

**LEGISLATIVE SUMMARY SHEET**

Tracking No. 0180-18

**DATE:** May 21, 2018

**TITLE OF RESOLUTION:** PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT TO U.S. BUREAU OF RECLAMATION TO CONSTRUCT, OPERATE AND MAINTAIN THE NAVAJO - GALLUP WATER SUPPLY PROJECT REACH 12.2 LOCATED ON TRIBAL TRUST LAND IN TSEYATOH CHAPTER VICINITY (MCKINLEY COUNTY, NEW MEXICO)

**PURPOSE:** This resolution, if approved, will approve the grant of a Right-of-way and Temporary Construction Easement to the U.S. Bureau of Reclamation to construct, operate and maintain the "Reach 12.2-Navajo Gallup Water Supply Project" located on Navajo Nation Trust Lands in the Tseyatoh Chapter vicinity, McKinley County, New Mexico. Waivers of consideration, bond and valuation are requested.

**This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.**

5-DAY BILL HOLD PERIOD: SNOTAH  
Website Posting Time/Date: 5:24pm 5.22.18  
Posting End Date: 5/27/2018  
Eligible for Action: 5/28/2018

PROPOSED STANDING COMMITTEE RESOLUTION  
23<sup>rd</sup> NAVAJO NATION COUNCIL -- Fourth Year, 2018

INTRODUCED BY



(Prime Sponsor)

TRACKING NO. 0180-18

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A RIGHT-OF-  
WAY AND TEMPORARY CONSTRUCTION EASEMENT TO U.S. BUREAU OF  
RECLAMATION TO CONSTRUCT, OPERATE AND MAINTAIN THE NAVAJO -  
GALLUP WATER SUPPLY PROJECT REACH 12.2 LOCATED ON TRIBAL TRUST  
LAND IN TSEYATOH CHAPTER VICINITY (MCKINLEY COUNTY, NEW  
MEXICO)

BE IT ENACTED:

SECTION ONE. AUTHORITY

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

SECTION TWO. FINDINGS

A. The United States Bureau of Reclamation, 1235 La Plata Highway, Farmington,  
New Mexico 87401 has submitted a right-of-way and a temporary construction

1 application to construct, operate and maintain the Reach 12.2 Navajo Gallup  
2 Water Supply Project located on, over and across Navajo Nation Trust Lands in  
3 the Tseyatoh Chapter vicinity, McKinley County, New Mexico attached hereto  
4 and incorporated herein as **Exhibits D-1 and D-2.**

5 B. The proposed right-of-way and temporary construction easement consists of  
6 Navajo Nation Trust Lands located in McKinley County, New Mexico and the  
7 location is more particularly described on the description and survey maps  
8 attached hereto and incorporated herein as **Exhibit B.**

9 C. The General Land Development Department, Field Investigation for Bureau of  
10 Reclamation Reach 12.2 ROW Consent dated April 20, 2018, attached as **Exhibit**  
11 **C,** has determined that land users have been identified and given consent.

12 D. The Bureau of Reclamation requests a waiver of the consideration because the  
13 project will provide a public benefit to the Navajo Nation.

14 E. The Resources and Development Committee finds a waiver of the bond  
15 requirement, 25 C.F.R. § 169, is in the best interest of the Navajo Nation

16 F. The Resources and Development Committee finds a waiver of valuation, 25  
17 C.F.R. § 169.110 is in the best interest of the Navajo Nation.

18 G. The environmental and archaeological studies have been completed and are  
19 attached hereto as **Exhibit G.**

20 H. The Navajo Nation Executive Order No. 07-2017, attached as **Exhibit E,**  
21 designates the Navajo-Gallup Water Supply Projects as a priority project of the  
22 Navajo Nation.

23 I. The Tseyatoh Chapter through Resolution TSA-03-04-2013, attached as Exhibit  
24 F, supports the design, construction and implementation of the Navajo-Gallup  
25 Water Supply Project.

26 J. The applications for the Right-of-Way and Temporary Construction Easement as  
27 submitted by the United States Bureau of Reclamation have been reviewed by the  
28 Fish and Wildlife; Historic Preservation; Minerals; Navajo Nation Environmental  
29 Protection; Division of Natural Resources and the Department of Justice and  
30 "Approved" or found "Sufficient.". See **Exhibit G.**

1 SECTION THREE. APPROVAL

2 A. The Resources and Development Committee of the Navajo Nation Council hereby  
3 grants approval of a Right-of-Way and Temporary Construction Easement to the U.S.  
4 Bureau of Reclamation to construct, operate and maintain Reach 12.2 of the Navajo  
5 Gallup Water Supply Project located on Navajo Nation Trust Lands in the Tseyatoh  
6 Chapter vicinity, McKinley County, New Mexico. The location is more particularly  
7 described on the map attached hereto as **Exhibit B**.

8 B. The Resources and Development Committee of the Navajo Nation Council hereby  
9 approves the Right-of-Way subject to, but not limited to, the terms and conditions  
10 incorporated herein as **Exhibit A-1**.

11 C. The Resources and Development Committee of the Navajo Nation Council hereby  
12 approves the Temporary Construction Easement subject to, but not limited to, the  
13 terms and conditions incorporated herein as **Exhibit A-2**.

14 D. The Resources and Development Committee of the Navajo Nation Council hereby  
15 waives the consideration for the Right-of-Way because the Reach 12.2 of the Navajo  
16 Gallup Water Supply Project will provide a public benefit to the Navajo Nation.

17 E. The Resources and Development Committee of the Navajo Nation Council hereby  
18 approves waiver of the bond requirement as being in the best interest of the Navajo  
19 Nation and benefiting the Navajo People.

20 F. The Resources and Development Committee of the Navajo Nation Council hereby  
21 approves waiver of valuation as being in the best interest of the Navajo Nation and  
22 benefiting the Navajo People.

23 G. The Resources and Development Committee of the Navajo Nation Council hereby  
24 authorizes the President of the Navajo Nation to execute any and all documents  
25 necessary to affect the intent and purpose of this resolution.



**NAVAJO NATION RIGHT-OF-WAY TERM & CONDITIONS:  
BUREAU OF RECLAMATION (GRANTEE)  
(Navajo Gallup Water Supply Project Reach 12.2)**

1. The term of the permanent right-of-way shall begin on the date it is granted by the Secretary of the Interior (Secretary) and shall continue as long as the Grantee Bureau of Reclamation (BOR) or its successors, or assigns uses the right-of-way for the construction, operation, and maintenance of the Navajo Gallup Water Supply Project (Project).

2. The annual consideration for the use of land is assessed at \$9,976.72 (annually adjusted), which shall be the Navajo Nation's contribution to the Project because the Project will provide water to the Navajo Nation.

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

3. The Grantee may develop, use, and occupy the right-of-way for the purpose(s) of constructing, operating, and maintaining the Navajo Gallup Water Supply Project. The Grantee may not develop, use, or occupy the right-of-way for any other purpose without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions, or withheld at the sole discretion of the Navajo Nation.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all applicable laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:

- a. Title 25, Code of Federal Regulations, Part 169;
- b. All applicable federal and Navajo Nation antiquities laws and regulations, including compliance with the Programmatic Agreement for the Consideration and Management of Effects on Historic Properties Arising from Construction of the Navajo Gallup Water Supply Project pursuant to Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation's regulation, last date of execution by all signatories being November 21, 2011, and any amendments thereto.
- c. BOR shall give employment preference to qualifying Navajos and other Indians in accordance with applicable Navajo and federal law. BOR shall utilize Navajo contractors and Navajo businesses (to purchase goods and materials) in accordance with applicable law.
- d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq., to the extent that it is applicable. Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.



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

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



**NAVAJO NATION ROW TEMPORARY CONSTRUCTION EASEMENT  
TERMS AND CONDITIONS: BUREAU OF RECLAMATION (GRANTEE)  
(Navajo Gallup Water Supply Project Reach 12.2)**

1. The term of the ROW temporary construction easement shall begin on the date it is granted by the Secretary of the Interior (Secretary) and shall continue as long as the Grantee Bureau of Reclamation (BOR) or its successors, or assigns uses the ROW temporary construction easement for the construction, operation, and maintenance of the Navajo Gallup Water Supply Project (Project) with a maximum term of no more than four (4) years.
2. The total consideration for the use of land for the temporary construction easement is assessed at \$23,995.46, which shall be the Navajo Nation's contribution to the Project because the Project will provide water to the Navajo Nation.  
  
The Grantee must obtain the approval of the Navajo Nation if any portion of the right-of-way is used for any other purpose than authorized by the approval of this right-of-way.
3. The Grantee may develop, use, and occupy the right-of-way for the purpose(s) of constructing, operating, and maintaining the Navajo Gallup Water Supply Project. The Grantee may not develop, use, or occupy the right-of-way for any other purpose without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions, or withheld at the sole discretion of the Navajo Nation.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all applicable laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
  - a. Title 25, Code of Federal Regulations, Part 169;
  - b. All applicable federal and Navajo Nation antiquities laws and regulations, including compliance with the Programmatic Agreement for the Consideration and Management of Effects on Historic Properties Arising from Construction of the Navajo Gallup Water Supply Project pursuant to Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation's regulation, last date of execution by all signatories being November 21, 2011, and any amendments thereto.
  - c. BOR shall give employment preference to qualifying Navajos and other Indians in accordance with applicable Navajo and federal law. BOR shall utilize Navajo contractors and Navajo businesses (to purchase goods and materials) in accordance with applicable law.



- d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq., to the extent that it is applicable. Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.
6. The Grantee shall clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during any surface disturbance activities.
7. The Grantee shall reclaim all surface lands disturbed related to the right-of-way, as outlined in a restoration and re-vegetation plan, which shall be approved by the Navajo Nation Environmental Protection Agency (NNEPA) prior to any surface disturbance. The Grantee shall comply with all provisions of such restoration and re-vegetation plan and shall notify the Director of the NNEPA immediately upon completion of the surface disturbance activities so that a site inspection can be made.
8. The Grantee shall at all times during the term of the right-of-way and at the Grantee's sole cost and expense, maintain the land subject to the right-of-way and all improvements located thereon and make all necessary and reasonable repairs.
9. The Grantee shall obtain prior written permission to cross existing rights-of-way, if any, from the appropriate parties.
10. The Grantee shall be responsible for and promptly pay all damages when they are sustained provided that nothing herein shall be deemed to increase the liability of the United States beyond the provisions of the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 982 (28 U.S.C. § 1346(b), 2671 et seq.) or other applicable law.
11. The Grantee shall not assign, convey, or transfer, in any manner whatsoever, the right-of-way or any interest therein, or in or to any of the improvements on the land subject to the right-of-way or any interest therein, or in or to any of the improvements on the land subject to the right-of-way, without the prior written consent of the Navajo Nation and the Secretary of the Interior. Any such attempted assignment, conveyance, or transfer without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions, or withheld at the sole discretion of the Navajo Nation. Congress has authorized BOR to transfer Project title under P.L. 111-11 1062 (f). It is anticipated that after Project title is transferred to the Navajo Nation, the Navajo Tribal Utility Authority will operate and maintain the Project. Therefore, the Grantee may assign and transfer the right-of-way to the Navajo Tribal Utility Authority as authorized by federal law without further approval of the Navajo Nation or the Secretary.
12. At the relinquishment of this right-of-way, the Grantee, other than the United States shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. Upon the written request of the Navajo Nation,

the Grantee shall provide the Navajo Nation, at the Grantee's sole cost and expense, with an environmental site assessment of the premises at least sixty (60) days prior to delivery of the said premises. This provision 12 shall not apply to the United States as Grantee.

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

**Permanent ROW - Parcel No. RCH 12.2-01-Tribal Trust (P): Pipeline - Drawing No. 1695-529-60171:**

Parcel No. 12.2-01-Tribal Trust (P) being described as a parcel of land crossing Navajo Nation Tribal Trust land lying in Township 17 North, Range 21 West, Section 35, Lot No. 4, Lot No. 5 and Lot No. 6, N.M.P.M. (BLM Cadastral Survey completed March 3, 1994 by Robert L. Harper, Plat dated February 5, 1997), located in the area of the Tsayatoh Navajo Tribal Chapter, McKinley County, New Mexico. More particularly described as follows:

A strip of land being 60 feet wide, lying 30 feet each side of the following described centerline: Point of beginning being Reach 12.2 station 122282+32.43, which is a point on the South line of said Lot No. 6, from which the East Quarter Corner of said Section 35 bears North 87°13'41" East a distance of 1154.56 feet; thence, from the point of beginning North 54°13'07" West a distance of 864.73 feet to Reach 12.2 station 122290+97.16; thence North 60°35'03" West a distance of 1278.37 feet to Reach 12.2 station 122303+75.53, which is the point that the pipeline terminates, and from which the Northwest corner of said Section 35 bears North 02°49'33" West a distance of 1525.72 feet. Thence, continuing along the same course, North 60°35'03" West, a distance of 100.00 feet to Reach 12.2 station 122304+75.53, which is a point on the West line of said Lot No. 4, from which the Northwest corner of said Section 35 bears North 00°57'18" East a distance of 1467.87 feet. The sidelines of the described strip shall be lengthened or shortened, as necessary, so as to intersect the South line of said Lot No. 6 and the West line of said Lot No. 4. Parcel No. RCH 12.2-01-Tribal Trust (P) contains 3.11 acres more or less.

**Temporary Construction Easement (TCE) - Parcel No. RCH 12.2-02-Tribal Trust (T): Pipeline - Drawing No. 1695-529-60171:** Parcel 12.2-02-Tribal Trust (T) being described as a parcel of land crossing Navajo Nation Tribal Trust Land lying in Township 17 North, Range 21 West, Section 35, Lot No. 4 and Lot No. 5, N.M.P.M. (BLM Cadastral Survey completed March 3, 1994 by Robert L. Harper, Plat dated February 5, 1997), located in the area of the Tsayatoh Navajo Tribal Chapter, McKinley County, New Mexico. More particularly described as follows:

A strip of land being 60 feet wide, lying 30 feet each side from station 122282+32.43 to station 122284+54.60, thence being 100 feet wide, lying 50 feet each side from station 122284+54.60 to station 122304+75.53. Point of beginning being Reach 12.2 station 122282+32.43, which is a point on the South line of said Lot No. 6, from which the East Quarter Corner of said Section 35 bears North 87°13'41" East a distance of 1154.56 feet; thence, from the point of beginning North 54°13'07" West a distance of 864.73 feet to Reach 12.2 station 122290+97.16; thence North 60°35'03" West a distance of 1278.37 feet to Reach 12.2 station 122303+75.53, which is the point that the pipeline terminates, and from which the Northwest corner of said Section 35 bears North 02°49'33" West a distance of 1525.72 feet. Thence, continuing along the same course, North 60°35'03" West, a distance of 100.00 feet to Reach 12.2 station 122304+75.53, which is a point on the West line of said Lot No. 4, from which the Northwest corner of said Section 35 bears North 00°57'18" East a distance of 1467.87 feet. The sidelines of the described strip shall be lengthened or shortened, as necessary, so as to intersect the South line of said Lot No. 6 and the West line of said Lot No. 4. Less Parcel No. RCH 12.2-01-Tribal Trust (P) described above, Parcel No. RCH 12.2-02-Tribal Trust (T) contains 1.87 acres more or less.



**Permanent ROW – Parcel No. RCH 12.2-03-Tribal Trust (P): Pipeline - Drawing No. 1695-529-60170:**

Parcel No. 12.2-03-Tribal Trust (P) being described as a parcel of land crossing Navajo Nation Tribal Trust land lying in the Northeast Quarter of Section 02, Township 16 North, Range 21 West, N.M.P.M., located in the area of the Tsayatoh Navajo Tribal Chapter, McKinley County, New Mexico. More particularly described as follows:

A strip of land being 60 feet wide, lying 30 feet each side of the following described centerline:

Point of beginning being Reach 12.2 station 122208+65.78, which is a point on the South line of the Northeast Quarter of said Section 02, from which the East Quarter Corner of said Section 02 bears South 89°47'50" East a distance of 1620.86 feet; thence, from the point of beginning North 56°11'04" West a distance of 110.52 feet to Reach 12.2 station 122209+76.30, a point on the West property boundary of said parcel, and the point of terminus from which the Northeast corner of said Section 02 bears North 33°43'29" East a distance of 3121.36 feet. The sidelines of the described strip shall be lengthened or shortened, as necessary, so as to intersect the South line of the Northeast Quarter and the West boundary line of said parcel. Parcel No. RCH 12.2-03-Tribal Trust (P) contains 0.15 acres more or less.

