of a new power line, is not listed among the standard of performance for new stationary source in accordance with 40 Code of Federal Regulation part 60, National Ambient Air Quality Standard (NAAQS, CAA, 1990).

3.1.2 Air Quality

Ambient air quality in the project area may be regarded as good. Primary pollutants in the project area is wind-blown dust from loose topsoil common during times of high wind during the spring and dust from vehicular traffic along unimproved roads in the vicinity. These pollutants will not be generated in sufficient concentrations to produce measurable adverse effects to housing or damage

to vegetation. Power line construction activities will not have a significant effect on the ambient air quality in the project area. No direct mitigation is required.

3.1.3 Geology and Seismicity

The Sundance #2 Power Line Project is located on the Chinle Formation, ascending from the lower San Juan Basin to the north. The geologic structure is stable in the Sundance area. There are no regional faults or fissures in the area (Wilkes, M. E. Compiler, 2005). The proposed power line is located on a geologic slope, generally dipping 1 to 2 degrees northward toward the San Juan Basin. Based on the history of the area, geology and seismicity will not be a factor in this development. No mitigation would be required for any geologic adversity.

3.1.4 Fisheries

There are no fisheries or fishery habitat occurrences in the proposed right of way area. No mitigation is required for any fishery adversity.

3.1.5 Socioeconomics and Environmental Justice

The 2004 census of the Churchrock Chapter sets the total population at 2,802 people (NN DCD/LSRI, 2004). In general, local housing conditions are good to excellent. Employment and living standards of the Diné People in the greater project area may be better than what may be considered average. This is afforded because of the availability of educational opportunities and wage work in Gallup, and surrounding communities. Dwellings in the project area have been built by their owners and have two to three bedrooms. Manufactured homes in the area are a popular source of improved housing for those who can afford to purchase them.

While unemployment is high throughout the Checkerboard Area, raising livestock has been a sustainable economy in the past. Currently most residents in the Eastern Agency are ranchers and wage earners, working a various government and commercial jobs in nearby towns. The Bureau of Indian Affairs, Indian Health Service, Gallup School District, the Navajo Nation, Fire Rock Casino, Walmart, and other commercial retail outlets are the major employers in the region.

The retired elderly in the Checkerboard Area still carry on the ranching life style. Individual allotments are relatively small and not large enough to sustain a viable operating ranch for the entire family, however. The younger family members wish to be with their elders and have acquired residential leases on allotted land, and moved back into the old homesteads; built their new houses on ranch land, as the area provides a better quality of life, in contrast to apartment living in nearby towns.

Environmental Justice

The proposed project will be for the beneficial use of the community. As indicated, the majority of the local population in Churchrock Chapter is of Native American decent, representing 97.7% of the population (NN DCD/LSRI, 2004). The mandate of environmental justice on impacted minorities and low income populations applies equally among the population, as the proposal will benefit the local population. The Indian allotment holders have agreed to the proposed power line location, and have relinquished part of their land use area for the proposed power line right of way,

supporting the project. In the future, the proposed power line will be reviewed by the Bureau of Indian Affairs for final approval.

3.1.6 Land Use and Zoning

At an average elevation of 6,908 feet amsl, the proposed power line project is located on Navajo trust land. In the past the area surrounding the project site was used primarily as rangeland, and livestock production. Rangeland was the basic land use surrounding the project area. In the project area, the land is subdivided and used by local families for home sites and some domestic livestock.

The older people have retained their grazing permits and rangeland. The younger households are wage earners, working at various schools, government and commercial jobs in nearby small communities and towns. The younger family members that wish to be with their elders, have moved back to the old homesteads; built their new houses on Navajo trust and allotted land.

Electrical power to the Churchrock Community, including scattered housing south and north of Interstate 40, is provided by Continental Divide Electric Cooperative, Inc. The Sundance Community Water System is operated by Navajo Tribal Utility Authority (NTUA).

The Interstate 40 and the Atchison Topeka and Santa Fe Railroad are located north of the proposed project area. The inactive Sundance Coal Mine located south of the project area. The proposed power line right of way would be located in previously disturbed areas, adjacent to local roads and housing areas. The existing power line right of way is currently grazed by domestic livestock, as marginal vegetation exists. The Sundance Coal Mine road is well traveled, used by the local traffic, and provides access to Interstate 40.

Indian Trust Resources

The forest products scheduled to be harvested and removed from the project area will be appraised in accordance to the *Navajo Nation Forest and Woodland Regulations* (RCMA-48-01) and *Indian Affairs Manual 3 – Harvest of Forest Products*. It is anticipated the gross stumpage (appraised value minus cost to harvest/transport/implement mitigation requirements) to be less than \$25,000.00 due to the small size of the proposed project area.

The power line right of way acreage will be withdrawn for the electrical power line rights of way. There are no other bankable assets, such as timber, fossil fuels, fossils, or valuable minerals on the tracts, surface or subsurface.

3.1.7 Prime Farmland

Prime farm land is not known in the project area. There are no irrigated fields. Although, small planted fields are part of the quality of life within the vicinity of the proposed project, agriculture is not the family life style in the surrounding project area. Livestock production and rangeland is the primary land use in the surrounding region.

3.1.8 Recreation

Churchrock Chapter residents will travel to nearby recreational areas on the Cibola National Forest and the Navajo Reservation for an afternoon of picnicking and fishing. The New Mexico State Game and Fish and the Navajo Department of Fish and Wildlife designate the project area as a big game hunting units. Big game species include turkey, deer, and elk.

The Fire Rock Casino is located north of the project area on Highway 118. The casino provides a dining and gaming experience. Slot machines, blackjack, poker, and bingo are the gambling favorites.

Red Rock rodeo grounds are located west of Churchrock. "Chicken Pulls" or rodeos are an annual traditional sport and form of outdoor recreation in the region. Horseback riding is another recreational source, as horses and horse stables were observed during the site visit.

Traditional livestock raising to the local people is a form of outdoor recreation. In contrast to their regular jobs, fence building, ranching, farming activities would provide the ultimate form of outdoor recreation to the local families. This type of outdoor recreation (life style) would provide the relaxation, at the same time feeling of accomplishment, and family member reinforcement.

