

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
OF THE 23rd NAVAJO NATION COUNCIL, Third Year, 2017

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF RIGHT-OF-WAY TO JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC. FOR THE NICKY SANDOVAL 14.4 KV SINGLE PHASE POWER LINE TO SERVE FAMILIES IN THE TORREON CHAPTER LOCATED ON NAVAJO NATION TRUST LANDS (SANDOVAL COUNTY, NEW MEXICO)

BE IT ENACTED:

SECTION ONE. AUTHORITY

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

SECTION TWO. FINDINGS

A. Jemez Mountains Electric Cooperative, Inc., of Espanola, New Mexico has submitted a right-of-way (ROW) application for the Nicky Sandoval 14.4 KV Single Phase Powerline to serve families in Torreon Chapter on, over and across Navajo Nation Trust Lands in Torreon Chapter vicinity, Sandoval County, New Mexico. The application request is attached hereto and incorporated herein at **Exhibit "A"**.

B. The proposed right-of-way is 2,517.94 feet long, 20 feet wide, consisting of 1.162 acres, more or less, and located in NW 1/4 Section 4; Township 18 North, Range 3 West, and NE 1/4 Section 8, Township 18 North, Range 3 West, Sandoval County, New Mexico. Maps are attached hereto and incorporated herein at **Exhibit "B"**.

C. The Project Review Section with the Navajo Land Department identified the Navajo Nation as the only affected land user and has provided the necessary consent from the District 20 Land Board member, Sherwood Willetto, Sr. as found in **Exhibit "C"**.

D. The Terms and Conditions provide for consideration for the right-of-way to be assessed at \$16,547.54, as found in **Exhibit "D"**.

E. The consideration for the right-of-way may be waived at the discretion of the Committee the when the right-of-way project serves a public purpose because the project benefits Navajo residents.

F. The environmental and archaeological studies has been completed and attached hereto and made a part hereof at **Exhibit "E"**.

SECTION THREE. APPROVAL

A. The Resources and Development Committee of the Navajo Nation Council hereby approves the Grant of Right-of-Way to Jemez Mountains Electric Cooperative, Inc. for the Nicky Sandoval 14.4 KV Single Phase Powerline on, over and across Navajo Nation Trust Lands in Torreon Chapter vicinity, Sandoval County, New Mexico. The location is more particularly described on the survey map attached hereto in **Exhibit "B"**.

B. The Resources and Development Committee of the Navajo Nation Council hereby waives consideration for the right-of-way project and boning requirement, 25 C.F.R. Part 169.103, because the project will benefit Navajo residents.

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

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

CERTIFICATION

I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at NDOT Administrative Complex, Tse Bonito, (Navajo Nation) New Mexico, at which quorum was present and that same was passed by a vote of 5 in favor, 0 opposed, 1 abstained this 28th day of March, 2017.

A handwritten signature in black ink, appearing to read 'Alton Joe Shepherd', with a large circular flourish on the left and a horizontal line extending to the right.

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

**Motion: Honorable Benjamin Bennett
Second: Honorable Leonard Pete**

LEGISLATIVE SUMMARY SHEET

Tracking No. 0096-17

DATE: February 13, 2017

SUBJECT: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT;
APPROVING THE GRANT OF RIGHT-OF-WAY TO JEMEZ MOUNTAINS ELECTRIC
COOPERATIVE, INC. FOR THE NICKY SANDOVAL 14.4 KV SINGLE PHASE
POWER LINE TO SERVE FAMILIES IN THE TORREON CHAPTER LOCATED ON
NAVAJO NATION TRUST LANDS (SANDOVAL COUNTY, NEW MEXICO)

PURPOSE: The purpose of this legislation is to grant a right-of-way to Jemez Mountains
Electric Cooperative to extend powerline service to families in the Torreon
Chapter.