**Temporary Construction Easement (TCE) - Parcel No. RCH 12.2-04-Tribal Trust (T): Pipeline - Drawing No. 1695-529-60170:** Parcel 12.2-04-Tribal Trust (T) being described as a parcel of land crossing Navajo Nation Tribal Trust Land lying in the Northeast Quarter of Section 02, Township 16 North, Range 21 West, N.M.P.M., McKinley County, New Mexico. More particularly described as follows:

A strip of land being 100 feet wide, lying 50 feet each side of the centerline described as follows:

A strip of land being 60 feet wide, lying 30 feet each side of the following described centerline:

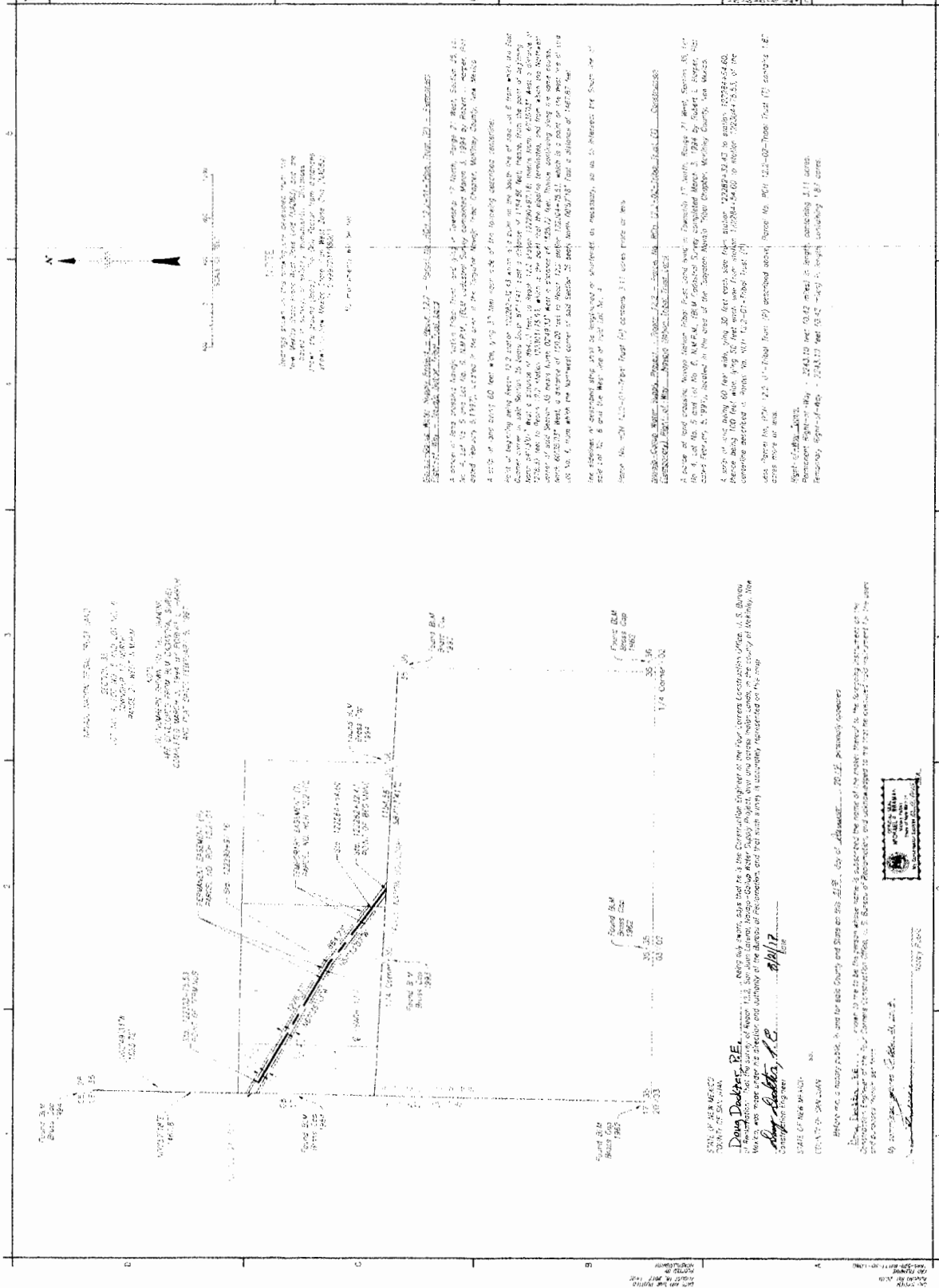
Point of beginning being Reach 12.2 station 122208+65.78, which is a point on the South line of the Northeast Quarter of said Section 02, from which the East Quarter Corner of said Section 02 bears South 89°47'50" East a distance of 1620.86 feet; thence, from the point of beginning North 56°11'04" West a distance of 110.52 feet to Reach 12.2 station 122209+76.30, a point on the West property boundary of said parcel, and the point of terminus from which the Northeast corner of said Section 02 bears North 33°43'29" East a distance of 3121.36 feet. The sidelines of the described strip shall be lengthened or shortened, as necessary, so as to intersect the South line of the Northeast Quarter and the West boundary line of said parcel. Less Parcel No. RCH 12.2-03-Tribal Trust (P) described above, Parcel No. RCH 12.2-04-Tribal Trust (T) contains 0.10 acres more or less.



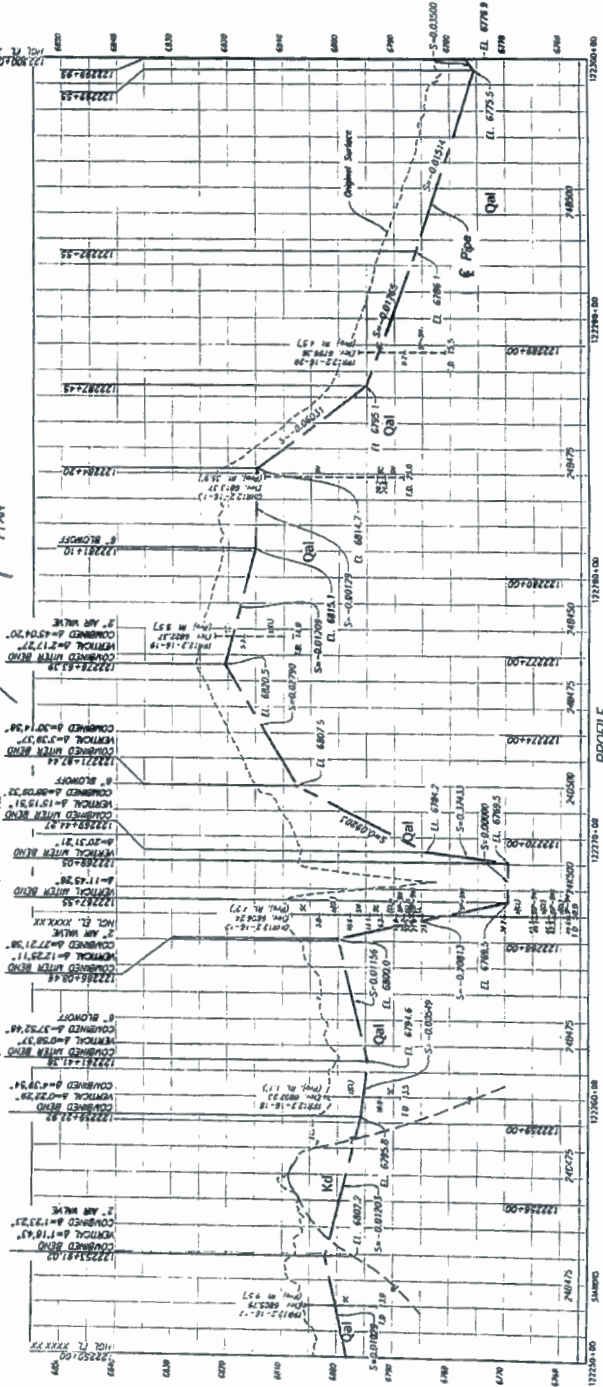
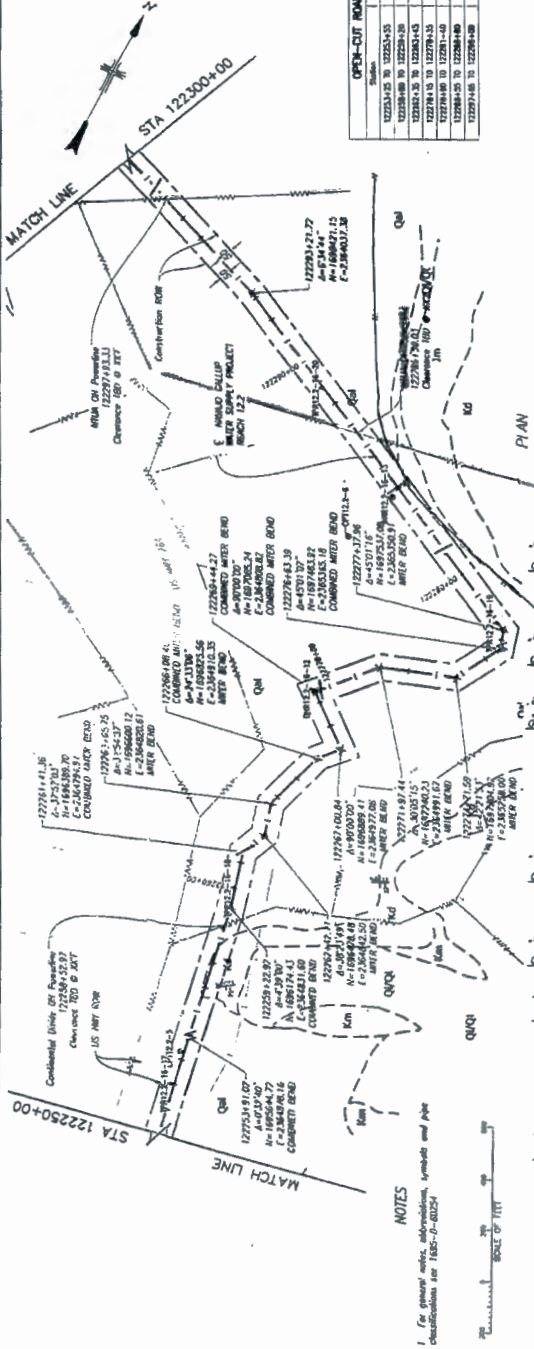
## Navaio Gallup Water Supply Project - Tribal Trust Land - Reach 12.2

Reach Number	Description	County	Township	Range	Section	Quarter Section	From Station	To Station	Length (ft)	Right-of-Way (P)		Length (ft)	Temp. Const. Easment (T)	
										Width (ft)	Acreage		Width (ft)	Acreage
12.2	Pipeline	McKinley	17N	21W	35	Lot No. 4, 5, 6	12228232.43	12229097.16	864.73	60	1.19			
							12229097.16	12230475.53	1378.37	60	1.90			
									2243.10		3.09			
						TCE Same width as ROW	12228232.43	12228454.60				222.17	0	0.00
						100' (TCE) - 60' (ROW) = 40'	12228454.60	12230475.53				2020.93	40	1.86
												2243.10		1.86
12.2	Pipeline	McKinley	16N	21W	2	NE	12220865.78	12220976.30	110.52	60	0.15			
						100' (TCE) - 60' (ROW) = 40'	12220865.78	12220976.30				110.52	40	0.10
						<b>TOTALS:</b>			2,353.62	(P)	3.24		(T)	1.96





OPEN-CUT ROAD CROSSINGS	
Station	Surfacing
122253+125 TO 122253+55	COMPACTED MACSFILL
122258+08 TO 122258+10	COMPACTED MACSFILL
122263+30 TO 122263+45	Paved
122274+10 TO 122274+35	COMPACTED MACSFILL
122278+80 TO 122281+40	COMPACTED MACSFILL
122286+25 TO 122288+00	COMPACTED MACSFILL
122297+46 TO 122298+00	COMPACTED MACSFILL



! For general notes, abbreviations, classifications see IGBS-D-AN254



RECLAMATION  
Engineering Division

ALWAYS THINK SAFETY

SAN JUAN LATERAL - REACH 12.2

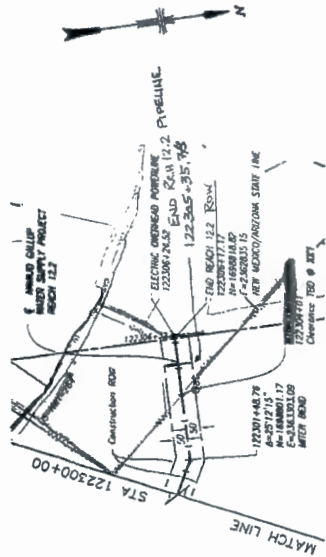
LINE FIVE

PROJECT NO. 1695-D-40260  
SHEET 1 OF 1  
DATE: 10/1/03  
BY: [Signature]  
CHECKED: [Signature]  
APPROVED: [Signature]

STA 122300+00  
TO  
STA 122306+32

PLAN AND PROFILE

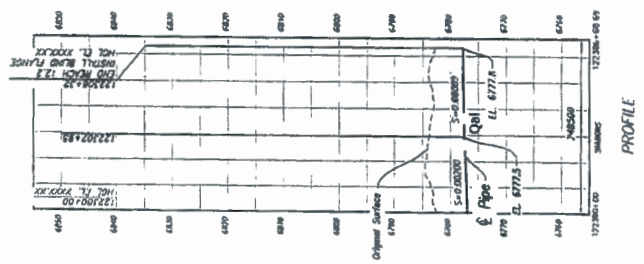
1695-D-40260  
SHEET 1 OF 1



PLAN  
SCALE OF FEET

NOTES

1. For general notes, abbreviations, symbols and pipe classifications see 1695-D-30254



PROFILE

[Search Documents](#) ▶ [Results List](#) ▶ [Survey Details](#)

DM ID: 96420    Survey Type: Original Survey    State: New Mexico

## Survey Plat Details

## Plat Image

## Related Documents

## Survey Office:

Santa Fe, New Mexico

## Surv. Type Other:

---

## Fractional:

Yes

## Acreage:

490.97

## Mining District:

---

## Group Nr:

---

## Min. Surv. Index:

---

## Survey Nr:

---

## Counties:

McKinley

## Field Notes:

---

## Land Descriptions

Map	State-Meridian	Twp - Rng	Boundaries
<input type="checkbox"/>	NM - New Mexico PM	017.0N - 021.0W	E, Subdivisional

## Survey Activities

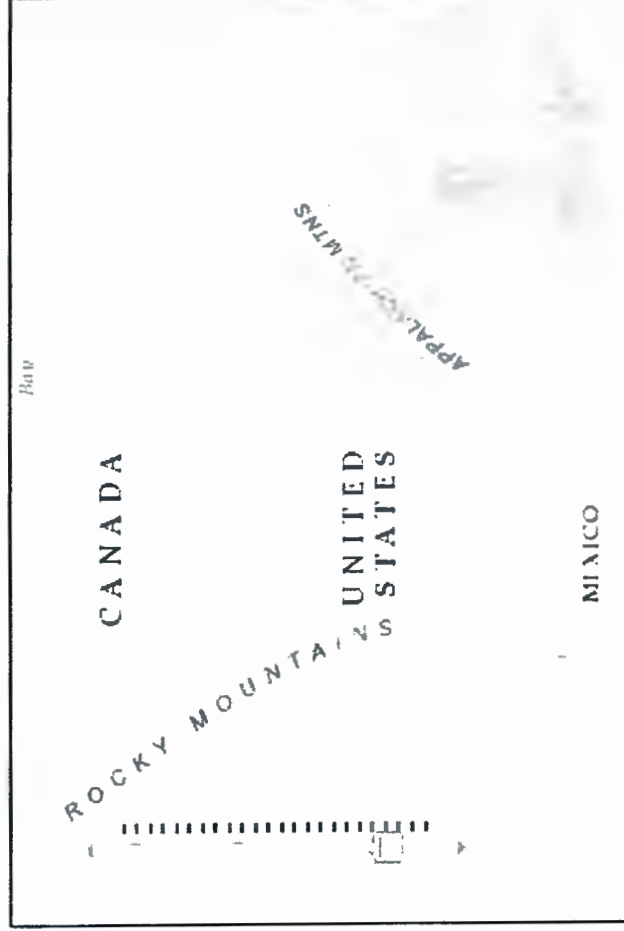
Activity Type	Date	Description
Survey Commenced	1/10/1893	Walter G Marmon (Cadastral Surveyor)
Survey Completed	1/10/1893	Walter G Marmon (Cadastral Surveyor)
Contracts Instr. (NM)	9/21/1893	Contract # 273

## Plat Information: Original

DM ID:	96419
Duplicate Status:	Original
Supplemental:	No
Survey Based Supplemental:	No
Parent Plat:	
Child Plats:	

## Plat Activities

Activity Type	Date	Description
Survey Approved	7/14/1893	Edward F Hobart (Surveyor General)
Survey Accepted	9/28/1894	



Page Township 37.0 17 North 11 Range No. 2 West of the 100 Meridian

[illegible]

Money received by the  
Letter Co. dated 1897

[illegible]

The above <sup>Traces</sup> ~~Map of~~ Township of 17. Dividing Range, N. 21 West of the Principal Meridian in ~~the~~ Texas, is hereby confirmed to the field notes of the survey showing on file in this office, which have been examined and approved.