3.1.9 Traffic

Motorized traffic using the existing roads will not be a factor during construction and operation of the power line. The proposed power line is located in a predominantly rural setting. Traffic will not be a significant factor in this proposed action.

3.1.10 Noise

The normal ambient noise level in the vicinity of the proposed site fluctuates between 1 db (soft whisper) and occasionally 10 db (strong winds). Construction activities will generate noises which cannot be considered normal for the area. Noise levels in the 90 to 100 db range may be generated by the operation of heavy construction equipment for a short duration. Construction hours of operation will be 8:00 am to 7:00 pm during the day light hours. Noise from construction activities will not have a significant adverse effect on the local population and environment.

3.1.11 Floodplain

According to Federal Emergency Management Agency (FEMA) National Flood Hazard Layer (Official) maps, the project area is located in an area of minimal flood hazard, Zone X, and is excluded from any floodplain designation by the agency.

3.1.12 Wetlands and Riparian Habitat

The proposed project and action area would not traverse any wetland or riparian habitat on or adjacent to the proposed tract. The Gallup, NM National Wetlands Map was reviewed. There are no wetlands or riparian habitat occurrences on or near the proposed project area alignments. No mitigation measures are recommended for wetland/riparian areas.

3.1.13 Hazardous, Toxic, and Radiological Waste

Other than roaming livestock, there are no previous industrial uses of the area. The proposed power line and adjoining property have never been developed. The proposed project does not contain any damaged or discarded automotive or industrial batteries, pesticides, paints or other chemicals (stored or used). There is no evidence of leaks and spills of hazardous substance or spills of petroleum products on the properties.

No Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste sites, nor RCRA Subtitle D, non-hazardous solid waste sites occur on or near the project area. No Toxic Substance Control Act (TSCA) waste sites occur on or near the existing site. Hence, there will be no residual hazardous effects on the proposed right of way.

3.2 Topography and Soils

Existing Conditions

Landform in the project area is comprised of ridges, hills, dip slopes on cuestas at 6908' amsl; sandstone and shale ridges bisected by tributaries that flow north to the Rio Puerco. Soils on the proposed right of way are generally from sandy loams, loams, and clays. The Buckle-Gapmesa-Barboncito Complex made up of sandy loam, loams, and clay loams on 1 to 6 percent slopes (NRCS, 2020). The existing sagebrush, grasses and Pinyon-Juniper is a positive indicator of deep silty clay loam soils. These soils are generally free of any chemical adversity. Bedrock or parent material exists at the C horizon in deep soils. Parent soils of the C horizon contain clays, shale and sandstone of the Crevasse Canyon Formation.

Effects

The proposed project construction work or other related activities would not have impact on the surface topography or soils in the project area. No impacts to the surface and natural ground (soils) in the vicinity of the proposed project.

Mitigation

The proposed power lines would not have any impact to topography or soils. No mitigation is required to vicinity soils, or topography.

3.3 Water Resources and Water Quality

Existing Conditions

The Sundance Community Water System, operated by Navajo Tribal Utility Authority (NTUA). The utility provides Safe Drinking Water to residents of Sundance-Churchrock and the surrounding communities. The existing water pipelines are located throughout subchapters.

Effects

The proposed project construction work or other related activities would not have impact on any springs, wells or aquifer recharge areas. No impacts to the surface and natural ground water in the vicinity of the proposed project may be expected.

Mitigation

The new power lines would not have any impact to the existing community water system. No mitigation is required.

3.4 Vegetation and Wildlife Biotic Community - Pinyon-Juniper (P-J) Savannah Ecosystem

3.4.1 Existing Conditions

The proposed project area, Sundance #2, is located in the Pinyon-Juniper (P-J) Savannah Ecosystem, located in high plateau country of northwestern New Mexico (Brown, D. E., 1994). At approximately 6,908 feet amsl, the proposed right of way tract is characterized by natural open areas and the P-J ecotone, Pinyon pine *Pinus edulis*, Juniper trees *Juniperus monosperma* and numerous natural grasses. These trees and grasses are the dominant species in this savannah biome type.

The P-J and sagebrush biome encompasses the entire Sundance project area. Under natural conditions, growing amid the P-J understory, are shrubs, grasses, forbs and annuals. These plants form the ecological backbone of the savannah ecosystem. The ecosystem provides food, shelter, cover, and nesting sites for birds, mammals, insects, and reptiles. Sagebrush, rabbit brush, yucca and snakeweed are some of the shrub species. Grass cover may be a mixture of dropseed, galleta, blue grama, ring muhly, and other species (Brown, D.E., and C.H. Lowe, 1994).

The natural open areas are typically composed of annuals, grasses, e.g. cheatgrass *Bromus tectorum* blue grama *Bouteloua gracilis*, galleta *Pleuraphis jamesii*, dropseeds *Sporobolus cryptandrus* and Indianrice grass *Oryzopsis hymenoides*, and shrubs, e.g. rabbitbrush *Chrysothamnus nauseosus*, sagebrush *Artemisia spp.*, threadleaf groundsel *Senecio flaccidus*, banana yucca *Yucca baccata* and broom snakeweed *Gutierrezia sarothrae*.

Annual plants such as cheatgrass *Bromus tectorum*, Russian thistle *Salsolia kali*, tansy mustard *Descurainia obtusa*, sun flower *Helianthus annuus* and kochia weed *Bassia hyssopifolia* occur on the site.

The fauna of the P-J Savannah is somewhat diverse than that of other habitats. Mule deer *Odocoileus hemionus* and elk *cervus canadensis* may roam the area in transit during late fall and winter months. Other big game species, the black bear *Ursus americanus* and wild turkey *Meleagris gallopavo*, are not found in the project area, as marginal foraging habitat exists. Construction of the proposed site in this residential and rural setting will not have an effect on the natural habitat necessary for the continued survival of these species.

Most abundant small mammals include blacktail jack rabbits *Lepus californicus*, mountain cottontails *Sylvilagus nuttalli*, pinyon mice *Peromyscus truei*, valley gophers *Thomomys bottae*, porcupines *Erethizon dorsatum*, Mexican woodrats *Neotoma mexicana* and Ord's kangaroo rats *Dipodomys ordi*.

Characteristic breeding birds of this ecosystem include common night hawks *Chordeiles minor*, pinyon jay *gymnorhinus cyanocephalus*, Northern flickers *Colaptes auratus*, Western kingbirds

Tyrannus verticalis, horned larks *Eremophila alpestris*, loggerhead shrikes *Lanius ludovicianus*, sparrows *Spizella* spp., grey-headed juncos *Junco hyemalis* and common ravens *Corvus corax*.

Reptiles include striped plateau lizards *Sceloporus virgatus*, plateau whiptails *Cnemidophorus velox* and short-horned lizards *Phrynosoma douglassii*.

3.4.2 Effects

The proposed project is located in a rangeland and human activity area. Existing houses are located in the project area. Rangeland and livestock production is the dominant land use in the project area (§ 5.2). Local residents use local roads, and adjoining State road 264 and McKinley County Road 1 to commute daily to and from work. Construction traffic and local traffic noise would be low and frequent.

3.4.3 Mitigation

The single phase electrical powerline would be designed according to the avian protection on power lines. The *Navajo Nation Raptor Electrocution Prevention Regulations*, Navajo Council Resource and Development Committee Resolution RCS-43-08, would be complied with to reduce the unlikelihood of potential raptor electrocution. All single or three phase electrical power poles and cross arms would follow the design standards to protect Golden Eagles and Ferruginous Hawks. No other direct mitigation is recommended for the fauna species.

3.5 Endangered Species Act, Navajo Endangered Species List, and Migratory Bird Treaty Act / EO 13186

3.5.1 Existing Condition - Compliance.

Endangered Species Act (ESA) requires all federal departments and agencies to conserve threatened and endangered species and the habitats on which they depend, and to consult with the U. S. Fish and Wildlife Service (USFWS), on all actions authorized, funded or carried out by the agency to ensure that the action will not likely jeopardize the continued existence of any threatened and endangered species or adversely modify critical habitat.

Migratory birds and their habitats are protected under the Migratory Bird Treaty Act (MBTA) (16 USC §703-712) and EO 13186. All federal agencies are required to consider management impacts to protect migratory non-game birds. Executive Order 13186 calls for increased efforts to more fully implement the MBTA. The proposed action would have no significant effect on the bird species or their habitat.

CDECI conducted consultation with the Navajo Department of Fish and Wildlife, Navajo Nation to assure the mandated protection of ESA and Navajo Endangered Species List species (NESL). Data response letter 20dan1102-tk, regarding Federal listed threatened and endangered species, and Navajo Endangered Species of concern list, was received from the Natural Heritage Program, Navajo Department of Fish and Wildlife. In response to the data request, an onsite field surveys were conducted February 20, & 21, 2020 to evaluate Federal ESA, NESL MBTA species and habitat, current land use, impacts of human activity, and possible project mitigation. No extraordinary circumstances were noted during the site visit. A biological evaluation was created for the

proposed project. NNDF&W-NHP concurrence letter and a *Biological Resource Compliance Form, NNDF&W Review No. 20dan102-tk*, is created for the project. See the Biological Resources Compliance Form (BRCF) at Appendices D.

3.5.2 Effects

No Federally listed species or special management species (NESL) or their habitats have been identified in or near the project area. The proposed power line right of way will have no effect on ESA, NESL and MBTA species, as the species are not present. The BRCF Avoidance/Mitigation Measures state "CDECI will implement mitigation measures to ensure that there are no impacts to migratory birds that could potentially nest in and adjacent to the construction corridor. CDECI will reclaim all areas of ground disturbance caused by power line construction activities". There are no conditions of compliance. Approval of the proposed right of way would not have a long-term adverse effect on these species in the proposed project area.

3.5.3 Mitigation of T&E Species

A minor disturbed surface would be at a temporary loss. The right of way would not be bladed. Light equipment and foot traffic will be used in order to retain natural vegetation, which may be likely to contain favorable wildlife habitat, forage and cover, required for all species, including the threatened and endangered. This indirect mitigation is recommended for all fauna and flora on the proposed right of way. Natural vegetative cover can be restored over time.

The single phase electrical powerline would be designed according to the avian protection on power lines. The *Navajo Nation Raptor Electrocution Prevention Regulations*, Navajo Council Resource and Development Committee Resolution RCS-43-08, would be complied with to reduce the unlikelyhood of potential bird and raptor electrocution. All single or three phase electrical power poles and cross arms would follow the design standards.

3.6 Cultural Resources-National Historic Preservation Act (NHPA) of 1966, as amended

3.6.1 Existing Condition

The Navajo Nation Historic Preservation Department (NNHPD) requires NHPA compliance and consultation with all development projects on the Navajo Nation. NNHPD has determined that NHPA § 106 responsibilities are adhered to, as no historic properties would be affected.

Carrizo Archaeological Group of Farmington, New Mexico conducted the project Archeological field survey and crafted a field inventory report entitled: *A Cultural Resource Inventory of the Proposed Continental Divide Cooperative Sundance No. 2 Powerline in Churchrock Chapter, McKinley County, New Mexico*. A Cultural Resource Compliance Form, NNHPD Number HPD-20-251, has been created for this undertaking, as shown in Appendix C.

As part of the archeological inventory, interviews regarding traditional cultural properties (TCPs) were conducted with the local land users and chapter officials.

3.6.2 Effects

Effects/Conditions of Compliance are indicated on the Cultural Resource Compliance Form, and recommended in the cultural resource field inventory report. No historic properties would be affected. No Traditional cultural properties (TCPs) were identified near or within the proposed power line right of way, as noted in the report.

3.6.3 Mitigation

The project sponsor acknowledges the following statement with respect to cultural resources during construction: *In the event of the 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 will cease and the Navajo Nation Historic Preservation Department will be notified at (928) 871-7198.*

4.0 CUMULATIVE IMPACTS AND CONSIDERATIONS FOR SELECTION OF THE PREFERRED ALTERNATIVE

Cumulative effects are effects of the project in consideration with other past, present, or reasonably foreseeable projects in the local area. There are no past projects that resulted in identifiable long-term effects having a cumulative relationship with the effects of the proposed project.

Currently, CDECI operates the power line grid in the Churchrock Chapter, and Eastern Navajo Agency. CDECI would make application for the existing and new power line extension with the Navajo Regional Office, Bureau of Indian Affairs, Gallup, New Mexico.