Misses Townsend's Place.  
Savannah, N. H.  
June 14, 1859

T. 17 N.: R. 21 W. - A

[Search Documents](#) ▶ [Results List](#) ▶ [Survey Details](#)

DM ID: 96428    Survey Type: Original Survey    Survey Title: Navajo Indian Reservation    State: New Mexico

## Survey Plat Details

## Plat Image

## Related Documents

Survey Office: Santa Fe, New Mexico

Surv. Type Other: ---

Fractional: No

Acreage: 5597.57

Mining District: ---

Group Nr: ---

Min. Surv. Index: ---

Survey Nr: ---

Counties: McKinley

Field Notes: [NM Volume Q0270](#), [NM Volume W0381](#)

## Survey Activities

Activity Type	Date	Description
Survey Commenced	3/16/1993	Robert L Harper (Cadastral Surveyor)
Survey Completed	3/3/1994	Robert L Harper (Cadastral Surveyor)

## Plat Information: Original

DM ID: 96427

Duplicate Status: Original

Supplemental: No

Survey Based Supplemental: No

Parent Plat:

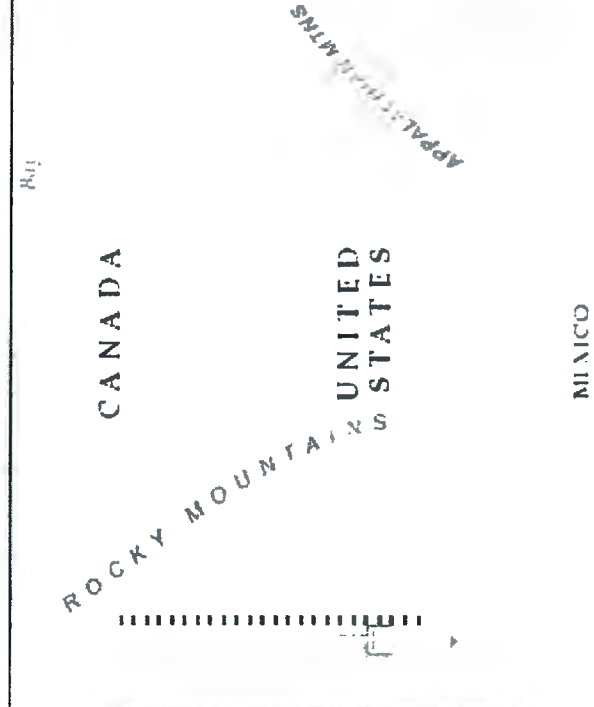
Child Plats: [96430](#)

## Plat Activities

Activity Type	Date	Description
Survey Accepted	2/5/1997	John P Bennett (Chief Cadastral Surveyor)

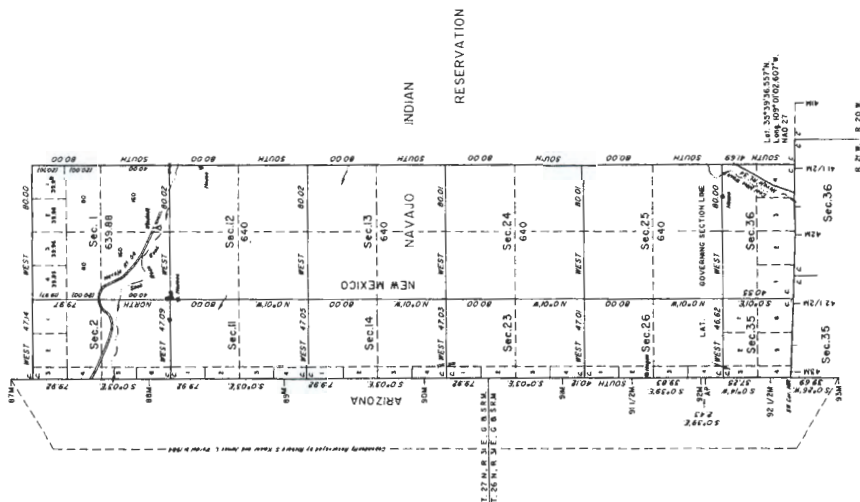
## Land Descriptions

Map	State-Meridian	Twp - Rng	Boundaries
<input type="checkbox"/>	NM - New Mexico PM	017.0N - 021.0W	N, E, Subdivisional





# TOWNSHIP 17 NORTH, RANGE 21 WEST, OF THE NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO



The history of surveys is contained in the field notes.

This plat represents the dependent resurvey of a portion of the south boundary of the Navajo Indian Reservation, designed to restore the corners in their true original locations according to the best available evidence; the survey of the east and north boundaries and latitudinal governing section line made the Navajo Indian Reservation, Township 17 North, Range 21 West, New Mexico Principal Meridian, New Mexico.

This survey was executed by Robert L. Harper and William F. Over, Cadastral and Supervisory Cadastral Surveyors, beginning March 16, 1933, and completed March 3, 1934, pursuant to Special Instruction dated June 15, 1932, for Group No. 871, New Mexico.

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

Santa Fe, New Mexico February 5, 1937  
This plat is strictly conformable to the approved field notes, and the survey, having been correctly executed in accordance with the requirements of law and the regulations of this Bureau, is hereby accepted.

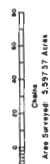
For the Director

*[Signature]*

Chief Cadastral Surveyor For New Mexico



SEE SHEETS 2 AND 3 FOR ENLARGEMENTS  
OF SECTIONS 2, 4, 21, 26, 35 AND 36

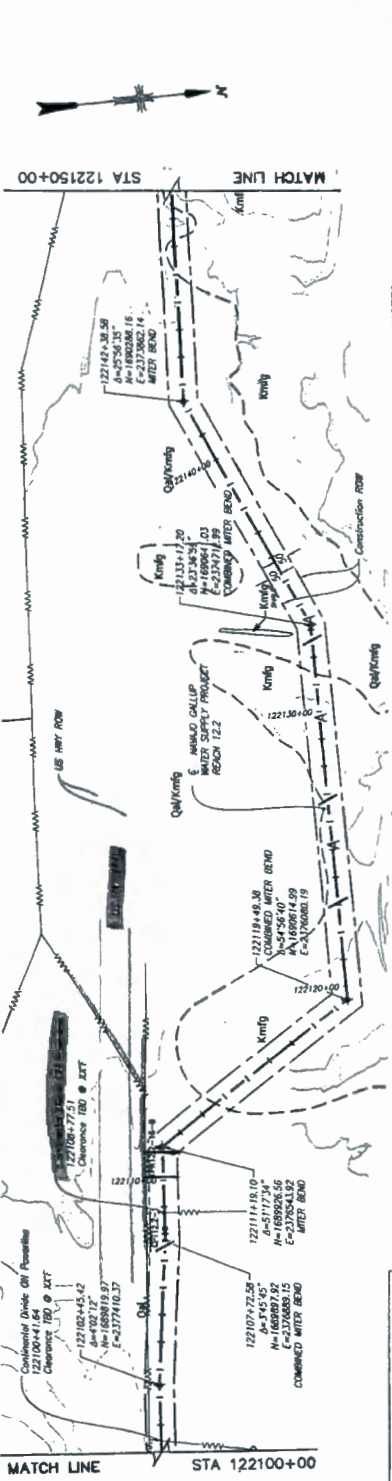


RECLAMATION  
Engineering Office in the Field

ALWAYS THINK SAFETY

SAN JUAN LATERAL - REACH 12.2  
NEW MEXICO  
BUREAU OF RECLAMATION  
NATIONAL CENTER FOR WATER SUPPLY PROJECTS

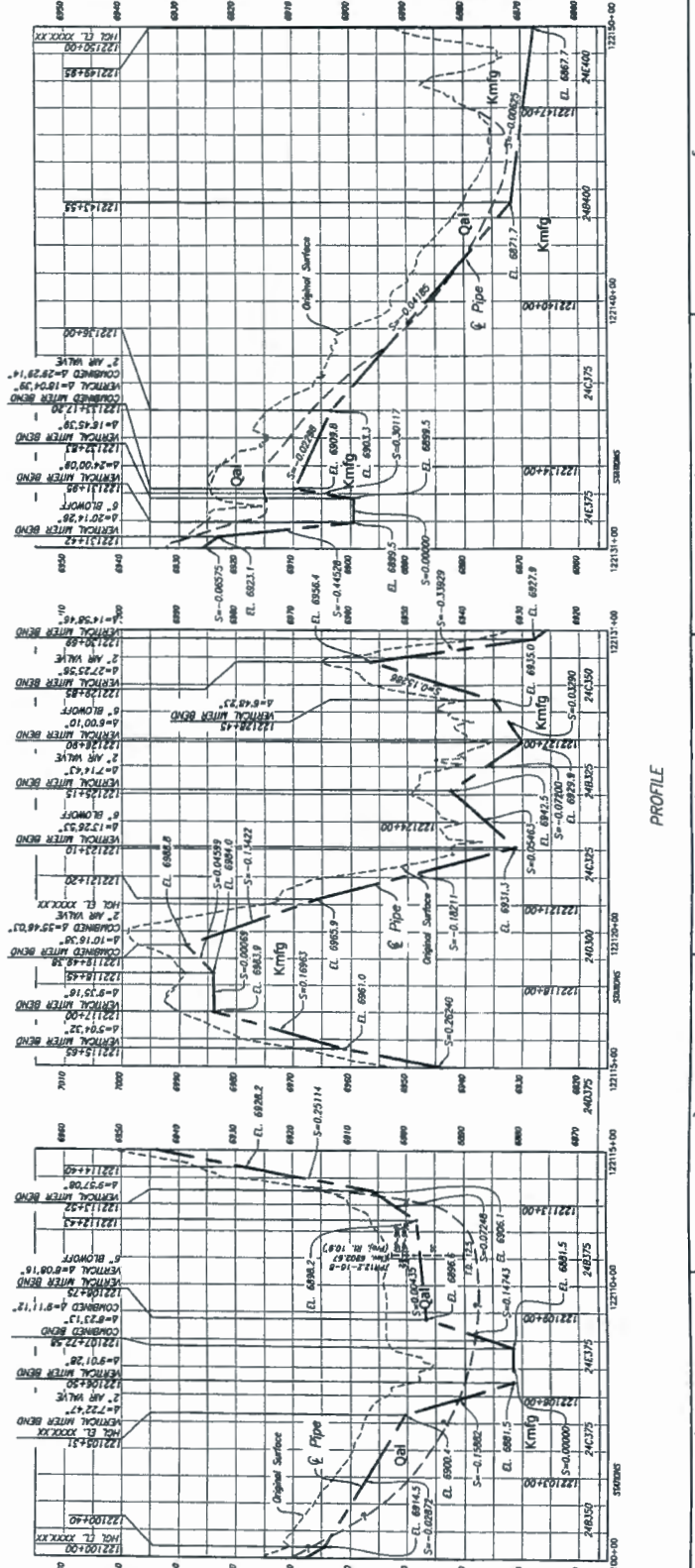
PROJECT NO. 122100-00 TO STA 122100-00  
PLAN AND PROFILE  
1695-D-60256  
SHEET 44



NOTES

1. For general notes, abbreviations, symbols and pipe classifications see 1695-D-60254.

OPEN-CUT ROAD CROSSINGS	
Station	Span
122100+00 TO 122100+00	COMPACTED GRAVEL



## LEGAL DESCRIPTION

A TRACT OF LAND SITUATE PARTLY WITHIN THE NORTHEAST QUARTER SOUTHEAST QUARTER (NE/4SE/4), SOUTH HALF SOUTHEAST QUARTER (S/2SE/4) NORTHWEST QUARTER SOUTHEAST QUARTER (NW/4SE/4) AND SOUTHWEST QUARTER SOUTHEAST QUARTER SOUTHWEST QUARTER (SW/4NE/4) OF SECTION 2, TOWNSHIP 16 NORTH, RANGE 21 WEST, NEW MEXICO COUNTY, IN THE VICINITY OF TSAYO, COUNTY OF MURKIN, NEAR THE MEXICAN-UNITED STATES INTERNATIONAL BORDER, BEING A PORTION OF THE EASTERN NAVAJO RESERVE, IN THE LAND MANAGEMENT DISTRICT 16 OF EASTERN NAVAJO INDIAN COUNTRY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE at the Quarter (1/4) Section Corner common to Section 1, T16N, R21W, N10E, S12E, a found UNITED STATES BUREAU OF LAND MANAGEMENT Cadastral Survey monument brass cap dated 1962, SAID Corner having NAD83(1986) LATITUDE

THENCE run on sold east section line, measured S 00° 15' 32" W, 1,333.94 feet to the Northeast Corner, a found 1/2 inch rebar with PSI 3608 Aluminum Cap, situate on the southerly Highway Right-of-Way (R/W) line of New Mexico Hwy 264, being the TRUE POINT OF BEGINNING of the herein described tract.

THENCE continuously on old east section line, measured S 00° 27' 19" W, 1,302.26 feet to the Southeast Corner, being the Section Corner common to Section 1, Section 2, Section 12 and Section 11, T16N, R21W, NMPA, a found UNITED STATES BUREAU OF LAND MANAGEMENT-1698 MARK STONE, a sandstone 48x18x15 inches, set in a crack in the east edge of sandstone ledge, marks one grove on north face of grove on south face and no other marks visible;

THENCE on south section line of said Section 2, measured N 89° 21' 08" W, 2,845.33 feet to Southwest Corner, being the Quarter (1/4) Section Corner common to Section 2 and Section 11, T8N,R21W, N1/4PM, a found UNITED STATES BUREAU OF LAND MANAGEMENT Codestral Survey monument brass cap dated 1962, SAID Corner having NAD83(1996) LATITUDE 35° 38' 22.24757N and LONGITUDE 109° 01' 56.96367 W;

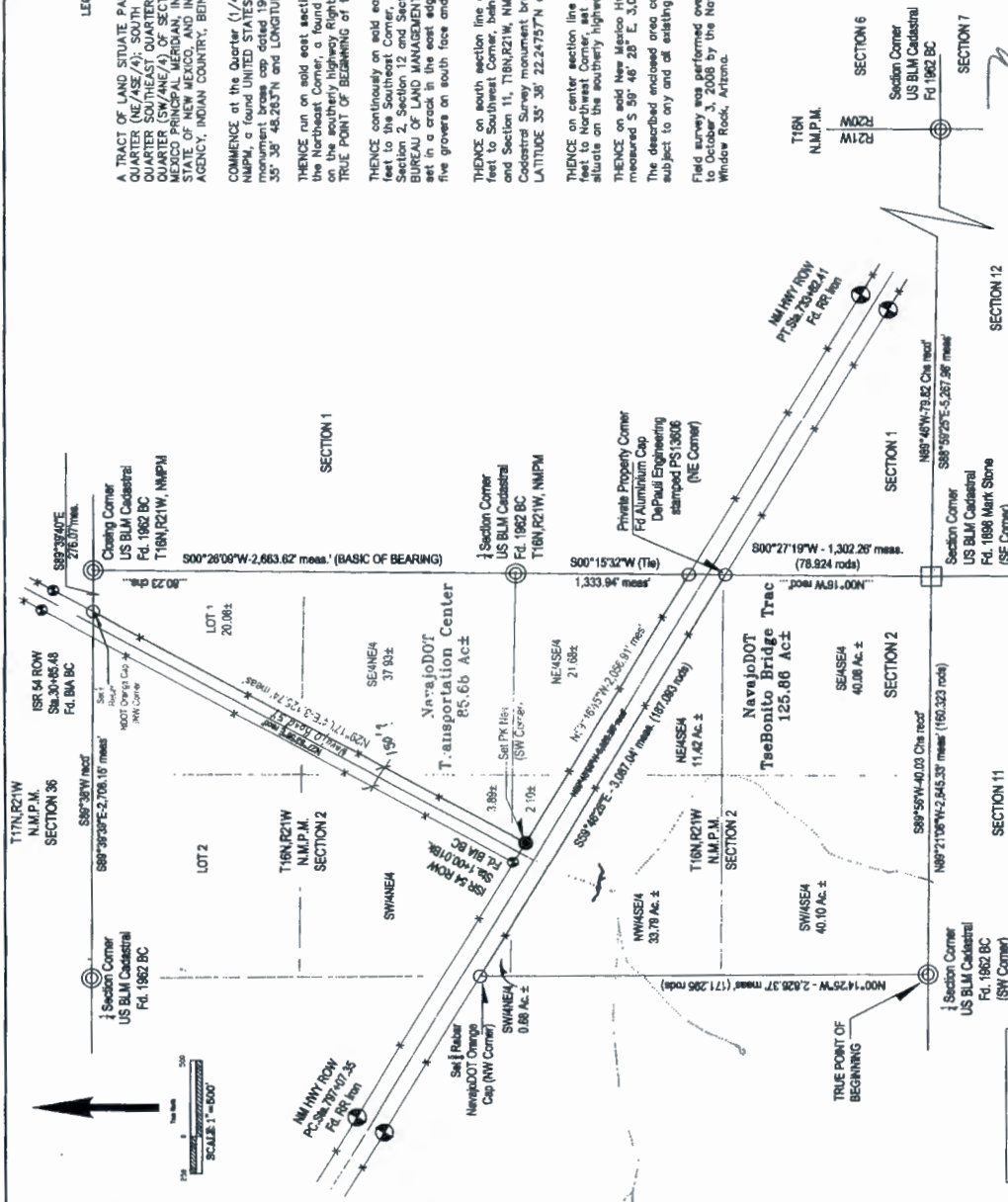
THENCE on center section line of said Section 2, measured N 00° 14' 25" W, 2,826.37 feet to Northwest Corner, set 5/8 inch rebar with NovejDOT orange plastic cap, evaluate on the southerly highway Right-of-Way (R/W) line of New Mexico Hwy 284;

THENCE on said New Mexico Hwy 264 southerly highway Right-of-Way (R/W) line measured S 59° 48' 28" E 3,087.04 feet to the Point of Beginning.

The described enclosed area comprising of 125.86 acres, more or less, and being subject to any and all existing easements for underground utilities located therein.

Field survey was performed over a period of time beginning on August 25, 2008, to October 3, 2008 by the Navajo Division of Transportation, THE NAVAJO NATION, Window Rock, Arizona.

US BLM GC08		TreeBontle Bridge
SWA5E4	39.58 Ac. ±	0.68 Ac. ±
NE4SE4	39.75 Ac. ±	11.21 Ac. ±
SE4SE4	40.08 Ac. ±	40.08 Ac. ±
SW4SE4	40.10 Ac. ±	40.10 Ac. ±
NW4SE4	39.43 Ac. ±	33.79 Ac. ±
Total	199.94 Ac. ±	125.86 Ac. ±



NOTES.