In the future, there would be no other proposals or other right of way applications planned in the reasonably foreseeable future in the area. The proposed right of way application action will not have significant impact on the human environment. The approval of the requested use area would have minimal effect on the resource use patterns in the project area. The grazing permit holders would relinquish trust land and allotment holders would relinquish allotted land to the development. It is the practice of the government to compensate the traditional land user for the grazing resource loss.

5.0 PUBLIC INVOLVEMENT & COORDINATION AND REVIEW OF THE EA

The Churchrock Chapter has passed a resolution approving the proposed power line extension. See Appendix B. In the future, the Eastern Navajo Agency would review and consider the right of way application, and process the application for passage. The Branch of Environmental Quality Act Compliance and Review of the Navajo Regional Office, BIA, would make a Finding of No Significant Impact determination as result of their review.

Carrizo Archaeology Group of Farmington, New Mexico conducted the project archeological field survey and crafted a field report entitled: *A Cultural Resource Inventory of the Proposed Continental Divide Cooperative’s Sundance #2 Powerline Project in Churchrock, McKinley County, New Mexico*. A Cultural Resource Compliance Form has been created for this undertaking, as shown in Appendix C.

CDECI conducted consultation with the Navajo Department of Fish and Wildlife, Navajo Nation. The consultation would assure mandated protection of Federal Endangered Species Act (ESA) and Navajo Endangered Species List (NESL) threatened and endangered species. The Navajo Department of Fish and Wildlife website was consulted for the Biological Resources Land Clearance Policy and Procedures. A NDF&W-NHP concurrence letter and a *Biological Resource Compliance Form* at Appendices D is created for the project.

6.0 CONCLUSIONS

This Environmental Assessment addresses the proposed action relative to the existing conditions, potential effects, and mitigation for the power line construction, on the Navajo Indian lands. The preferred alternative is reasonable. Impacts to the environment would be non-significant and short-term. The approval of the requested use area would have minimal effect on the resource use patterns in the project area. There would be no cumulative adverse effects of the proposed project. The proposed action would not significantly affect the quality of the human environment; no significant impacts have been identified in the development of this environment assessment. Therefore, furtherance of an environmental impact statement development will not be required. CDECI construction and operations of the proposed power line project is recommended.

7.0 LIST OF PREPARERS / CONSULTATION AND COORDINATION

This environmental assessment was prepared by Mr. Leonard Robbins, PES, Denali Environmental Services, P. O. Box 1127, Fort Defiance, Arizona 86504, denali1946@msn.com.

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APPENDIX A

Land Boundary Survey & Description

**RIGHT-OF-WAY EASEMENT FOR
CDEC'S SUNDANCE NUMBER 2 POWER LINE PROJECT
LINE A
MCKINLEY COUNTY, NEW MEXICO
CDEC WORK ORDER NUMBER 86619**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Sundance Number 2 Power Line Project, Line "A", located within section 28, Township 15 North, Range 17 West, New Mexico Principal Meridian, Navajo Tribal Trust, McKinley County, State of New Mexico, and being more particularly described as follows:

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

BEGINNING at B.O.P. Station 0+00, a point on an existing power line, located in section 28, T15N, R17W, NMPM, said parcel being Navajo Tribal Trust Land, having Local Coordinates of N1641212.79, E2484219.44, Latitude 35°30'29.1", Longitude -108°38'09.4", and from which point the found BLM brass cap for the northeast corner of section 28, T15N, R17W, NMPM, bears N44°43'46"E a distance of 307.31 feet,

Thence S82°01'54"W a distance of 29.96 feet to P.I. Station 0+29.96, from which point the set Base Control Station, having the True New Mexico State Plane West, NAD83(2011), US Survey Feet Coordinates of N1640924.77, E248232.30, Latitude 35°30'26.3", Longitude -108°38'09.2", bears S08°31'15"E a distance of 287.03 feet,

Thence N85°10'06"W a distance of 481.23 feet to P.O.T. Station 5+11.19, at which point the centerline of the easement crosses a water line,

Thence continuing N85°10'06"W a distance of 22.55 feet to P.O.T. Station 5+33.74, at which point the centerline of the easement enters Lot H7,

Thence continuing N85°10'06"W a distance of 208.69 feet to P.O.T. Station 7+42.43, at which point the centerline of the easement exits Lot H7,

Thence continuing N85°10'06"W a distance of 121.00 feet to P.O.T. Station 8+63.43, at which point the centerline of the easement enters Lot H6,

Thence continuing N85°10'06"W a distance of 16.53 feet to E.O.P. Station 8+79.96, having Local Coordinates of N1641280.23, E2483342.78, Latitude 35°30'29.7", Longitude -108°38'20.0", and from which point the found BLM brass cap for the northeast corner of section 28, T15N, R17W, NMPM, bears N82°08'23"E a distance of 1,103.29 feet,

The above described right-of-way easement contains 0.40 acres, more or less, in area. The right-of way easement is 0.17 miles in length.

**CDEC'S SUNDANCE NUMBER 2 POWER LINE PROJECT
MCKINLEY COUNTY, NEW MEXICO
CDEC WORK ORDER NUMBER 86619**

GUY EASEMENT DESCRIPTION

<u>GUY NO.</u>	<u>STATION</u>	<u>BEARING</u>	<u>LENGTH</u>	<u>WIDTH</u>	<u>ACREAGE</u>
LINE A					
1	0+29.96	S85°10'06"E	50'	20'	0.02
2	8+79.96	N85°10'06"W	50'	20'	<u>0.02</u>
			100'		0.04

SUMMARY DESCRIPTION

<u>SEGMENT</u>	<u>LENGTH</u>	<u>MILES</u>	<u>WIDTH</u>	<u>ACREAGE</u>
LINE "A"	879.96'	0.17	20'	0.40
GUY EASEMENTS	<u>100.00'</u>	<u>0.02</u>	20'	<u>0.04</u>
TOTAL	979.96'	0.19		0.44

APPENDIX B

Local Chapter Resolution

THE NAVAJO NATION CHURCH ROCK CHAPTER

Kin Łitsó Sinilí

Tyson M. Ramone, **Community Service Coordinator**
Vera Marianito, **Accounts Maintenance Specialist**