1. All bearings shown hereon are referred to TRUE NORTH and all distances are ground distances. This survey was performed using the Trimble 3760 Global Positioning System (GPS) to the East-line of the Township 21N, Range 12E, Section 2, T16N-R21W, N4MP, per U.S. Department of the Interior, Bureau of Land Management, and the Northeast Quarter of said Section 2, T16N-R21W, N4MP, per U.S. Department of the Interior, Bureau of Land Management, dated July 16, 1964.
2. Average element totals are derived from US BLM Geographic Coordinate Data Base (GDSB) for Section 2, T16N-R21W, N4MP.

DESCRIPTION	NAME	DATE
UNAPPORTED BY	R. H. Sharp	Aug 2008-Dec 2008
APPROVED BY	R. H. Sharp	Jan-13-2010
APPROVED		
AMOUNT PAID	Not Reported	Jan-13-2010



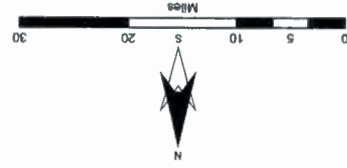
# Navajo Gallup Water Supply Project

## RECLAMATION

Managing Water in the West

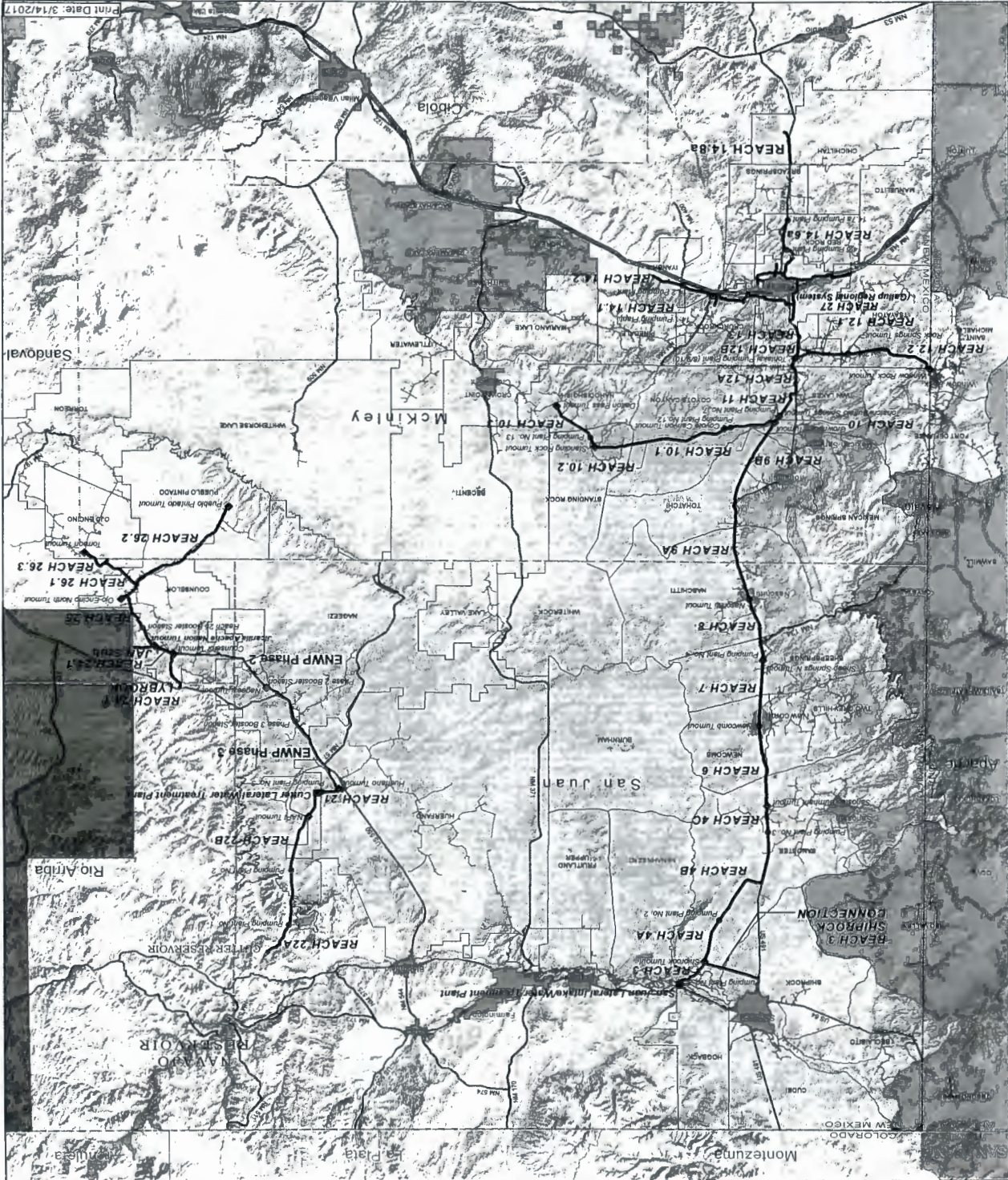


1695-529-537  
Last Update: March 13, 2017



Note: Pumping Plant numbers reflect FEIS designations. Some pumping plants in original FEIS design have been combined and/or eliminated as a result of additional analyses and optimization studies.  
Disclaimer: Not for construction purposes. Alignment may be refined as designs and field reviews are completed.

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







**Navajo-Gallup Water Supply Project RECLAMATION**  
*Managing Water in the West*  
**Reach 12.2 Feasibility Map**  
Date: 6/29/2015

**Legend**

— Reach 12.2 Proposed Pipeline Alignment





# THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT  
JONATHAN NEZ VICE PRESIDENT



## MEMORANDUM

TO : Elerina Yazzie, Department Manager  
General Land Development Department

FROM : *Verna Arviso*  
Verna Arviso, Land Support Agent  
General Land Development Department

DATE : April 20, 2018

SUBJECT : Field Investigation For Bureau of Reclamation - Reach 12.2 ROW Consent

Bureau of Reclamation of 1235 La Plata Highway, Farmington, New Mexico 87401 is requesting to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Tribal Trust Lands located in the vicinity of Tsayatoh, Navajo Chapter, McKinley, New Mexico.

Field investigation on the above project has been completed. I met with Ms. Teri Watchman the affected chapter (Tsayatoh Chapter) District 16 Land Board to identify the affected land users. After review of her records she indicated there are two Grazing Permit Holder (Deanna Skeets and Bernice Lee). They have no objections and gave their written consent.

Attached hereto are the copies of the affected land user consent. If you have any questions, I can be contacted at (928) 871-6460.

### Attachments:

cc: Office File  
BOR Navajo Gallup Water Supply Project

## 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 Tribe. Use back if necessary to complete this form.)

1.) Project Identification:

Applicant: Bureau of Reclamation  
Type of Project: Water Supply, Treatment Plants, Pipelines & Pumping Stations  
Purpose: Temporary Construction Easement for Row of Ways  
Location: Vicinity of Tsayatoh, Navajo Chapter, McKinley, New Mexico  
Identification Number (s): Project #8712

2.) Amount of land affected: 125.86 Acres

3.) Land Status: Trust X Fee \_\_\_\_\_ Other \_\_\_\_\_

4.) List names of all individuals whose land use rights will be affected by project:

	<u>Names</u>	<u>Census Number</u>	<u>Permit Number</u>
1.	<u>Deanna Skeets</u>	<u>          </u>	<u>076-0157</u>
2.	<u>Bernice Lee</u>	<u>          </u>	<u>          </u>
3.	<u>          </u>	<u>          </u>	<u>          </u>

5.) Are all "land users with claims to be affected lands as shown in Branch of Land Operations records included in the list in item 4? Yes

6.) Have the Grazing committee or Land Board Member (whichever is appropriate) for the affected areas confirmed the land user list in Item 4? Yes

## ACKNOWLEDGEMENT

I acknowledge that due notice was given to the affected community of the proposed project, and according to my records that to the best of my knowledge, the list of individuals in item 4 includes all land users who have land use rights in the affected lands.

4-20-18  
Date

Verna Amind  
Field Agent Signature

**CONSENT FORM #1**  
(No expected damages)

**CONSENT TO USE  
NAVAJO TRIBAL LANDS**

**TO WHOM IT MAY CONCERN**

I Bernice Lee hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my land use area for the following purpose to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Tribal Trust Lands located in the area of Tsayatoh Navajo Chapter, New Mexico.

as shown on the map showing the location of the proposed project on the back of this consent form.

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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4/20/18 Bernice Lee \_\_\_\_\_  
Date Land User Signature or (Thumbprint) Census No. Permit No.

WITNESS:  
Vina Amro

4/20/18 [Signature] 16  
Date Grazing Committee or Land Board Member District No.

**Acknowledgement of Field Agent**

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

Vina Amro  
Field Agent Signature

**CONSENT FORM #1**  
(No expected damages)

**CONSENT TO USE  
NAVAJO NATION LANDS**

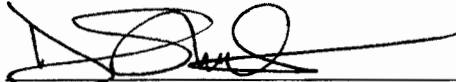
**TO WHOM IT MAY CONCERN:**

I, Deanna Skeets, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona to permit: Bureau of Reclamation of 1235 La Plata Highway, Farmington, NM 87401 to use a portion of my land use area for the following purpose(s): to grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Tribal Trust lands located in the area of Tsayatoh Navajo Chapter, New Mexico as shown on the map showing the location of the proposed project on the back of this consent form.

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:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_


3-21-18  
Date

  
Land User Signature or Thumbprint

Census No. 076-0157  
Permit No.

**Witness:**  \_\_\_\_\_

3/22/18  
Date

  
Grazing Official or Land Board Member

116  
District No.

**ACKNOWLEDGEMENT OF FIELD AGENT**

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

  
Field Agent Signature





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

**APPLICATION FOR CONSENT TO A GRANT OF EASEMENT FOR RIGHT-OF-WAY**

(Tribal Trust Lands – NGWSP Reach 12.2)

1. **Applicant Name and Address:** The Bureau of Reclamation, Four Corners Construction Office, having a principle place of business at 1235 La Plata Highway, Farmington, New Mexico, 87401. Hereby petition(s) the Navajo Nation, and respectfully files under the terms and provisions of the Act of February 5, 1948 (62 Stat. 17; 25 USC 323-328), and Bureau of Indian Affairs (BIA) Departmental Regulations 25 C.F.R., Ch. 1, Subchapter H, Part 169, Subpart C § 169.102(a), as applicable, a request for consent to a grant of Permanent Easement for Right-of-Way (ROW) over, under, across and through Navajo Nation Tribal Trust Lands located in the area of Tsayatoh Navajo Chapter, McKinley County, New Mexico.
2. **Tract(s) or parcel(s) affected by the right-of-way:**  
  
**Landowner Name:** Navajo Nation
  - a. **Parcel No. RCH 12.2-01-Tribal Trust (P)**, a Permanent Easement for Right-of-Way, located in Township 17 North, Range 21 West, Section 35, Lot No. 4, Lot No. 5 and Lot No. 6, N.M.P.M., McKinley County, New Mexico.
  - b. **Parcel No. RCH 12.2-03-Tribal Trust (P)**, a Permanent Easement for Right-of-Way, located in Township 16 North, Range 21 West, Section 02, the Northeast Quarter, N.M.P.M., McKinley County, New Mexico.
3. **General Location:**
  - a. **Parcel No. RCH 12.2-01-Tribal Trust (P)**, a Permanent Easement for ROW, being described as a strip of land crossing Navajo Nation Tribal Trust land, lying in Township 17 North, Range 21 West, Section 35, Lot No. 4, Lot No. 5, and Lot No. 6, N.M.P.M. (BLM Cadastral Survey completed March 3, 1994 by Robert L. Harper, Plat dated February 5, 1997), located in the area of the Tsayatoh Navajo Tribal Chapter, McKinley County, New Mexico. The pipeline alignment, is illustrated on the attached Reach 12.2 Feasibility Map dated 06-29-15. Plats of the original BLM Cadastral Survey, dated 01-10-1893, and the re-survey of Section 35, dated 03-03-1994, are attached for visual reference. Also attached is an aerial map of the general location.
  - b. **Parcel No. RCH 12.2-03-Tribal Trust (P)**, a Permanent Easement for ROW, being described as a strip of land crossing Navajo Nation Tribal Trust Land lying in Township 16 North, Range 21 West, Section 02, the Northeast Quarter, N.M.P.M., located in the area of the Tsayatoh Navajo Tribal Chapter, McKinley County, New Mexico. The pipeline alignment is illustrated on the attached Reach 12.2 Feasibility Map dated 06-29-15.
4. **Purpose:** The Omnibus Public Land Management Act of 2009, Title X, Part III (Public Law 111-11) (Act) authorizes the Bureau of Reclamation to construct the Navajo-Gallup Water Supply Project (NGWSP) that includes water treatment plants, pipeline, several pumping stations and ancillary facilities. Once completed, the NGWSP will deliver a reliable source of potable water, sourced from the San Juan River, to Navajo communities in northwestern New Mexico, the City of Gallup, NM, and the southwest portion of the Jicarilla Apache Reservation for municipal and industrial use. The

NGWSP will connect to existing and future water distribution systems operated on the reservation by the Navajo Tribal Utility Authority (NTUA), and in Gallup, by the City of Gallup. The high quality treated water provided by the NGWSP will bring immediate benefits, including improved health and wellbeing to Tribal members.

5. **ROW:** The Permanent Easement for ROW will be used for the construction, operation, maintenance and/or replacement of a 24 inch I.D. or smaller, water transmission pipeline and ancillary features and appurtenances thereto, that are necessary for the safe and efficient operation of the pipeline. Ancillary appurtenances may include but are not limited to vaults, valves, fiber optic supervisory control and data acquisition systems (SCADA), cathodic protection systems, single phase utility power to support the operation of the pipeline infrastructure, and a patrol road.

6. **ROW Description:**

- a. **Parcel No. RCH 12.2-01-Tribal Trust (P), Pipeline ROW Drawing No. 1695-529-60171:** a Permanent Easement for Right-of-Way (ROW), is described as a strip of land crossing Navajo Nation Tribal Trust land lying in Township 17 North, Range 21 West, Section 35, Lot No. 4, Lot No. 5, and Lot No. 6, N.M.P.M., being approximately 2243.10 feet (0.42 mile) in length and 60 feet in width, lying 30 feet each side of the pipeline centerline, from Station 122282+32.43 to Station 122303+75.53, the pipeline point of terminus; thence, continuing along the same course a distance of 100.00 feet to Station 122304+75.53, a point on the West line of said Lot 4, and the ROW point of terminus, as illustrated on ROW Drawing No. 1695-529-60171, and Plan and Profile Drawing No.'s 1695-D-60259 and 1695-D-60260, (Sheet No. 6 and 7 of 7), (E.S. 122250+00 to E.S. 122306+32). ROW Drawing No. 1695-529-60171, attached hereto, and by reference made a part hereof, illustrates the Reach 12.2 ROW as it will cross the subject parcel.

Parcel No. RCH 12.2-01-Tribal Trust (P) is approximately 2243.10 feet (0.42 miles) in length, and contains 3.11 acres more or less.

**Legal Description:** Parcel No. RCH 12.2-01-Tribal Trust (P) is described as follows: Point of beginning being Reach 12.2 station 122282+32.43, which is a point on the South line of said Lot 6, from which the East Quarter corner of said Section 35 bears South 87°13'41" East a distance of 1154.56 feet; thence, from the point of beginning North 54°13'07" West a distance of 864.73 feet to Reach 12.2 station 122290+97.16; thence North 60°35'03" West a distance of 1278.37 feet to Reach 12.2 station 122303+75.53; which is the point that the pipeline terminates, and from which the Northwest corner of said Section 35 bears North 02°49'33" West a distance of 1525.72 feet. Thence, continuing along the same course, North 60°35'03" West, a distance of 100.00 feet to Reach 12.2 station 122304+75.53, which is a point on the West line of said Lot No. 4, from which the Northwest corner of said Section 35 bears North 00°57'18" East a distance of 1467.87 feet. The sidelines of the described strip shall be lengthened or shortened, as necessary, so as to intersect the South line of said Lot No. 5 and the West line of said Lot No. 4.

**The total Permanent Easement for ROW requested for Parcel No. RCH 12.2-01-Tribal Trust (P) of Reach 12.2 of the NGWSP is approximately 2243.10 feet in length (0.42 mile) and will contain 3.11 acres more or less.**

- b. **Parcel No. RCH 12.2-03-Tribal Trust (P), Pipeline - ROW Drawing No. 1695-529-60170,** a Permanent Easement for Right-of-Way (ROW), is described as a parcel of land crossing Navajo Nation Tribal Trust land lying in Township 16 North, Range 21 West, Section 02, the Northeast Quarter, N.M.P.M.,

being approximately 110.52 feet (0.021 mile) in length, and 60 feet in width, lying 30 feet each side of the pipeline centerline, from Station 122208+65.78 to Station 122209+76.30, as illustrated on ROW Drawing No. 1695-529-60170 and Plan and Profile Drawing No. 1695-D-60258 (Sheet No. 5 of 7) (E.S. 122200+00 to E.S. 122250+00). ROW Drawing No. 1695-529-60170, attached hereto and by reference made a part hereof, illustrates the Reach 12.2 ROW as it will cross the subject parcel.

Parcel No. RCH 12.2-03-Tribal Trust (P) is approximately 110.52 feet (0.021 mile) in length, and contains 0.15 acres more or less.

**Legal Description:** Parcel No. RCH 12.2-03-Tribal Trust (P) is described as follows: Point of beginning being Reach 12.2 station 122208+65.78, which is a point on the South line of the Northeast Quarter of said Section 02, from which the East Quarter corner of said Section 02 bears South 89°47'50" East a distance of 1620.86 feet; thence from the point of beginning North 56°11'04" West a distance of 110.52 feet to Reach 12.2 station 122209+76.30, a point on the West property boundary of said parcel, and the point of terminus from which the Northeast Corner of said Section 02 bears North 33°43'29" East a distance of 3121.36 feet. The sidelines of the described strip shall be lengthened or shortened, as necessary, so as to intersect the South line of the Northeast Quarter and the West boundary line of said property.

**The total Permanent Easement for ROW requested for Parcel No. RCH 12.2-03-Tribal Trust (P) of Reach 12.2 of the NGWSP is approximately 110.52 feet in length (0.021 mile) and will contain 0.15 acre more or less.**

7. **Term:** Reclamation requests a grant of Permanent Easement for Right-of-Way (ROW) without limitation in term, and for as long as the easement is used for the intended purpose.
8. **Ownership of Permanent Improvements:** Reach 12.2 of the NGWSP across Navajo Nation Tribal Trust land, will consist of a 24 inch or less I.D. water transmission pipeline with ancillary features and appurtenances, constructed and owned by the Bureau of Reclamation. It is Reclamation's intent to transfer the operation, maintenance, and replacement (OM&R) responsibility of the Project to the NTUA. It is envisioned that Reclamation would retain title to the facilities for the foreseeable future, however, the Act does provide authority for eventual title transfer to the Navajo Nation.
9. **Construction Schedule:**  
Obtain ROW: October 9, 2018  
Obtain Bids and Establish Contracts: January 29, 2018  
Award Contract: March 19, 2018  
Notice to Proceed Issue: October 9, 2018  
Begin Construction: October 9, 2018  
Construction 50% Completed by: May, 2019  
Construction Complete: December 30, 2019

**Required Supporting Documents - §169.102(b)**

1. ROW/Legal Description: Parcel No. RCH 12.2-01(P) and 02(T)-Tribal Trust  
ROW/Legal Description: Parcel No. RCH 12.2-03(P) and 04(T)-Tribal Trust
2. ROW Drawing No. 1695-529-60171 - Parcel No. RCH 12.2-01(P) and 02(T)-Tribal Trust  
Plan and Profile Drawing No. 1695-D-60259 and 1695-D-60260  
Plat and Cadastral Survey Documentation - BLM Original Survey - 01-10-1893

Plat and Cadastral Survey Documentation - BLM Re-Survey - 03-03-1994  
ROW Drawing No. 1695-529-60170 - Parcel No. RCH 12.2-03(P) and 04(T)-Tribal Trust  
Plan and Profile Drawing No. 1695-D-60256  
Survey - Rch 12.2 - Navajo DOT Transportation Center  
NGWSP Project Map - Drawing No. 1695-529-537 - Dated 03-13-17  
Reach 12.2 Feasibility Map - Dated 06-29-15  
Plan and Profile Drawings No. 1695-D-60254 thru 1695-D-60260 (CD)

3. Waiver of Bond Requirement - 25 CFR § 169.103 - Dated 12-20-16  
Letter – Navajo Nation Support Waiver of 25 CFR § 169.103 - Dated 09-09-16
4. Title Status Report – Memo Verifying Land Status – Dated 06-15-17  
Permission to Survey - Granted 03-01-10  
Navajo Nation Executive Order No. 07-2017 in Support of the NGWSP  
Tsayatoh Chapter Resolution – TSA-03-04-2013 – Construct NGWSP
5. Valuation:  
Memo - BIA Waiver for Appraisal and Compensation - 25 CFR Part 169.12 - Dated 06-29-07  
Table - Summary of ROW and TCE - Reach 12.2 - Navajo Minerals  
Workbook - Tribal Lands - ROW and TCE Length, width and Acreage - Rch 12.2 Tribal Trust (CD)
6. Organizational Documents: Not Applicable, Applicant is United States DOI - BOR.
7. Biological, Cultural Resource and Environmental Documentation:  
BRCF - NNDFW Review No. 13NC-08 - Approved 08-15-2014  
Class III Cultural Inventory Report - Dated 04-29-14 (CD)  
Class III Cultural Resources Inventory – NNHPD-15-116 and Letter of Concurrence of Eligibility  
Determination - Signed 02-04-14 and 02-19-2015 - Letter Dated 12-30-14  
Phase I Environmental Site Assessment - Dated 05-30-14 (CD)  
Phase I Environmental Site Assessment for Reach 12.2 - Dated November 2016 (CD)  
Memo - BIA - Acceptable NEPA and NHPA Sufficiency Documentation - Cultural Resources - Dated  
10-29-2015  
Final NEPA Sufficiency Report - Concurrence Received 10-09-14 - Dated August 2014 (CD)  
Final Environmental Impact Statement and Record of Decision can be viewed at:  
<http://www.usbr.gov/uc/envdocs/eis/navgallup/FEIS/index.html>

**THE APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:**

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

**Applicant Point of Contact Information:**

Name: Michael (Mike) Braman  
Address: 1235 La Plata Highway  
Farmington, New Mexico, 87401  
Phone: 505-324-5024  
E-mail: [mbraman@usbr.gov](mailto:mbraman@usbr.gov)

Date: August 30, 2017

Applicant Signature: [Signature]

Print Name: Brian Longson



# *Bureau of Reclamation*

## **Navajo Gallup Water Supply Project Tribal Trust Land Reach 12.2**

### **TABLE OF CONTENTS**

- 1. Application for Grant of Easement for Right-of-Way**
- 2. Application for Grant of Temporary Construction Easement**
- 3. ROW/Legal Description: Parcel No. RCH 12.2-01(P) and 02(T)-Tribal Trust  
ROW/Legal Description: Parcel No. RCH 12.2-03(P) and 04(T)-Tribal Trust**
- 4. ROW Drawing No. 1695-529-60171 - Parcel No. Reach 12.2-01(P) and 02(T)-Tribal Trust  
Plan and Profile Drawing No. 1695-D-60259 and 1695-D-60260  
Plat and Cadastral Survey Documentation – BLM Original Survey – 01-10-1893  
Plat and Cadastral Survey Documentation – BLM Re-Survey – 03-03-1994  
ROW Drawing No. 1695-529-60170 – Parcel No. RCH 12.2-03(P) and 04 (T)-Tribal Trust  
Plan and Profile Drawing No. 1695-D-60256  
Survey-Rch 12.2 – Navajo DOT Transportation Center  
NGWSP Project Map – Drawing no. 1695-529-537 – Dated 03-13-17  
Reach 12.2 Feasibility Map – Dated 06-29-15**
- 5. Waiver of Bond Requirements – 25 CFR § 169.103 – Dated 12-20-16  
Letter – Navajo Nation Support Waiver of 25 CFR § 169.103 – Dated 09-09-16**
- 6. Title Status Report – Memo Verifying Land Status – Dated 06-15-17  
Permission to Survey – Granted 03-01-10  
Navajo Nation Executive Order No. 07-2017 in support of the NGWSP  
Tsayatoh Chapter Resolution – TSA-03-04-2013 – Construction NGWSP**
- 7. Valuation:  
Memo – BIA Waiver of Appraisal and Compensation – 25 CFR Part 169.12 – Dated 06-29-07  
Table – Summary of ROW and TCE – Reach 12.2 – Navajo Minerals**
- 8. Biological, Cultural Resources and Environmental Documentation:  
BRCF – NNDFW Review No. 13NC-08 – Approved 08-15-2014  
Class III Cultural Resources Inventory – NNHPD – 15-116 and Letter of Concurrence of  
Eligibility Determination – Signed 02-04-14 and 02-19-2015 – Letter Dated 12-30-14  
Memo – BIA – Acceptable NEPA and NHPA Sufficiency Documentation – Cultural Resources –  
Dated 10-29-2015**



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

**APPLICATION FOR CONSENT TO A GRANT OF TEMPORARY CONSTRUCTION EASEMENT**

(Tribal Trust Lands – NGWSP Reach 12.2)

1. **Applicant Name and Address:** The Bureau of Reclamation, Four Corners Construction Office, having a principle place of business at 1235 La Plata Highway, Farmington, New Mexico, 87401. Hereby petition(s) the Navajo Nation, and respectfully files under the terms and provisions of the Act of February 5, 1948 (62 Stat. 17; 25 USC 323-328), and Bureau of Indian Affairs (BIA) Departmental Regulations 25 C.F.R., Ch. 1, Subchapter H, Part 169, Subpart C § 169.102(a), as applicable, a request for consent to a grant of Temporary Construction Easement (TCE) over, under, across and through Navajo Tribal Trust Lands located in the area of Tsayatoh Navajo Tribal Chapter, McKinley County, New Mexico.
2. **Tract(s) or parcel(s) affected by the right-of-way:**  
**Landowner Name:** Navajo Nation
  - a. **Parcel No. RCH 12.2-02-Tribal Trust (T)**, a Temporary Construction Easement, located in Township 17 North, Range 21 West, Section 35, Lot No. 4, Lot No. 5 and Lot No. 6, N.M.P.M., McKinley County, New Mexico.
  - b. **Parcel No. RCH 12.2-04-Tribal Trust (T)**, a Temporary Construction Easement, located in Township 16 North, Range 21 West, Section 02, the Northeast Quarter, N.M.P.M., McKinley County, New Mexico.
3. **General Location:**
  - a. **Parcel No. RCH 12.2-02-Tribal Trust (T)**, a Temporary Construction Easement, being described as a strip of land crossing Navajo Nation Tribal Trust land, lying in Township 17 North, Range 21 West, Section 35, Lot No. 4, Lot No. 5, and Lot No. 6, N.M.P.M. (BLM Cadastral Survey completed March 3, 1994 by Robert L. Harper, Plat dated February 5, 1997), located in the area of the Tsayatoh Navajo Tribal Chapter, McKinley County, New Mexico. The pipeline alignment, is illustrated on the attached Reach 12.2 Feasibility Map dated 06-29-15. Plats of the original BLM Cadastral Survey, dated 01-10-1893, and the re-survey of Section 35, dated 03-03-1994, are attached for visual reference. Also attached is an aerial map of the general location.
  - b. **Parcel No. RCH 12.2-04-Tribal Trust (T)**, a Temporary Construction Easement, being described as a strip of land crossing Navajo Nation Tribal Trust Land lying in Township 16 North, Range 21 West, Section 02, the Northeast Quarter, N.M.P.M., located in the area of the Tsayatoh Navajo Tribal Chapter, McKinley County, New Mexico. The pipeline alignment is illustrated on the attached Reach 12.2 Feasibility Map dated 06-29-15.
4. **Purpose:** The Omnibus Public Land Management Act of 2009, Title X, Part III (Public Law 111-11) (Act) authorizes the Bureau of Reclamation to construct the Navajo-Gallup Water Supply Project (NGWSP) that includes water treatment plants, pipeline, several pumping stations and ancillary facilities. Once completed, the NGWSP will deliver a reliable source of potable water, sourced from the San Juan River, to Navajo communities in northwestern New Mexico, the City of Gallup, NM, and the southwest portion of the Jicarilla Apache Reservation for municipal and industrial use. The NGWSP will connect to existing and future water distribution systems operated on the reservation

by the Navajo Tribal Utility Authority (NTUA), and in Gallup, by the City of Gallup. The high quality treated water provided by the NGWSP will bring immediate benefits, including improved health and wellbeing to Tribal members.

5. **TCE:** The Temporary Construction Easement will supplement the Easement for Right-of-Way (ROW) and provide additional working space that will be used for the construction of a 24 inch I.D. or smaller, water transmission pipeline and ancillary features and appurtenances thereto, that are necessary for the safe and efficient operation of the pipeline, over, under, across, and through Navajo Nation Tribal Trust lands that will be crossed by a portion of Reach 12.2 of the San Juan Lateral, a part of the NGWSP, in the area of the Tsayatoh Navajo Tribal Chapter, located in McKinley County, New Mexico. No structure will be constructed inside the TCE, and all construction related activities will be confined to the TCE boundary.

6. **TCE Description:**

- a. **Parcel No. RCH 12.2-02-Tribal Trust (T), Pipeline ROW Drawing No. 1695-529-60171:** a Temporary Construction Easement (TCE), is described as a strip of land crossing Navajo Nation Tribal Trust land lying in Township 17 North, Range 21 West, Section 35, Lot No. 4, Lot No. 5, and Lot No. 6, N.M.P.M., being approximately 2,243.10 feet (0.42 mile) in length and 60 feet in width, containing lying 30 feet each side of the pipeline centerline from station 122282+32.43 to station 122284+54.60; thence being 100 feet wide, lying 50 feet each side from Station 122284+54.60 to Station 122303+75.53; thence, continuing along the same course a distance of 100.00 feet to Station 122304+75.53, a point on the West line of said Lot 4 and the point of terminus, as illustrated on ROW Drawing No. 1695-529-60171, and Plan and Profile Drawing No.'s 1695-D-60259 and 1695-D-60260, (Sheet No. 6 and 7 of 7), (E.S. 122250+00 to E.S. 122306+32). ROW Drawing No. 1695-529-60171, attached hereto, and by reference made a part hereof, illustrates the Reach 12.2 ROW as it will cross the subject parcel.

Less Parcel No. RCH 12.2-01(P) which contains 3.11 acres, Parcel No. RCH 12.2-02-Tribal Trust (T) contains 1.87 acres more or less.

**Legal Description:** Parcel No. RCH 12.2-02-Tribal Trust (T) is described as follows: Point of beginning being Reach 12.2 station 122282+32.43, which is a point on the South line of said Lot 6, from which the East Quarter corner of said Section 35 bears South 87°13'41" East a distance of 1154.56 feet; thence, from the point of beginning North 54°13'07" West a distance of 864.73 feet to Reach 12.2 station 122290+97.16; thence North 60°35'03" West a distance of 1278.37 feet to Reach 12.2 station 122303+75.53; which is the point that the pipeline terminates, and from which the Northwest corner of said Section 35 bears North 02°49'33" West a distance of 1525.72 feet. Thence, continuing along the same course, North 60°35'03" West, a distance of 100.00 feet to Reach 12.2 station 122304+75.53, which is a point on the West line of said Lot No. 4, from which the Northwest corner of said Section 35 bears North 00°57'18" East a distance of 1467.87 feet. The sidelines of the described strip shall be lengthened or shortened, as necessary, so as to intersect the South line of said Lot No. 5 and the West line of said Lot No. 4.

**The total Temporary Construction Easement requested for Parcel No. RCH 12.2-02-Tribal Trust (T) of Reach 12.2 of the NGWSP is approximately 2243.10 feet in length (0.42 mile) and will contain 1.87 acres more or less.**



- b. **Parcel No. RCH 12.2-04-Tribal Trust (T), Pipeline - ROW Drawing No. 1695-529-60170**, a Temporary Construction Easement (TCE), is described as a parcel of land crossing Navajo Nation Tribal Trust land lying in Township 16 North, Range 21 West, Section 02, the Northeast Quarter, N.M.P.M., being approximately 110.52 feet (0.021 mile) in length, and 100 feet in width, lying 50 feet each side of the pipeline centerline, from Station 122208+65.78 to Station 122209+76.30, as illustrated on ROW Drawing No. 1695-529-60170 and Plan and Profile Drawing No. 1695-D-60258 (Sheet No. 5 of 7) (E.S. 122200+00 to E.S. 122250+00). ROW Drawing No. 1695-529-60170, attached hereto and by reference made a part hereof, illustrates the Reach 12.2 ROW as it will cross the subject parcel.

Less Parcel No. RCH 12.2-03-Tribal Trust (P) which contains 0.15 acres, Parcel No. RCH 12.2-04-Tribal Trust (T) contains 0.10 acres more or less.

**Legal Description:** Parcel No. Rch 12.2-04-Tribal Trust (T) is described as follows: Point of beginning being Reach 12.2 station 122208+65.78, which is a point on the South line of the Northeast Quarter of said Section 02, from which the East Quarter corner of said Section 02 bears South 89°47'50" East a distance of 1620.86 feet; thence from the point of beginning North 56°11'04" West a distance of 110.52 feet to Reach 12.2 station 122209+76.30, a point on the West property boundary of said parcel, and the point of terminus from which the Northeast Corner of said Section 02 bears North 33°43'29" East a distance of 3121.36 feet. The sidelines of the described strip shall be lengthened or shortened, as necessary, so as to intersect the South line of the Northeast Quarter and the West boundary line of said property.