Edmund E. Yazzie, **Council Delegate**
Johnnie Henry Jr., **President**
Sherman Woody, **Vice-President**
Louise Jim, **Secretary/Treasurer**
Donald Arviso, **Land Board Member**

RESOLUTION OF THE CHURCH ROCK CHAPTER CRC-18-09-DD

REQUESTING AND APPROVING CHURCH ROCK CHAPTER ADMINISTRATION TO PAY FOR SEVEN CHURCH ROCK COMMUNITY MEMBERS FOR A POWERLINE EXTENSION HOOK-UP TO THEIR HOMES WITH THE ASSISTANCE OF CHURCH ROCK CHAPTER FROM CONTINENTAL DIVIDE ELECTRIC CO-OP IN THE AMOUNT OF \$58,397.18

WHEREAS:

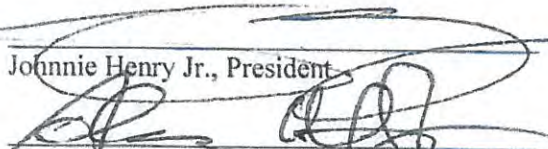
1. Pursuant to Sections 1.B and 2.22 of the Navajo Nation Local Governance Act, the Church Rock Chapter is established to make decisions about local government matters, to conduct local government operations and to provide for the general health, safety and welfare of its membership; and
2. Clifford Johnson, Leander Myers, Tom and Caroline Kee, Patricia Chischilly, Rhonda Padilla and Rawlin Eskeets are all registered voter of the Church Rock Chapter and enrolled member of the Navajo Nation. They all reside in Church Rock community with approved residential lease and home site leases; and
3. The above names community members are in need of utility services to their homes some are on medical device which needs power. Current estimate for powerline extension for CDEC is \$58,397.18 with credit coming from CDEC of \$9,892.36 with a total estimate of \$58,397.18; and
4. The Church Rock Chapter membership request to utilize the credit amount of \$9,892.36 to reduce the overall cost to \$48,504.82 from the Chapters Powerline extension fund; and
5. The Church Rock Chapter membership acknowledge the use of Funds from Fund 27-6809 Infrastructure Powerline; and
6. It is therefore recommended to approve this request and have the Chapter administration pay the service fee.

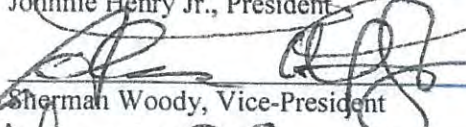
NOW THEREFORE IT BE RESOLVED THAT:

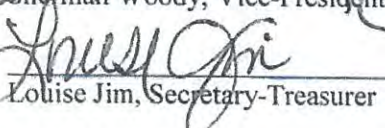
1. The Church Rock Chapter approves and supports Clifford Jonson, Leander Myers, Ton and Caroline Kee, Patricia Chischilly, Rhonda Padilla and Rawlin Eskeets for a powerline extension hook-up to their homes with the assistance of Church Rock Chapter from Continental Divide Electric Co-op.
2. Attached is supporting documentation.

CERTIFICATION

We, the undersigned, hereby certify that the forging resolution was presented to the Church Rock Chapter, at a duly called meeting at which a quorum was present, and it was approved by a vote of **28 in favor, 00 opposed, with 13 abstained** at Church Rock (Navajo Nation), New Mexico on this **12th day of September 2018.**


Johnnie Henry Jr., President


Sherman Woody, Vice-President


Louise Jim, Secretary-Treasurer

Motioned By: **Julie Livingston**

Seconded By: **Roberta Begay**

APPENDIX C

Cultural Resource Compliance Form



THE NAVAJO NATION
HERITAGE & HISTORIC PRESERVATION DEPARTMENT

PO Box 4950, Window Rock, Arizona 86515
TEL: (928) 871-7198 FAX: (928) 871-7886

CULTURAL RESOURCES COMPLIANCE FORM

ROUTE COPIES TO:		NNHPD NO.: HPD-20-251	
<input checked="" type="checkbox"/> CAG		OTHER PROJECT NO.: CAG 20-04	
PROJECT TITLE:			
A Cultural Resources Inventory of the Proposed Continental Divide Electrical Cooperative Sundance No. 2 Powerline in the Church Rock Chapter, McKinley County, New Mexico			
LEAD AGENCY:		BIA/NR	
SPONSOR:		Steven Morales, GIS Analyst/ROW, Continental Divide Electric Cooperative, Inc., PO Box 1087, Grants, New Mexico 87020	
PROJECT DESCRIPTION:			
CDEC is proposing to construct, operate & maintain a single-phase powerline to serve a Navajo residence. The construction, operation & maintenance of the powerline will consist of vehicular traffic within the 20-ft. right-of-way, minimal removal of vegetation, excavation & placement of electrical poles & hardware, and continued maintenance. The powerline measures a total of 979.96-ft and the area of effect measures 0.44-acre.			
LAND STATUS:		Navajo Tribal Trust Land	
CHAPTER:		Church Rock	
LOCATION:		Powerline is located on the Gallup East Quadrangle, McKinley County, New Mexico NMPM	
T. <u>15</u> N, R. <u>17</u> W – Sec. <u>28</u>		BOL	<u>714402 E</u>
		B1	<u>714391 E</u>
		EOL	<u>714134 E</u>
			<u>3931959 N</u>
			<u>3931959 N</u>
			<u>3931971 N</u>
PROJECT ARCHAEOLOGIST:		Brandi Bitsilli	
NAVAJO ANTIQUITIES PERMIT NO.:		B20066	
DATE INSPECTED:		02/21/20	
DATE OF REPORT:		04/13/20	
TOTAL ACREAGE INSPECTED:		20.02 – ac total	
METHOD OF INVESTIGATION:		Class III pedestrian inventory with transects spaced <u>10</u> m apart.	
LIST OF CULTURAL RESOURCES FOUND:		(1) IN-USE SITE (IUS)	
LIST OF ELIGIBLE PROPERTIES:		NONE	
LIST OF NON-ELIGIBLE PROPERTIES:		(1) IN-USE SITE (IUS)	

-DOCUMENT IS VOID IF ALTERED-

LIST OF ARCHAEOLOGICAL RESOURCES:	NONE
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EFFECT/CONDITIONS OF COMPLIANCE: No Historic Properties Effected.

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

FORM PREPARED BY: Tamara Billie
FINALIZED: May 5, 2020

Notification to Proceed
Recommended

☒ Yes ☐ No

Conditions:

☐ Yes ☒ No

Richard M. Begay 05/06/2020
Richard M. Begay, Dept. Mgr./THPO
The Navajo Nation
Heritage & Historic Preservation Department
Date

BARTHOLOMEW
STEVENS

Digitally signed by
BARTHOLOMEW STEVENS
Date: 2020.05.20 08:32:03 -06'00'

Navajo Region Approval

[Signature] 5/11/2020

☒ Yes

☐ No

BIA - Navajo Regional Office

Date

-DOCUMENT IS VOID IF ALTERED-

APPENDIX D

Navajo Nation Department of Fish & Wildlife

Biological Resource Compliance Form

**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.: SUNDANCE #2 – KEE TOM POWER LINE PROJECT WO # 86619

DESCRIPTION: CDEC proposes to construct, operate, and maintain a single phase 14.4 kV power line in a 20-ft. wide right-of-way corridor. Vegetation within the ROW would be removed and/or disturbed. Total length (power line & guy) would be 979.96 feet, encompassing 0.44 total acres.

LOCATION: NE¼ of Section 28, T15N, R17W, Church Rock, McKinley County, New Mexico

REPRESENTATIVE: Leonard Robbins, Denali Environmental Services for Continental Divide Electric Cooperative, Inc. (CDEC)

ACTION AGENCY: Bureau of Indian Affairs and Navajo Nation

B.R. REPORT TITLE / DATE / PREPARER: BE-Sundance #2 – Kee Tom Power Line Project WO # 86619/APR 2020/Leonard Robbins

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: CDEC will implement mitigation measures to ensure that there are no impacts to migratory birds that could potentially nest in and adjacent to the construction corridor. CDEC will reclaim all areas of ground disturbance caused by power line construction activities.

CONDITIONS OF COMPLIANCE*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/10 JUN 2020

COPIES TO: (add categories as necessary)

☐ _____

☐ _____

2 NTC § 164 Recommendation:

☒ Approval

☐ Conditional Approval (with memo)

☐ Disapproval (with memo)

☐ Categorical Exclusion (with request letter)

Signature

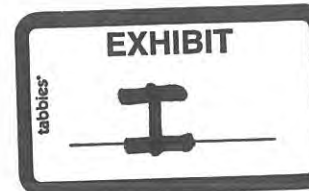
Date

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

6/10/20

☐ None (with memo)

*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.



UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

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

1. Application Name and Address: Continental Divide Electric Cooperative, Inc., PO Box 1087, 200 East High Street, Grants, New Mexico 87020
2. Allotment Number(s) affected by the right-of-way: _____
3. General location (easement location): Navajo Tribal Trust Land, Sundance #2 Power Line Project, Section 28, T15N, R17W, NMPM, McKinley County, New Mexico
4. Purpose: Construction Operation and Maintenance of 14.4/24.9 kv Electrical/Fiber-Optic Distribution Line & its Appurtenances to serve the Sundance #2 Project; Continental Divide Electric Cooperative (CDEC) is asking that the following language be included in the Resolution and the Presidents Letter; The Resources and Development Committee of the Navajo Nation Council hereby waives the requirement for Bond, Insurance, or alternative form of security per 25 CFR § 169.103 (f) (1) and waive the consideration for right-of-way per 25 CFR § 169.110, because the proposed right-of-way will service a public purpose and will benefit Navajo residents. Attached is Resolution RDCF-08-20 waiving 100% consideration because CDEC is a Non-Profit Cooperative providing direct benefit to the residents on Navajo Tribal Trust Land.
5. Term (Renewal, if applicable): 50 Years
6. Identify ownership of permanent improvements associated with the right-of-way and the responsibility for constructing, operating, maintaining, and managing permanent improvements under §169.105: Continental Divide Electric Cooperative Inc.

REQUIRED SUPPORTING DOCUMENTS [§169.102(b)]:

1. Accurate legal description of the right-of-way, its boundaries, and parcels associated with the right-of-way;
2. A map of definite location of the right-of-way; [169.102(b)(2)]; survey plat signed by professional surveyor or engineering showing the location, size, and extent of the ROW and other related parcels, with respect to each affected parcel of individually owned land, tribal land, or BIA land and with reference to the public surveys under 25 U.S.C. § 176, 43 U.S.C. § 2 and § 1764, and showing existing facilities adjacent to the proposed project.
3. Bond(s), insurance, and/or other security meeting the requirements of §169.103:
4. Record that notice of the right-of-way was provided to all Indian landowners;
5. Record of consent that the right-of-way meets the requirements of §169.107, or a statement documenting a request for a right-of-way without consent under §169.107(b);
6. If applicable, a valuation meeting and requirements of §§ 169.110, 112, 114;

7. With each application, if the applicant is a corporation, limited liability company, partnership, joint venture, or other legal entity, except a tribal entity, information such as organizational documents, certificates, filing records, and resolutions, demonstrating that:
 - a. The representative has authority to execute the application;
 - b. The right-of-way will be enforceable against the applicant; and
 - c. The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located.
8. Current environmental and archaeological reports, surveys, and site assessments, as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements;
9. If required, a statement from the appropriate tribal authority that the proposed right-of-way is in conformance with applicable tribal law.

THE APPLICANT FURTHER STRIPULATES AND EXPRESSLY AGREES AS FOLLOW:

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

Applicant Point of Contact Information:

Name: Continental Divide Electric Cooperative, Inc.


Address: 200 East High Street, PO Box 1087, Grants

State: Grants Zip: 87020

Phone: (505) 285-6656

Email: dolivar@cdec.coop or smorales@cdec.coop

Date: 11/3/21

Applicant:  (Signature)

Debbie Olivar or Steve Morales (Print Name)



CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.