**The total Temporary Construction Easement requested for Parcel No. RCH 12.2-04-Tribal Trust (T) of Reach 12.2 of the NGWSP is approximately 110.52 feet in length (0.021 mile) and will contain 0.10 acre more or less.**

7. **Term:** Reclamation requests a grant of Temporary Construction Easement (TCE) for a term of 48 months (4 years).
8. **Ownership of Permanent Improvements:** Reach 12.2 of the NGWSP across Navajo Nation Tribal Trust land, will consist of a 24 inch or less I.D. water transmission pipeline with ancillary features and appurtenances, constructed and owned by the Bureau of Reclamation. It is Reclamation's intent to transfer the operation, maintenance, and replacement (OM&R) responsibility of the Project to the NTUA. It is envisioned that Reclamation would retain title to the facilities for the foreseeable future, however, the Act does provide authority for eventual title transfer to the Navajo Nation.
9. **Construction Schedule:**  
Obtain ROW: October 9, 2018  
Obtain Bids and Establish Contracts: January 29, 2018  
Award Contract: March 19, 2018  
Notice to Proceed Issue: October 9, 2018  
Begin Construction: October 9, 2018  
Construction 50% Completed by: May, 2019  
Construction Complete: December 30, 2019

**Required Supporting Documents - §169.102(b)**

1. ROW/Legal Description: Parcel No. RCH 12.2-01(P) and 02(T)-Tribal Trust  
ROW/Legal Description: Parcel No. RCH 12.2-03(P) and 04(T)-Tribal Trust
2. ROW Drawing No. 1695-529-60171 - Parcel No. RCH 12.2-01(P) and 02(T)-Tribal Trust  
Plan and Profile Drawing No. 1695-D-60259 and 1695-D-60260



Plat and Cadastral Survey Documentation - BLM Original Survey - 01-10-1893  
Plat and Cadastral Survey Documentation - BLM Re-Survey - 03-03-1994  
ROW Drawing No. 1695-529-60170 - Parcel No. RCH 12.2-03(P) and 04(T)-Tribal Trust  
Plan and Profile Drawing No. 1695-D-60256  
Survey - Rch 12.2 - Navajo DOT Transportation Center  
NGWSP Project Map - Drawing No. 1695-529-537 - Dated 03-13-17  
Reach 12.2 Feasibility Map - Dated 06-29-15  
Plan and Profile Drawings No. 1695-D-60254 thru 1695-D-60260 (CD)

3. Waiver of Bond Requirement - 25 CFR § 169.103 - Dated 12-20-16  
Letter – Navajo Nation Support Waiver of 25 CFR § 169.103 - Dated 09-09-16
4. Title Status Report – Memo Verifying Land Status – Dated 06-15-17  
Permission to Survey - Granted 03-01-10  
Navajo Nation Executive Order No. 07-2017 in Support of the NGWSP  
Tsayatoh Chapter Resolution – TSA-03-04-2013 – Construct NGWSP
5. Valuation:  
Memo - BIA Waiver for Appraisal and Compensation - 25 CFR Part 169.12 - Dated 06-29-07  
Table - Summary of ROW and TCE - Reach 12.2 - Navajo Minerals  
Workbook - Tribal Lands - ROW and TCE Length, width and Acreage - Rch 12.2 Tribal Trust (CD)
6. Organizational Documents: Not Applicable, Applicant is United States DOI - BOR.
7. Biological, Cultural Resource and Environmental Documentation:  
BRCF - NNDFW Review No. 13NC-08 - Approved 08-15-2014  
Class III Cultural Inventory Report - Dated 04-29-14 (CD)  
Class III Cultural Resources Inventory – NNHPD-15-116 and Letter of Concurrence of Eligibility  
Determination - Signed 02-04-14 and 02-19-2015 - Letter Dated 12-30-14  
Phase I Environmental Site Assessment - Dated 05-30-14 (CD)  
Phase I Environmental Site Assessment for Reach 12.2 - Dated November 2016 (CD)  
Memo - BIA - Acceptable NEPA and NHPA Sufficiency Documentation - Cultural Resources - Dated  
10-29-2015  
Final NEPA Sufficiency Report - Concurrence Received 10-09-14 - Dated August 2014 (CD)  
Final Environmental Impact Statement and Record of Decision can be viewed at:  
<http://www.usbr.gov/uc/envdocs/eis/navgallup/FEIS/index.html>

**THE APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:**

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

**Applicant Point of Contact Information:**

Name: Michael (Mike) Braman  
Address: 1235 La Plata Highway  
Farmington, New Mexico, 87401  
Phone: 505-324-5024  
E-mail: [mbraman@usbr.gov](mailto:mbraman@usbr.gov)

Date: August 30, 2017

Applicant Signature: [Signature]

Print Name: RAZZY LONGWEN



# United States Department of the Interior

BUREAU OF RECLAMATION  
Upper Colorado Region  
Four Corners Construction Office  
1235 La Plata Highway  
Farmington, NM 87401

IN REPLY REFER TO:

FCCO-202  
LND-3.00

**AUG 30 2017**

HAND DELIVERED

Mr. Howard P. Draper  
Program and Projects Specialist  
Navajo Land Department  
Project Review Section  
Navajo Nation Division of Natural Resources  
P.O. Box 2249  
Window Rock, AZ 86515

Subject: Application for Navajo Tribal Consent to Right-of-Way (ROW) and Temporary Construction Easement (TCE) - Tribal Trust Lands - Reach 12.2 - San Juan Lateral - Navajo-Gallup Water Supply Project (NGWSP), McKinley County, New Mexico

Dear Mr. Draper:

The Bureau of Reclamation hereby requests tribal consent to a grant of ROW and TCE over, under, across and through the subject Tribal Trust lands which are located in the area of Tsayatoh Navajo Chapter, in McKinley County, New Mexico. The Bureau of Indian Affairs (BIA) requires that tribal consent be obtained by Reclamation, and that documentation of that consent be submitted with applications for ROW and TCE. Enclosed are applications for ROW and TCE for two locations, and additional pertinent documentation that is provided on CD format, respectfully submitted for your review and processing.

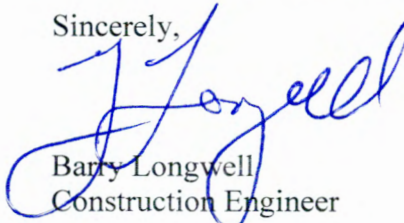
Reclamation understands that the Navajo Nation is waiving all customary fees and consideration for the ROW in accordance with the authorizing legislation in the Omnibus Public Land Management Act of 2009, Title X, Part III, Section 10602(c)(2), (Public Law 111-11).

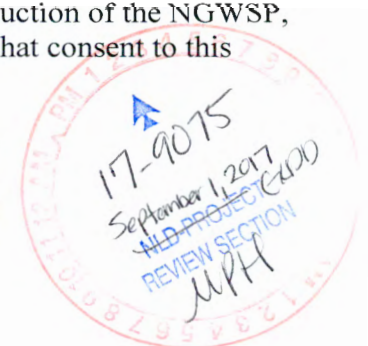
Reclamation and the Navajo Nation have negotiated terms and conditions for the ROW and TCE and it is our understanding that the documents entitled "Terms and Conditions" will be added to this application by the Navajo Nation as exhibits.

In order to maintain the congressionally mandated schedule for the construction of the NGWSP, and to allow for additional processing by the BIA, Reclamation requests that consent to this request be received on or before November 10, 2017.

If you have any questions, please contact Mike Braman at 505-324-5024.

Sincerely,

  
Barty Longwell  
Construction Engineer



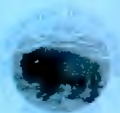
cc: See next page.

Subject: Application for Navajo Tribal Consent to Right-of-Way (ROW) and Temporary

cc: Ms. Biddah Becker  
Executive Director  
Navajo Nation Division of Natural Resources  
P.O. Box 9000  
Window Rock, AZ 86515

Mr. Ray Benally  
Director  
Navajo Nation Department of Water Resources  
P.O. Box 678  
Ft. Defiance, AZ 86504

Mr. Jason John  
Branch Director  
Navajo Nation Department of Water Resources  
Water Management Branch  
P.O. Box 678  
Ft. Defiance, AZ 86504  
(w/o encls to ea)



OFFICE OF THE SECRETARY OF THE INTERIOR  
EXECUTIVE SECRETARIAT  
Correspondence Transmittal

Date ES Received: 10/05/2016

ES Tracking #: ESO-00072732

Date Forwarded for Signature: 12/13/2016

**To:** Roberts, Lawrence S.  
**From:** Pinto, Sharon  
BIA - Navajo Regional Office  
**Subject:** Request for Waiver under 25 C.F. R. 1.2 of the 25 C.F.R. 169.103 Bond Requirement for Right-of-Way Applications for the Navajo-Gallup Water Supply Project

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

**Lead Response Office:** IA OTS RES

**Response Writer:** IA OTS RES

Surnaming Office

Approved By

Date Approved

DBIA

M. Smith

11/22/2016

IA OTS

H. Riggs

11/22/2016

IA OTS RES

S. Roundface

11/22/2016

SOLDIA

J. Turner

11/22/2016

IA Advisor

C. Hastings

11/28/2016

IA COS

S. Walters

12/09/2016

**Deputy Secretary**

**Associate Deputy Secretary**

**Executive Secretariat**

**Secretary**

**SIGMAC:**

**Other (NOT SECRETARY):**

**COMMENTS:**





# United States Department of the Interior


BUREAU OF INDIAN AFFAIRS  
Washington, DC 20240

NGW 2 2 16

IN REPLY REFER TO:

## Memorandum

To: Principal Deputy Assistant Secretary Indian Affairs

From: Director, Bureau of Indian Affairs 

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

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

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

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

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

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

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

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

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

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

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

Reclamation and the BIA recognize the allottee consent process for these ROWs took nearly four years, and re-engaging with the allottees to obtain their recommendations for waiver of the bond requirement likely will not allow Reclamation to meet the President's directive that the NGWSP move forward apace. Furthermore, re-submitting trust land ROW applications to the Nation that have either gone through, or are in the process of going through, the Nation's consent approval process would result in direct impacts to impending construction contracts where these ROWs are required. Therefore, Reclamation and BIA respectfully submit this waiver request, seeking a waiver, under 25 CFR § 1.2, of the 25 CFR § 169.103 bond requirement for all NGWSP ROWs not issued prior to April 21, 2016, whether the ROW applicant is a federal agency, a state agency, an agency of the Nation, or an instrumentality thereof. Reclamation and BIA request that the Assistant Secretary expedite review of this request in order to aid the Department in moving the NGWSP forward in the face of the unforeseen slow-down created by the application of the new ROW regulations, which unexpectedly omitted the federal agency bond waiver provision from the 25 CFR Part 169 (2016) ROW regulations.

In the spirit of the President's initiative, and in order to meet the aggressive Congressionally mandated schedule for completing this high-priority project, we respectfully request that the Assistant Secretary waive the 25 CFR § 169.103 bond requirement for all NGWSP ROWs not issued prior to April 21, 2016, recognizing that doing so is in the best interest of the Navajo Nation, the Jicarilla Apache Nation, and their members, because it will permit NGWSP construction to proceed in accordance with a schedule that will allow the project to be completed as directed by the President of the United States and Congress and project benefits bargained for by the Tribes on behalf of their members pursuant to a negotiated water settlement to accrue to the benefit of the Tribal communities served as contemplated under the Navajo San Juan Water Rights Settlement. The Navajo Nation confirmed that the waiver was in the best interest of the Nation in the attached letter of support signed by President Begaye dated September 9, 2016.

For the reasons stated herein, we recommend approval of the Assistant Secretary to waive the regulatory requirement under 25 CFR § 169.103 for a bond for all NGWSP ROWs not issued prior to April 21, 2016, whether the ROW applicant is a federal agency, a state agency, an agency of the Nation, or an instrumentality thereof.

Concur with waiver request:

  
\_\_\_\_\_  
Director, Bureau of Indian Affairs

12/20/2016  
\_\_\_\_\_  
Date

Do not concur with waiver request:

\_\_\_\_\_  
Director, Bureau of Indian Affairs

\_\_\_\_\_  
Date

Waiver Request is approved:

  
\_\_\_\_\_  
Principal Deputy Assistant Secretary - Indian Affairs

12/14/2016  
\_\_\_\_\_  
Date

Waiver Request is denied:

\_\_\_\_\_  
Principal Deputy Assistant Secretary - Indian Affairs

\_\_\_\_\_  
Date

Attachment





THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT  
ONA H NEZ VICE PRESIDENT

September 9, 2016

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

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

Dear Assistant Secretary Roberts:

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

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

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

Sincerely,

THE NAVAJO NATION

Russell Begaye, President



IN REPLY REFER TO: 4N420

REAL ESTATE SERVICES  
RIGHTS OF WAY

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS  
**Eastern Navajo Agency**  
P.O. Box 328  
Crownpoint, New Mexico 87313

OFFICIAL FILE COPY  
FOUR CORNERS CONSTRUCTION OFFICE  
FARMINGTON

**JUN 19 2017**

ACTION:  
DUE DATE:

CONTROL NO:  
FOLDER NO:

JUN 15 2017

**MEMORANDUM**

TO: Michael Braman, Realty Specialist  
Bureau of Reclamation

FROM: Jerry DeGroat, Realty Officer, Bureau of Indian Affairs,  
Eastern Navajo Agency, Real Estate Services

SUBJECT: Request for TSR/Address Listing, NGWSP-RCH 12.2, Tsayatoh Chapter,  
McKinley County, New Mexico

Real Estate Services is in receipt of a request for a Title Status Report and Address list dated June 8, 2017 for Reach 12.2 of the Navajo Gallup Water Supply Project (NGWSP) located within the vicinity of Tsayatoh, McKinley County, New Mexico. Pursuant to the provisions of the Indian Land Consolidation Act (ILCA) Amendments of 2000, an uncertified TSR with an address list is being provided for the following allotment:

Section	Township	Range	Quarter	Land Status	Tract	Chapter	County
2	16N	21W	NW/4	Tribal Fee	-	-	-
2	16N	21W	SW/4	Indian Allotment	1628	Tsayatoh	McKinley
6	16N	20W	S/2	Public Domain	-	-	-
7	16N	20W	N/2	Private	-	-	-

We are unable to provide a TSR/Address list for Section 35, Township 17 North, Range 21 West, since these lands are within Twin Lakes Chapter which is in the jurisdiction of Fort Defiance Agency. You can contact April Bowman, Supervisory Realty Specialist for further information and processing.

The enclosed TSR cites the name and percentage owned by each individual, as provided in the Indian Land Consolidation Act Amendments of 2000. Departmental Privacy Act, 43 CFR §2.56, does not allow the disclosure of personal information on individuals kept in a Privacy Act system of records, including tribal enrollment numbers. If you need further assistance regarding this issue, you may contact Ms. Rochelle Shirley, Eastern Navajo Agency FOIA Coordinator at (505) 786-6010.

Also, pursuant to provisions of the Indian Land Consolidation Act Amendments of 2000, we are providing the last known addresses on file for the listed allotment. If you have any questions please contact Jacqueline Gibson, Realty Specialist at (505) 786-6182.

Attachment(s)



United States Department of the Interior  
BUREAU OF INDIAN AFFAIRS

Fort Defiance Agency  
P.O. Box 619  
Fort Defiance, Arizona 86504

Real Estate Services  
M/C: 6N420

MAR 01 2010

Ms. Kathleen Ozga  
Lands and Recreation Group Chief  
Bureau of Reclamation  
Western Colorado Area Office  
2764 Compass Drive, Suite 106  
Grand Junction, CO 81506-8785

Dear Ms. Ozga:

Reference is made to your request for permission to survey to begin a surface investigation, walk on along the proposed pipeline corridor for the Navajo-Gallup Water Supply Project (San Juan Lateral) commencing from Naschitti, San Juan County, to Gallup, McKinley County, New Mexico. This investigation will determine if any problems exist prior to doing the center line alignment survey. This authorization is for Navajo trust lands only, does not include Indian Allotments or private lands.

The Navajo Nation has given its concurrence to the survey by letter dated August 14, 2009 (copy enclosed).

Authorization is hereby granted to proceed with the necessary survey subject to any prior rights or adverse claims and to all applicable regulations of 25 CFR. This authorization is for SURVEY ONLY. Upon completion, a formal application for right-of-way for the project should be submitted in accordance with 25 CFR 169.0 to the Regional Director, Bureau of Indian Affairs, Fort Defiance Agency, Attention: Real Estate Services, P. O. Box 619, Fort Defiance, Arizona 86504.

If you have any questions, please contact Oma M. Wauneka, Realty Specialist at (928) 729-7211.

Sincerely,

ACTING Regional Director

Enclosure

cc: Director, TNN, Project Review Office, Window Rock, Az

RECEIVED

MAR 12 2010

WCAO-DUBANGO, CO  
OFFICIAL FILE COPY  
RECEIVED BOR W.C.A.O.  
GRAND JUNCTION  
MAR 12 2010

CLASS	INITIALS	SURNAME
3/9	120	12890
		27.7.2009

CH: 11031267  
FH: 1123224  
5.3.11 CA







THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT  
JONATHAN NEZ VICE PRESIDENT



**EXECUTIVE ORDER NO. 07-2017**

**NAVAJO-GALLUP WATER SUPPLY PROJECT  
IS A NAVAJO NATION PRIORITY PROJECT; THE SUCCESS OF THIS HIGH-  
PROFILE PROJECT WILL SHOWCASE THE NAVAJO NATION AND ITS  
DIVISIONS AND PROGRAMS; AND WILL PROVIDE THE OPPORTUNITY FOR  
ACCESSIBLE WATER TO THE EASTERN NAVAJO NATION**

May 22, 2017

**WHEREAS:**

The Navajo-Gallup Water Supply Project (Project) is one of fourteen projects selected nationwide to be a priority of President Obama in October 2011 that will be expedited through permitting and environmental review processes. This is an important step in the Administration's efforts to improve the efficiency of federal reviews needed to help job-creating infrastructure projects move as quickly as possible from the drawing board to completion. The United States Bureau of Reclamation (BOR) is the lead federal agency tasked to construct the Project with the assistance of the Navajo Nation, Jicarilla Apache Nation and City of Gallup. This project is an enormous challenge for the Navajo Nation and is an excellent opportunity for the Nation to showcase their coordination and Programs to President Donald Trump and the United States Government.

The Project will provide a reliable long-term water supply to much of the Navajo Nation within New Mexico. The Project has an estimated construction cost of \$1.131 billion. U.S. Discretionary funding received through FY2016 is \$301 million and FY2017 funding request is \$87 million. BOR has already received \$180 million in mandatory appropriations for Project construction.