200 E. High St. • P.O. Box 1087 • Grants, New Mexico 87020 • (505) 285 6656 • Fax (505) 287 2234

November 3, 2021

The General Land Development Department
Attn: Mr. Steven Chischilly, Jr., Program Manager
Project Review Office
PO Box 69
Saint Michaels, Arizona 86511

Re: Submitting ROW Package for the Church Rock Chapter – Sundance #2 Powerline Project WO#86619

Dear Mr. Chischilly,

Continental Divide Electric Cooperative, Inc. is requesting right-of-way for the proposed 14.4/24.9 kV distribution overhead Powerline/Fiber Optic for the Church Rock Chapter – Sundance #2 Powerline Project, WO#86619. The Powerline/Fiber Optic Right-of-way packet consists of the following documents being submitted for review by the Division of Natural Resources, Project Review Office.

1. \$500.00 Filing Fee, Check #200876
2. Right of way Application
3. Resolution RDCF-08-20 (Waiving 100% Consideration)
4. Archaeological Report
5. Cultural Resources Compliance Form
6. Environmental Report
7. FONSI
8. Biological Resources compliance Form
9. Field Clearance/Grazing
10. Legals
11. Map (4) & TOPO (4)

This project traverses over and across Navajo Tribal Trust Land. The distance on Navajo Tribal Trust Land is 979.96' feet in length, 20' feet in width, and .44 acres.

Continental Divide Electric Cooperative Inc. requests that the Navajo Nation waive consideration/compensation and valuation, bond, insurance or alternative form of security since only Navajos are being served off of this Electrical Line and based on the determination that the project benefits the Navajo Nation and such waiver is in the best interest of the Navajo Nation, per 25 CFR § 169.103 (f)(1) and 25 CFR § 169.110. Attached is Resolution RDCF-08-20 waiving 100% consideration because CDEC is a Non-Profit Cooperative providing a direct benefit to the residents on Navajo Tribal Trust Land. We also ask that the term of right-of-way be granted for 50 years. If you have any questions, please contact our office at your earliest convenience.

Sincerely,

Debbie Olivar
Engineering/ROW
Enclosures



Touchstone Energy[®]
Cooperatives

TOGETHER - .SAVE.COM

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

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; AMENDING RDCD-97-18 SUCH THAT NON-PROFIT ELECTRIC UTILITY COMPANIES THAT PROVIDE SERVICE TO NAVAJO RESIDENTS ON NAVAJO TRUST LAND IN THE EASTERN NAVAJO AGENCY MAY BE AFFORDED A WAIVER OF ONE HUNDRED PERCENT (100%) OF THE RIGHT-OF-WAY CONSIDERATION

BE IT ENACTED:

SECTION ONE. AUTHORITY

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

SECTION TWO. FINDINGS

A. The Resources and Development Committee through resolution RDCD-97-18 limited the waiver of right-of-way consideration to fifty percent (50%) of assessed consideration for utility companies . . . (RDCD-97-18) is attached as Exhibit A.

B. The non-profit electric utility companies that provide service to Navajo residents on Navajo Trust land in the Eastern Navajo Agency may be provided one hundred percent (100%) waiver of the right-of-way consideration because these companies are serving the needs of Navajo residents. See the Eastern Navajo Land Commission through resolution ENLCMY-02- 19 attached as Exhibit B.


SECTION THREE . APPROVAL

The Resources and Development Committee of the Navajo Nation Council hereby amends RDCD-97-18 SECTION THREE. APPROVAL as follows .

The Resources and Development Committee of the Navajo Nation Council hereby limits the waiver of utility right-of-way consideration to up to fifty (50) percent of the total consideration except instances of pre-existing contracts and agreements stating otherwise and except regarding non-profit electric utility companies that provide service to Navajo residents on Navajo Trust land in the Eastern Navajo Agency for which one hundred percent (100%) of the right-of-way consideration may be waived.

CERTIFICATION

I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 24th Navajo Nation Council at a duly called meeting at the Lake Valley Chapter House, Lake Valley, Navajo Nation (New Mexico), at which a quorum was present and that same was passed by a vote of 5 in favor, and 0 opposed, on this 26th day of February 2020.


Rickie Nez, Chairperson
Resources and Development Committee
of the 24th Navajo Nation Council

Motion: Honorable Herman M. Daniels

Second: Honorable Thomas Walker, Jr.

Chairperson Rickie Nez not voting.

Document No. 017946Date Issued: 12/29/2021**EXECUTIVE OFFICIAL REVIEW**Title of Document: CDEC, ROW Sundance #2 Contact Name: CHISCHILLY JR, STEVEN THOMASProgram/Division: DIVISION OF NATURAL RESOURCESEmail: stchischilly@navajo-nsn.gov Phone Number: 928-871-6447

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

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

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

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

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

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

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

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

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

Sufficient Insufficient

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

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

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

☐ **Rights of Way**

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

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

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

☐ **Assignment of Mineral Lease**

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

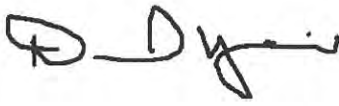
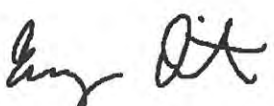

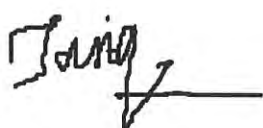
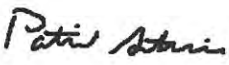

☒ **ROW (where there has been no delegation of authority to the Navajo Land Department to grant the Nation's consent to a ROW)**

1. NLD _____ Date: _____ ☐ ☐
2. F&W _____ Date: _____ ☐ ☐
3. HPD _____ Date: _____ ☐ ☐
4. Minerals _____ Date: _____ ☐ ☐
5. NNEPA _____ Date: _____ ☐ ☐
6. DNR _____ Date: _____ ☐ ☐
7. DOJ ^(ic) *[Signature]* Date: 2/1/22 ☒ ☐
8. OPVP *[Signature]* Date: 2-2-22 ☒ ☐