This Project is a high priority for this administration and I fully support its expedited implementation and urge cooperation among all Navajo Nation programs to make this Project a reality. This Project is an example of the success brought about by years of hard work by staff and representatives of the Navajo Nation, State of New Mexico and United States.

The foundation of our administration are the four pillars of: Navajo Veterans, Elders and Youth, Infrastructure Development, and Job Creation. These priorities were mandated by the Navajo people and we stand committed to providing progress in these areas for our great Navajo Nation. In July 2015, the Navajo Nation Three Branch Agreement was executed in cooperation with the Legislative Branch and Judicial Branch for the "One Nation, One Voice" initiative. For the first time in our history, the three branches of government stand united in the priority needs of our Navajo Nation. The Navajo-Gallup

Water Supply Project is specifically listed under these Common Priorities of the Navajo Nation.

Over the next several years the Project will be constructed in Reaches (phases). Construction may occur concurrently on several Reaches over the next several years. The legislated completion date for the Project is December 2024. It is important that the Navajo Nation programs align themselves properly to coordinate information and permitting of the various Reaches of the Project. The Navajo Nation Department of Water Resources-Water Management Branch will serve as point of contact for the Project on behalf of the entire Navajo Nation. NNDWR-WMB may be reached at (928) 729-4004.

**IT IS ORDERED THAT:**

The Navajo-Gallup Water Supply Project is a priority project of the Navajo Nation.

The programs within the Executive Branch are hereby directed to promptly process all necessary permits, contracts, and any related matters to this Project for its successful coordination, implementation and construction. The programs and personnel are hereby directed to review and streamline their 164 review process.

**THEREFORE BE IT RESOLVED, THAT:**

I, Russell Begaye, President of the Navajo Nation, by the authority vested in the Office of the President pursuant to 2 N.N.C. §§ 1005 (A) and (C)(14), hereby direct this Executive Order shall become effective immediately and remain in effect until rescinded, to be binding upon Navajo Nation Executive Branch Directors, employees, and agents, and to be subjected to enforcement under the Navajo Nation Personnel Polices Manual.

Executed this 30<sup>th</sup> day of May, 2017.

  
Russell Begaye, President  
**The Navajo Nation**

**ATTEST:**

  
Ethel Branch, Attorney General  
Navajo Nation Department of Justice





BEN SHELLY  
President

REX LEE JIM,  
Vice President

CHARLES S. DAMON, II,  
Council Delegate

**Tsayatoh Chapter**  
P.O. Box 86  
Mentmore, NM 87319  
(505)905-2649 ♦ Fax: (505)905-0537  
Website: [www.tsayatoh.ndes.org](http://www.tsayatoh.ndes.org)  
E-mail: [tsayatoh@navajochapters.org](mailto:tsayatoh@navajochapters.org)



DAVID LEE,  
Chapter President  
WALTER HUDSON,  
Chapter Vice President

LUCY ANTONE,  
Secretary/Treasurer

HENRY HUDSON,  
Land Board

MATTHEW AUSTIN  
Community Services Coordinator

MICHELLE BITSIE,  
Accounts Maintenance Specialist

# **RESOLUTION OF TSAYATOH CHAPTER** **RESOLUTION #: TSA-03-04-2013**

## **TSAYATOH CHAPTER SUPPORTING THE DESIGN AND CONTSTRUCTION OF THE NAVAJO GALLUP WATER SUPPLY PROEJCT**

### **WHEREAS:**

1. Pursuant to 26 N.N.C. Section 3 (A) the Tsayatoh Chapter is a duly recognized certified chapter of the Navajo Nation Government as listed at 11 N.N.C., part 1, section 10; AND
2. Pursuant to 26 N.N.C. Section 1 (B) Tsayatoh Chapter is vested with the authority to review all matters affecting the community and to make appropriate correction when necessary and make recommendation to the Navajo nation and other local agencies for appropriate; AND
3. THE Navajo-Gallup Water Supply Project will provide reliable and sustainable municipal, industrial and domestic water supplies from the San Juan River to 43 chapters of the Navajo Nation, the City of Gallup and the southwest portion of the Jicarilla Apache Nation Reservation; AND
4. Tsayatoh Chapter is one of the 43 chapters identified to be served by the Navajo-Gallup Water Supply Project; AND
5. The Bureau of Reclamation is currently conducting pre-design surveys for design work and preparing to begin construction of the Navajo-Gallup Water Supply Project in the area.

### **NOW, THEREFORE, BE IT RESOLVED THAT**

1. The Tsayatoh Chapter fully supports the design, construction and implementation of the Navajo-Gallup Water Supply Project; and recognizes that the project is in the best interest of the Chapter and the Tribe; AND

### **CERTIFICATION**

We, hereby, certify that the foregoing resolution was duly considered by the Tsayatoh Chapter at a duly called meeting in Tsayatoh Chapter, Navajo Nation at which a quorum of Chapter members was present and that the same was passed by a vote of 27 in favor , 0 opposed and 2 abstained this 23<sup>rd</sup> day of April, 2013.

1<sup>st</sup> Motion: Mrs. Elizabeth Mosley

2<sup>nd</sup> Motion: Mrs. Helen Deadman

David Lee  
Chapter President



NNDFW Review No. 13NC-08

**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.:** Navajo Gallup Water Supply Project - Reach 12.1 & Reach 12.2

**DESCRIPTION:** The USBR proposes to construct a water line 18.3 miles in length and contains both Reaches 12.1 (218.18 acres) and 12.2 (76.36 acres). Total new disturbance for the proposed pipeline and associated infrastructure would be approximately 294.54 acres.

**LOCATION:** St. Michaels, Tsayatoh & Rock Springs Chapters, Apache/McKinley County, Arizona/New Mexico

**REPRESENTATIVE:** David Johnson, Principal Projects Manager, Nelson Consulting, Inc.

**ACTION AGENCY:** U.S. Department of the Interior Bureau of Reclamation (USBR) - Upper Colorado Region

**B.R. REPORT TITLE / DATE / PREPARER:** USDOI - Bureau of Reclamation NGWSP Reaches 12.1 & 12.2

Proposed Water Line/MAY 2012/Nelson Consulting, Inc. & SWCA Environmental Consultants

**SIGNIFICANT BIOLOGICAL RESOURCES FOUND:** Areas 1, 3, & 4. Suitable nesting habitat for Migratory Birds is present in and adjacent to the TCE.

**POTENTIAL IMPACTS**

**NESL SPECIES POTENTIALLY IMPACTED:** NA

**FEDERALLY-LISTED SPECIES AFFECTED:** NA

**OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES:** NA

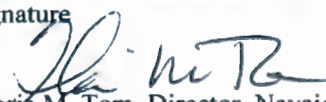
**AVOIDANCE / MITIGATION MEASURES:** [1] The NNDFW concurs with the mitigation recommendations outlined in the BE, Section 6.5.

**CONDITIONS OF COMPLIANCE\*:** NA

**FORM PREPARED BY / DATE:** Pamela A. Kyselka/15 AUG 2014

**COPIES TO:** (add categories as necessary)

☐ \_\_\_\_\_ ☐ \_\_\_\_\_

<b>2 NTC § 164 Recommendation:</b>	<b>Signature</b>	<b>Date</b>
<input checked="" type="checkbox"/> Approval	 Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife	8/15/14
<input type="checkbox"/> Conditional Approval (with memo)		
<input type="checkbox"/> Disapproval (with memo)		
<input type="checkbox"/> Categorical Exclusion (with request letter)		
<input type="checkbox"/> None (with memo)		

\*I understand and accept the conditions of compliance, and acknowledge that lack of signature may be grounds for the Department not recommending the above described project for approval to the Tribal Decision-maker.

Representative's signature

Date





# United States Department of the Interior

## BUREAU OF RECLAMATION

Western Colorado Area Office  
Durango Field Division  
185 Suttle Street, Suite 2  
Durango, Colorado 81303-7911



IN REPLY REFER TO:

WCD-ERheume  
ENV-3.00

DEC 30 2014

CERTIFIED – RETURN RECEIPT REQUESTED

Mr. Ron Maldonado  
Tribal Historic Preservation Officer  
Cultural Resources Compliance Section  
Navajo Nation Historic Preservation Department  
P.O. Box 4950  
Window Rock, AZ 86515

Subject: A Class III Cultural Resources Inventory for Navajo Gallup Water Supply Project (NGWSP)  
Reach 12.1 and the Black Hat Tank Facility, Navajo Nation, McKinley County, New Mexico

Dear Mr. Maldonado:

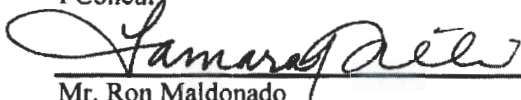
Enclosed for your review and comment is PaleoWest's Class III Inventory Report of NGWSP Reach 12.1 pipeline alignment and Black Hat tank Facility areas. The purpose of this report is to locate and document archaeological resources that have the potential to be affected by NGWSP construction activities. Reach 12.1 is comprised of 11.96 miles of linear water pipeline segments and a water storage tank facility on Black Hat hill. The Class III survey encompassed 558.43 acres on Navajo Nation and private land. The survey was conducted under the authority of General Archaeological Investigation Permit NM-13-210-S and Navajo Nation Cultural Resources Permit B13543. Reclamation is submitting this report to your office for consultation regarding concurrence of the eligibility determinations. This report is also being consulted upon with all NGWSP signatory and consulting parties in compliance with the programmatic agreement (PA) for this project.

This survey resulted in the location of twenty five archaeological sites within the project area: eight previously recorded sites, and seventeen newly recorded sites. Twenty one isolated occurrences were identified in the project area. Isolated occurrences are not considered eligible for listing on the National Register of Historic Places (NRHP) or State Register of Cultural Properties.

The nine sites located on private land in the project area are:

Site Number	Site Description	NRHP Eligibility Determination
LA 75790	An Anasazi (A.D. 800-1000) masonry pueblo. Originally recorded in 1989 and since destroyed by Highway 264.	Not Eligible
LA 55646	An Anasazi (A.D. 900-1100) artifact scatter.	Eligible under Criterion D
LA 55647	An Anasazi (A.D. 1000-1200) artifact scatter and the remains of the historic Wildcat Springs Trading Post (A.D. 1930-1951).	Prehistoric and historic components eligible under Criterion D
LA 178098	A prehistoric/historic (A.D. 1680-1800) artifact	Prehistoric and historic

I Concur

 02/19/15

---

Mr. Ron Maldonado

Navajo Nation Tribal Historic Preservation Officer

WBR:ERheaume:rjames:12/19/2014:970-385-6521: A Class III Cultural Resources Inventory for Navajo Gallup Water Supply Project (NGWSP) Reach 12.1 and the Black Hat Tank Facility, Navajo Nation, McKinley County, New Mexico:T:\ADM\AAA-Durango Typing\Rheaume\NNHPD Reach 12.1 Survey Letter.docx

# United States Department of the Interior

Bureau of Indian Affairs

Navajo Region

P. O. Box 1060

Gallup, New Mexico 87305




100

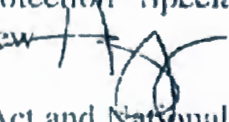
MC 620 Branch of Environmental Quality Act Compliance and Review

OCT 29 2015

## MEMORANDUM

To: Supervisory Civil Engineer, Engineering & Technical Support Division

Through: Deputy Director, Trust Services 

From: Supervisory Environmental Protection Specialist, Branch of Environmental Quality Act Compliance & Review 

Subject: National Environmental Policy Act and National Historic Preservation Act Compliance Documents - Navajo Gallup Water Supply Project

This memo provides guidance to the Division, as the Regional lead for the Navajo-Gallup Water Supply Project, concerning the various compliance documents for the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHIPA).

For NEPA, the following documents would be considered acceptable:

- Sufficiency Analysis (see attachment);
- "Finding of No New Significant Impact" per 43 CFR § 46.140 (c); or
- "Finding of No Significant Impact" per 40 CFR §1508.13.

As for compliance with the NHIPA, the NGWSP does have an executed Programmatic Agreement (PA) concerning historic properties between federal, tribal, and state entities regarding effects on historic and cultural properties. The PA allows for the construction activities to proceed efficiently. In addition, there may be Reach-by-Reach compliance documents considered acceptable provided that the compliance document is signed by the Navajo Tribal Historic Preservation Officer:

- Cultural Resources Compliance Form (CRCF);
- A Bureau of Reclamation letter; or
- A letter from NNHPD.

Should you have questions regarding the NHIPA, please contact Mr. Terry McClung, Regional Archaeologist at ext. 8349, or Ms. Harriene Yazzie, Supervisory Environmental Protection Specialist, at ext. 8287, regarding questions related to the NEPA.





IN REPLY REFER TO

# United States Department of the Interior

## BUREAU OF RECLAMATION

Western Colorado Area Office

Durango Field Division

185 Suttle Street, Suite 2

Durango, Colorado 81303-7911

### LETTER OF AGREEMENT

Between

THE U.S. DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

And

BUREAU OF INDIAN AFFAIRS

The U.S. Department of the Interior, Bureau of Reclamation and Bureau of Indian Affairs (BIA) are entering into this Agreement to provide an established process for National Environmental Policy Act (NEPA) compliance in support of the Navajo Gallup Water Supply Project (NGWSP). The NGWSP is a municipal and industrial water pipeline with associated infrastructure being built to provide water to the Navajo Nation, Jicarilla Apache Nation and the City of Gallup, NM.


The NGWSP is described and analyzed in the NGWSP Project Planning Report and Final Environmental Impact Statement (PR/FEIS) dated July 2009, and the subsequent Record of Decision dated October 1, 2009.


Reclamation and BIA officials in the project area offices have determined that National Environmental Policy Act (NEPA) compliance for updated project planning will be determined for independent sections of the pipeline as more refined information of the pipeline route and associated environmental studies are available. This information will be organized into the NGWSP NEPA Sufficiency Review Process (NEPA SRP) Environmental Analysis Form as found in Attachment A to this document. Development of this Form was the result of a collaborative effort between BIA and Reclamation as described in Attachment B (Development of a NEPA Sufficiency Review Process for Long-Term Implementation of the NGWSP).

The outcome of the NEPA SRP, collaboratively completed and signed by both agencies, will determine whether the existing PR/FEIS sufficiently addresses environmental impacts for a particular section of pipeline; or, if it doesn't, that further NEPA action is warranted (e.g., a tiered Environmental Assessment). The results of the NEPA SRP will be signed by appropriate representatives of both agencies with responsibility for determining the need for, and type of, further NEPA action.

If a additional NEPA action is required, Reclamation and BIA will provide joint oversight of the process, with Reclamation designated as the Lead Agency, and BIA designated as a Cooperating Agency according to Department of Interior NEPA guidelines at 43 CFR Part 46.

This Letter of Agreement becomes effective upon signature by authorized officials of Reclamation and BIA.

 5.23.13  
 Ed Warner (Date)  
 Manager  
 Western Colorado Area Office  
 Bureau of Reclamation

 6/10/13  
 Sharon A. Pinto (Date)  
 Director  
 Navajo Regional Office  
 Bureau of Indian Affairs



THE NAVAJO NATION  
ENVIRONMENTAL PROTECTION AGENCY

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



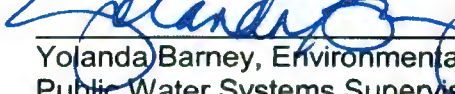
Russell Begaye  
President

Jonathan Nez  
Vice President

September 29, 2017

MEMORANDUM

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

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

SUBJECT: DOCUMENT No. 008712

The Navajo Nation Environmental Protection Agency's Public Water Systems Supervision Program ("PWSSP") reviewed Document No. 008712: BOR, ROW & TCE Reach 12.2 San Juan Lateral – Tribal Trust Lands, Tse Bonito area. PWSSP recommends approval of this project.