☐ **OTHER:**

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

Tier 1 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Dariel Yazzie-NNEPA (NLTDS and GLDD)	Environmental Program Supervisor	Navajo Nation EPA	Approved	no comments	No Reply	18-Jan-2022	
Eugenia Quintana EPA (NLTDS and GLDD)	Environmental Department Manager	Navajo Nation EPA	Approved	1. Sufficient documentation.	1. No Reply	07-Jan-2022	
Leanna Begay (NLTDS and GLDD)	NNDFW (Reviewer)	Navajo Nation Fish and Wildlife	Approved	no comments	No Reply	12-Jan-2022	
Najamh Tariq (NLTDS and GLDD)	Branch Director (Reviewer)	Department of Water Resources	Approved	no comments	No Reply	03-Jan-2022	
Patrick Antonio EPA (NLTDS and GLDD)	Principal Hydrologist	Navajo Nation EPA	Approved	1. No streams impacted so no coverage required under CWA Sections 401 and 404. Total land surface disturbance expected to be less than 1.0 acre so coverage not required under the federal Construction General Permit for discharges from construction sites.	1. No Reply	05-Jan-2022	
Rebecca Gilchrist MIN (NLTDS and GLDD)	Senior Mining Engineer (Reviewer)	Minerals Department	Approved	1. This vote is contingent upon the uploaded Terms and Conditions, dated	1. No Reply	26-Jan-2022	

01.21.2022,
permanently
being
included in
the
application
approval
package. -
rkg

Tamara Senior Navajo Nation Approved 1. HPD-20- 1. No Reply 04-Jan-2022
Billie NNHP Archeologist Heritage and
(NLTDS (Reviewer) Historic
and GLDD) Preservation
Department

Tamara Billie

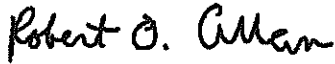
Warren Environmental Navajo Nation Approved no comments No Reply 13-Jan-2022
Roan - EPA Department EPA
(NLTDS Manager
and GLDD)

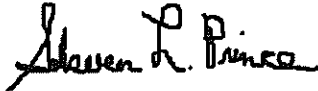
Warren J Roan


Yolanda Environmental Navajo Nation Approved no comments No Reply 03-Jan-2022
Barney Program EPA
NNEPA Manager
(NLTDS
and GLDD)

Tier 2 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
David Mikeesic (NLTDS and GLDD)	Navajo Nation Zoologist (Approver)	Navajo Nation Fish and Wildlife	Approved 1.	The BRCF dated 10 Jun 2020 states Project Sponsor will implement measures to ensure no impacts to migratory birds; and will reclaim all areas with ground disturbances.	1. No Reply	27-Jan-2022	<i>DM</i>
Richard Begay NNHP (NLTDS and GLDD)	Department Manager III (Approver)	Navajo Nation Heritage and Historic Preservation Department	Approved	no comments	No Reply	26-Jan-2022	<i>Rich M Begay</i>

Robert Allan DNR (NLTDS and GLDD)	Attorney (Approver)	Division of Natural Resources	Approved	<i>no comments</i>	<i>No Reply</i>	28-Jan-2022	
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Steven Prince MIN (NLTDS and GLDD)	Principal Petroleum Engineer (Approver)	Minerals Department	Approved	<i>no comments</i>	<i>No Reply</i>	28-Jan-2022	
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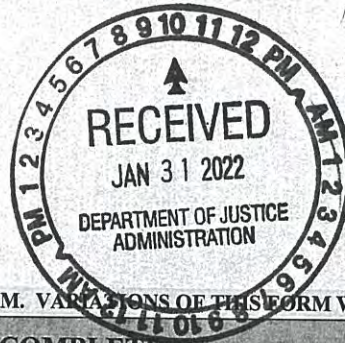
Valinda Shirley - NNEPA (NLTDS and GLDD)	Executive Director of Navajo Nation EPA	Navajo Nation EPA	Approved	1. <i>No additional comments.</i>	1. <i>No Reply</i>	26-Jan-2022	
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W. Mike
Halona
(NL



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



DOJ
01/31/2022 10:50am
DATE / TIME
<input type="checkbox"/> 7 Day Deadline
DOC #: 017946
SAS #:
UNIT: NRU

☐ RESUBMITTAL

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

CLIENT TO COMPLETE

DATE OF REQUEST:	1/31/2022	DIVISION:	NATURAL RESOURCES
CONTACT NAME:	Michelle Hoskie or Stevie Hudson	DEPARTMENT:	GENERAL LAND DEVELOPMENT DEPARTMENT
PHONE NUMBER:	x 6447 or x 6423	E-MAIL:	michellehoskie@navajo-nsn.gov

TITLE OF DOCUMENT: EOR# 17946 CDEC, ROW Sundance #2

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 1:31:22 11:48 AM REVIEWING ATTORNEY/ADVOCATE: Inu chee

DATE TIME OUT OF UNIT: 2-1-22 1:35 PM

DOJ ATTORNEY / ADVOCATE COMMENTS

- Document is legally sufficient.

REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
Timber	2-1-22	V Blumhart	2/1/22 1:18pm

DOJ Secretary Called: Michelle for Document Pick Up on 2-1-22 at 1:35 PM By: CN

PICKED UP BY: (Print)

DATE / TIME:

NNDOJ/DRRF-July 2013

-EUD-

**RESOURCES AND DEVELOPMENT COMMITTEE
24th NAVAJO NATION COUNCIL**

FOURTH YEAR 2022

**ROLL CALL
VOTE TALLY SHEET**

LEGISLATION #0091-22: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF RIGHT-OF-WAY TO CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC. FOR THE SUNDANCE RIGHT-OF-WAY #2 POWERLINE/FIBER OPTIC LINE PROJECT LOCATED ON NAVAJO NATION TRUST LANDS IN CHURCH ROCK CHAPTER VICINITY (MCKINLEY COUNTY, NEW MEXICO).
Sponsor: Honorable Edmund Yazzie

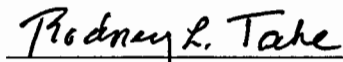
Date: May 11, 2022 – Regular Meeting (In-Person and Teleconference)
Location: Nageezi Chapter – 11553 U.S. 550 – Nageezi, New Mexico 87037.
Resources and Development Committee also called in via teleconference from their location within the boundary of the Navajo Nation.

Main Motion:

M: Herman M. Daniels **S:** Mark A. Freeland **V:** 5-0-1 (CNV)
In Favor: Rickie Nez; Kee Allen Begay, Jr.; Herman M. Daniels; Mark A. Freeland; Wilson C. Stewart, Jr.
Opposition: None
Excuse: None
Not Voting: Thomas Walker, Jr., *Vice-Chairperson*



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



Rodney L. Tahe, *Legislative Advisor*
Office of Legislative Services