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

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

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

xc: Ronnie Ben, Environmental Department Manager, Surface/Ground Water Protection Dept., NNEPA  
PWSID#NN0403000

Document No. 008712Date Issued: 09/01/2017**EXECUTIVE OFFICIAL REVIEW**Title of Document: BOR, ROW & TCE Reach 12.2 San Juan  
Later - Tribal Trust Lands Contact Name: YAZZIE, ELERINA BProgram/Division: DIVISION OF NATURAL RESOURCESEmail: elerina\_yazzie@frontier.com Phone Number: 928-871-6447

			Sufficient	Insufficient
<input type="checkbox"/>	<b>Business Site Lease</b>			
	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"/>	<b>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</b>			
	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"/>	<b>Fund Management Plan, Expenditure Plans, Carry Over Requests, Budget Modifications</b>			
	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"/>	<b>Navajo Housing Authority Request for Release of Funds</b>			
	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"/>	<b>Lease Purchase Agreements</b>			
	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"/>	<b>Grant Applications</b>			
	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"/>	<b>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</b>			
	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"/>	<b>Relinquishment of Navajo Membership</b>			
	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: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Office of the Attorney General: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

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

- |             |       |             |                          |                          |
|-------------|-------|-------------|--------------------------|--------------------------|
| 1. NLD      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. F&W      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. HPD      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Minerals | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. NNEPA    | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. DNR      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. DOJ      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **Rights of Way**

- |                                    |       |             |                          |                          |
|------------------------------------|-------|-------------|--------------------------|--------------------------|
| 1. NLD                             | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. F&W                             | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. HPD                             | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Minerals                        | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. NNEPA                           | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Office of the Attorney General: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. OPVP                            | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

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

- |             |       |             |                          |                          |
|-------------|-------|-------------|--------------------------|--------------------------|
| 1. Minerals | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. OPVP     | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. NLD      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **Assignment of Mineral Lease**

- |             |       |             |                          |                          |
|-------------|-------|-------------|--------------------------|--------------------------|
| 1. Minerals | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. DNR      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. DOJ      | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☒ **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: _____   | <input type="checkbox"/>            | <input type="checkbox"/> |
| 2. F&W      | _____ | Date: _____   | <input type="checkbox"/>            | <input type="checkbox"/> |
| 3. HPD      | _____ | Date: _____   | <input type="checkbox"/>            | <input type="checkbox"/> |
| 4. Minerals | _____ | Date: _____   | <input type="checkbox"/>            | <input type="checkbox"/> |
| 5. NNEPA    | _____ | Date: _____   | <input type="checkbox"/>            | <input type="checkbox"/> |
| 6. DNR      | _____ | Date: _____   | <input type="checkbox"/>            | <input type="checkbox"/> |
| 7. DOJ (ic) | _____ | Date: 4/24/18 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 8. OPVP     | _____ | Date: 7-2-18  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
- ✓ *Blaylock*

☐ **OTHER:**

- |          |       |             |                          |                          |
|----------|-------|-------------|--------------------------|--------------------------|
| 1. _____ | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. _____ | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. _____ | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. _____ | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. _____ | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |



# NAVAJO NATION DEPARTMENT OF JUSTICE

## DOCUMENT REVIEW REQUEST FORM



☒ RESUBMITTAL  
(Oct 2017)

DOJ	
4-11-18 @ 1043a	DATE / TIME
<input type="checkbox"/> 7 Day Deadline	
DOC #: 008712 #2	
SAS #:	
UNIT: NAW	

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






CLIENT TO COMPLETE			
DATE OF REQUEST:	4/11/2018	DIVISION:	NATURAL RESOURCES
CONTACT NAME:	Michelle Hoskie or Stevie Hudson	DEPARTMENT:	GENERAL LAND DEVELOPMENT DEPARTMENT
PHONE NUMBER:	x 6447	E-MAIL:	steviehudson@frontier.com
TITLE OF DOCUMENT: BOR ROW & TCE REACH 12.2 - SAN JUAN LATERAL/NAVAJO GALLUP WATER SUPPLY PROJECT, TRIBAL TRUST LANDS, MCKINLEY COUNTY, NEW MEXICO			
DOJ SECRETARY TO COMPLETE			
DATE/TIME IN UNIT:	4.11.18 112m	REVIEWING ATTORNEY/ADVOCATE:	Fruin Chee 4.20.18
DATE TIME OUT OF UNIT:	4.24.18 3:40		
DOJ ATTORNEY / ADVOCATE COMMENTS			
- I was finally able to retrieve the consent(s) forms from Tseyatoh DGC member 3 from NLD ROW Agent. Two land user's consent are now			
REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
JAMES GEE	4/23/18	V. Blackbird	4/24/18 8:37am
DOJ Secretary Called: Stenie	for Document Pick Up on		4.24.18 at 2:40 By: p
PICKED UP BY: (Print)	DATE / TIME:		

NNDJ/DRRF-July 2013

↓ attached. Document is now  
legally sufficient.  
Thx-ic

## Tier 1 Document Voting Results

### Tier 1 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Eugenia Quintana EPA (Navajo Land Title Data System - Windowrock AZ)	Air and Toxics - Reviewer	Navajo Nation Environmental Protection Agency	Approved	no comments	No Reply	03-Oct-2017	
Lee Anna Martinez EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Reviewer	Navajo Nation Environmental Protection Agency	Approved 1.	1. *CONDITIONAL* Please contact our office concerning the area on Navajo, regarding the waterway to be crossed. A 401 Certification may be needed for this project. BOR is familiar with our process and we look forward to working with on this upcoming project. You may contact our office at (928) 871-7690 or at lamartinez@navajo-nnsn.gov. Thank you.	1. No Reply	27-Sep-2017	
Najamh Tariq (Navajo Land Title Data System - Windowrock AZ)	Approver	Department of Water Resources	Approved	no comments	No Reply	25-Sep-2017	
Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved 1.	1. #13NC-08	1. No Reply	26-Sep-2017	
Pam Maples EPA (Navajo Land Title Data System - Windowrock AZ)	Storage Tanks Program - Reviewer	Navajo Nation Environmental Protection Agency	Approved	no comments	No Reply	26-Sep-2017	
Patrick Antonio (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Supervisor	Navajo Nation Environmental Protection Agency	Approved 1.	1. The final EA for the project states "Reclamation or the contractor would be required to obtain CWA discharge permits from the appropriate regulatory agency. A CWA	1. No Reply	25-Sep-2017	



NPDES storm water permit would also be obtained." Construction of each project reach would seek coverage under the federal Construction General Permit for storm water discharges from construction sites.

Robert Allan Deputy DNR Director  
(Navajo Land DNR Title Data System - Windowrock AZ)

Approved 1. Add Navajo Nation Terms and Conditions as applicable 1. No Reply 04-Oct-2017

Robert O. Allan

Tamara Billie HPD NNHP Reviewer  
(Navajo Land Title Data System - Windowrock AZ)

Approved 1. HPD-15-116 1. No Reply 26-Sep-2017






Tamara Billie

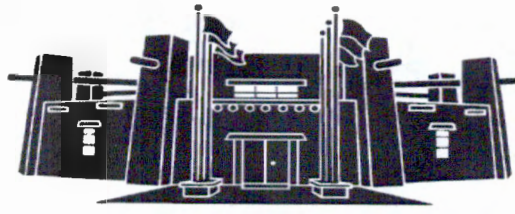
Yolanda Public EPA Water Navajo Nation Environmental Protection Agency  
Barney (Navajo Land System Supervision Program Title Data System - Windowrock AZ)

Approved 1. Please see attached memo approving the project. 1. No Reply 29-Sep-2017

Yolanda

## Tier 2 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Bidtah N. Becker (FBFA)	FBFA Users	FBFA Action Team	Approved	1. Please see comments from Minerals Dept.	1. No Reply	19-Oct-2017	
Richard Begay NNHP (Navajo Land Historic Title Data System - Windowrock AZ)	Navajo Nation Historic Preservation Officer	Historic Preservation Department	Approved	no comments	No Reply	11-Oct-2017	
Ronnie Ben EPA (Navajo Land Title Data System - Windowrock AZ)	Underground Injection Control - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. Conditional Approval contingent on compliance with all NNEPA and USEPA environmental laws.	1. No Reply	04-Oct-2017	
Sam Diswood (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	no comments	No Reply	11-Oct-2017	
Steven Prince MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	1. Please include the two uploaded Terms & Conditions documents with the final approval documentation.	1. No Reply	17-Oct-2017	
W. Mike Halona (Navajo Land Title Data System - Windowrock AZ)	Manager III Navajo Land Department	NLD Administration	Approved	no comments	No Reply	05-Oct-2017	



## MEMORANDUM

To : Honorable Seth Damon  
Bááháálí, Chilchiltah. Manuelito, Red Rock, Rocksprings, Tsayatoh Chapters

From : Mariana Kahn  
Mariana Kahn, Attorney  
Office of Legislative Counsel

Date : May 21, 2018

Re : PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION  
RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A  
RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT TO  
U.S. BUREAU OF RECLAMATION TO CONSTRUCT, OPERATE AND  
MAINTAIN THE NAVAJO - GALLUP WATER SUPPLY PROJECT  
REACH 12.2 LOCATED ON TRIBAL TRUST LAND IN TSEYATOH  
CHAPTER VICINITY (MCKINLEY COUNTY, NEW MEXICO)

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution drafted is legally sufficient. However, as with all legislation, it is subject to review by the courts in the event of challenge. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

The Office of Legislative Council confirms the appropriate standing committee(s) reviews based on the standing committees powers outlined in 2 N.N.C. §§ 301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. § 164(A)(5). If you are satisfied with the proposed resolution, please sign it as "sponsor" and submit it to the Office of Legislative Services where it will be given a tracking number and sent to the Office of the Speaker for assignment. If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution. Thank you for your service to the Navajo Nation.

18-273-1



THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0180-18\_\_

SPONSOR: Seth Damon

**TITLE: An Action Relating To Resources And Development; Approving A Right-Of-Way And Temporary Easement To U.S. Bureau Of Reclamation To Construct, Operate And Maintain The Navajo - Gallup Water Supply Project Reach 12.2 Located On Tribal Trust Land In Tseyatoh Chapter Vicinity (McKinley County, New Mexico)**

**Date posted: May 22, 2018 at 5:24 PM**

**Digital comments may be e-mailed to [comments@navajo-nsn.gov](mailto:comments@navajo-nsn.gov)**

**Written comments may be mailed to:**

**Executive Director  
Office of Legislative Services  
P.O. Box 3390  
Window Rock, AZ 86515  
(928) 871-7586**

**Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.**

**Please note:** This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

**THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW SUMMARY**

**LEGISLATION NO.:** 0180-18

**SPONSOR:** Honorable Seth Damon

**TITLE:** An Action Relating To Resources And Development; Approving A Right-Of-Way And Temporary Easement To U.S. Bureau Of Reclamation To Construct, Operate And Maintain The Navajo - Gallup Water Supply Project Reach 12.2 Located On Tribal Trust Land In Tseyatoh Chapter Vicinity (McKinley County, New Mexico)

**Posted:** May 22, 2018 at 5:24 PM

**5 DAY Comment Period Ended:** May 27, 2018

**Digital Comments received:**

<b>Comments Supporting</b>	<i>None</i>
<b>Comments Opposing (1)</b>	<b>1. Vincent H. Yazzie; Flagstaff, Arizona</b>
<b>Inconclusive Comments</b>	<i>None</i>

  
 \_\_\_\_\_  
 Legislative Secretary II  
 Office of Legislative Services

5/29/2018 8:20 AM  
 \_\_\_\_\_  
 Date/Time

No to 0180-18. Page 14 of 66 not legible. Invalid survey instrument.

Vincent Yazzie <vinceyazzie@yahoo.com>

Wed 5/23/2018 10:58 AM

To: comments <comments@navajo-nsn.gov>;

1 attachment

exhibit\_b\_illegible.JPG;

May 23, 2018

Vincent H. Yazzie  
10080 Palomino Road  
Flagstaff, AZ 86004  
(928) 380-3198  
e-mail: vinceyazzie@yahoo.com

Executive Director  
Office of Legislative Services  
P.O. Box 3390  
Window Rock, AZ 86515

Subject: No to 0180-18. Page 14 of 66 not legible. Invalid survey instrument.

Dear Honorable Council Delegates,

Page 14 of 66 not legible. Invalid survey instrument.

Bureau of Reclamation needs to resubmit application and all Navajo departments have to review again. How did this illegible document slide through all the Navajo departments?

Sincerely,

Vincent H. Yazzie



No to 0180-18. Page 28 of 66 is missing Navajo read consent form. Page 28 and 29 of 66 missing map showing location of project.

Vincent Yazzie <vinceyazzie@yahoo.com>

Wed 5/23/2018 12:05 PM

To: comments <comments@navajo-nsn.gov>;

2 attachments

land\_user\_consent\_lee\_skeets.JPG; due\_notice.JPG;

May 23, 2018

Vincent H. Yazzie  
10080 Palomino Road  
Flagstaff, AZ 86004  
(928) 380-3198  
e-mail: vinceyazzie@yahoo.com

Executive Director  
Office of Legislative Services  
P.O. Box 3390  
Window Rock, AZ 86515

Subject: No to 0180-18. Page 28 of 66 is missing Navajo read consent form. Page 28 and 29 of 66 missing map showing location of project.

Dear Honorable Council Delegates,

Verna Awion is also the Witness and the Field Agent. Witness and Field Agent need to be separate people which creates a conflict of interest.

Page 28 of 66 is missing Navajo read consent form in Navajo language. Page 28 of 66 english land user consent form version is present, but not the Navajo version. Page 28 and 29 of 66 missing map showing location of project. The map is on the back of the consent form, but not in 0180-18.

On page 27 of 66, Verna says 2 individuals claim 125.86 acres of land. Verna also claims notice was given to the community, but no evidence is given of newspaper publishing or flyers that were posted in public places. No certified mail/return receipts giving notice to the 2 individuals.

Land User consent forms need to be redone and all Navajo departments have to review again. Page 28, Land User Consent for Bernice Lee in written Navajo language not present. How did this incomplete land user consent form slide through all the Navajo

departments? No evidence that notice was given to the community by Verna. Witness and Field agent have conflict of interest. No to 0180-18.

Sincerely,

Vincent H. Yazzie

(ROW) over, under, across and through Navajo Nation Tribal Trust Lands located in the area of Tsayatch Navajo Chapter, New Mexico.

\_\_\_\_\_ as shown on the map  
\_\_\_\_\_ showing the location of the proposed project on the back of this consent form.

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:

4/26/18  
Date

Bauer Joe  
Land User Signature or (Thumbprint)

Census No. 1 Permit No. 1

**WITNESS:**

WILLNESS: Wang Qian

4/20/18

**Grazing Committee or Land Board Member**

District No. \_\_\_\_\_

## Acknowledgement of Field Agent

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

Verna Andrews

Field Agent Signature

(This form covers only damages and compensation to individual land users. It does not cover consideration or other fees to the Navajo Tribe. Use back if necessary to complete this form.)

1.) Project Identification:

Applicant: Bureau of Reclamation  
Type of Project: Water Supply, Treatment Plants, Pipelines & Pumping Stations  
Purpose: Temporary Construction Easement for Row of Ways  
Location: Vicinity of Tsayatoh, Navajo Chapter, McKinley, New Mexico  
Identification Number (s): Project #8712

2.) Amount of land affected: 125.86 Acres

3.) Land Status: Trust X Fee \_\_\_\_\_ Other \_\_\_\_\_

4.) List names of all individuals whose land use rights will be affected by project:

	<u>Names</u>	<u>Census Number</u>	<u>Permit Number</u>
1.	<u>Deanna Skeets</u>	<u>076-0157</u>	<u>076-0157</u>
2.	<u>Bernice Lee</u>	<u>_____</u>	<u>_____</u>
3.	<u>_____</u>	<u>_____</u>	<u>_____</u>

5.) Are all "land users with claims to be affected lands as shown in Branch of Land Operations records included in the list in item 4? Yes

6.) Have the Grazing committee or Land Board Member (whichever is appropriate) for the affected areas confirmed the land user list in Item 4? Yes

ACKNOWLEDGEMENT

I acknowledge that due notice was given to the affected community of the proposed project, and according to my records that to the best of my knowledge, the list of individuals in item 4 includes all land users who have land use rights in the affected lands.



5/29/2018

No to 0180-18. Page 61 of 66 is not legally sufficient. - comments

No to 0180-18. Page 61 of 66 is not legally sufficient.

Vincent Yazzie <vinceyazzie@yahoo.com>

Wed 5/23/2018 1:14 PM

To: comments <comments@navajo-nsn.gov>;

1 attachment

doj\_legal\_sufficient.JPG;

May 23, 2018

Vincent H. Yazzie  
10080 Palomino Road  
Flagstaff, AZ 86004  
(928) 380-3198  
e-mail: vinceyazzie@yahoo.com

Executive Director  
Office of Legislative Services  
P.O. Box 3390  
Window Rock, AZ 86515

Subject: No to 0180-18. Page 61 of 66 is not legally sufficient.

Dear Honorable Council Delegates,

Page 61 of 66 is not legally sufficient. DOJ Document Review Form entered DOJ on 4/11/18 around 11 am. Irwin Chee says he was able to obtain 2 land user consent forms on 4/20/2018. Verna Arviso Exhibit C(pages 26-29 of 66) to on 4/20/2018 claims that notice was given to community on 4/20/2018 and signed by Bernice Lee on 4/20/2018. Looks like the local community was not given notice and Bernice Lee was pressured to sign. No proof that notice was given to community. No map of where the pipeline will be crossing the land users land.

Looks like a rush job to obtain land user consent. No notice was given to the community. No to 0180-18 as DOJ Document Review Form is not legally sufficient.

Sincerely,

Vincent Yazzie



# NAVAJO NATION DEPARTMENT OF JUSTICE

## DOCUMENT REVIEW REQUEST FORM



DOJ  
4-11-18 @ 1043a  
DATE / TIME  
☐ 7 Day Deadline  
DOC #: 008712 #2  
SAS #:  
UNIT: NAW

☒ RESUBMITTAL  
(Oct 2017)

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

### CLIENT TO COMPLETE

DATE OF REQUEST:	4/11/2018	DIVISION:	NATURAL RESOURCES
CONTACT NAME:	Michelle Hoskie or Stevie Hudson	DEPARTMENT:	GENERAL LAND DEVELOPMENT DEPARTMENT
PHONE NUMBER:	x 6447	E-MAIL:	steviehudson@frontier.com
TITLE OF DOCUMENT: BOR ROW & TCE REACH 12.2 - SAN JUAN LATERAL/NAVAJO GALLUP WATER SUPPLY PROJECT, TRIBAL TRUST LANDS, MCKINLEY COUNTY, NEW MEXICO			

### DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT:	4.11.18 112m	REVIEWING ATTORNEY/ADVOCATE:	Fernando Chee 4.20.18
DATE TIME OUT OF UNIT:	4.24.18 3:40		

### DOJ ATTORNEY / ADVOCATE COMMENTS

- I was finally able to retrieve the consent(s) forms from Tseyatsh DGC number 3 from NLD ROW Agent. Two land user's consent are now

REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
Erin Stenice	4/23/18	Blackburn	4/24/18 8:37am
DOJ Secretary Called:	for Document Pick Up on		By: x

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

NNDOJ/DRRF-July 2013

✓ Attached. Document is now  
legally sufficient.  
Thx-ic