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

PROPOSED STANDING COMMITTEE RESOLUTION

23rd NAVAJO NATION COUNCIL – Third Year, 2017

INTRODUCED BY


(Prime Sponsor)

TRACKING NO. 0096-17

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT
OF RIGHT-OF-WAY TO JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.
FOR THE NICKY SANDOVAL 14.4 KV SINGLE PHASE POWER LINE TO SERVE
FAMILIES IN THE TORREON CHAPTER LOCATED ON NAVAJO NATION
TRUST LANDS (SANDOVAL COUNTY, NEW MEXICO)

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SECTION ONE. AUTHORITY

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SECTION TWO. FINDINGS

A. Jemez Mountains Electric Cooperative, Inc., of Espanola, New Mexico has submitted a right-of-way (ROW) application for the Nicky Sandoval 14.4 KV Single Phase Powerline to serve families in Torreon Chapter on, over and across Navajo Nation Trust

1 Lands in Torreon Chapter vicinity, Sandoval County, New Mexico. The application
2 request is attached hereto and incorporated herein at Exhibit "A" .

3 B. The proposed right-of-way is 2,517.94 feet long, 20 feet wide, consisting of 1.162
4 acres, more or less, and located in NW/Section 4; Township 18 North, Range 3 West,
5 and NE/4 Section 8, Township 18 North, Range 3 West, Sandoval County, New
6 Mexico. Maps are attached hereto and incorporated herein at Exhibit "B".

7 C. The Project Review Section with the Navajo Land Department identified the Navajo
8 Nation as the only affected land user and has provided the necessary consent from the
9 District 20 Land Board member, Sherwood Willetto, Sr. as found in Exhibit "C".

10 D. The Terms and Conditions provide for consideration for the right-of-way to be assessed
11 at \$16,424.87, as found in Exhibit "D".

12 E. The consideration for the right-of-way may be waived at the discretion of the
13 Committee the when the right-of-way project serves a public purpose because the
14 project benefits Navajo residents.

15 F. The environmental and archaeological studies has been completed and attached hereto
16 and made a part hereof at Exhibit "E".

17 18 SECTION THREE. APPROVAL

19 A. The Resources and Development Committee of the Navajo Nation Council hereby
20 approves the Grant of Right-of-Way to Jemez Mountains Electric Cooperative, Inc. for
21 the Nicky Sandoval 14.4 KV Single Phase Powerline on, over and across Navajo
22 Nation Trust Lands in Torreon Chapter vicinity, Sandoval County, New Mexico. The
23 location is more particularly described on the survey map attached hereto in Exhibit
24 "B".

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

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

1 D. The Resources and Development Committee of the Navajo Nation Council hereby
2 authorizes the President of the Navajo Nation to execute any and all documents
3 necessary to affect the intent and purpose of this resolution.
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JP

Document No. 006324

Date Issued: 07/14/2016

EXECUTIVE OFFICIAL REVIEW

Title of Document: JMEC ROW for Nicky Sandoval 14.4 kv Contact Name: DRAPER, HOWARD

Program/Division: DIVISION OF NATURAL RESOURCES

Email: howarddraper@frontiernet.net Phone Number: 928/871-6447

☐ **Business Site Lease** Sufficient Insufficient

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

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

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

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

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

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

1. NNEPA: _____	Date: _____	□	□
2. Office of the Attorney General: _____	Date: _____	□	□

☐ **Lease Purchase Agreements**

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

☐ **Grant Applications**

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

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

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

☐ **Relinquishment of Navajo Membership**

1. Land Department: _____	Date: _____	□	□
2. Elections: _____	Date: _____	□	□
3. Office of the Attorney General: _____	Date: _____	□	□

☐ Land Withdrawal or Relinquishment for Commercial Purposes

Sufficient Insufficient

1. Division: _____ Date: _____ ☐ ☐

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

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

1. NLD _____ Date: _____ ☐ ☐

2. F&W _____ Date: _____ ☐ ☐

3. HPD _____ Date: _____ ☐ ☐

4. Minerals _____ Date: _____ ☐ ☐

5. NNEPA _____ Date: _____ ☐ ☐

6. DNR _____ Date: _____ ☐ ☐

7. DOJ _____ Date: _____ ☐ ☐

☐ Rights of Way

1. NLD _____ Date: _____ ☐ ☐

2. F&W _____ Date: _____ ☐ ☐

3. HPD _____ Date: _____ ☐ ☐

4. Minerals _____ Date: _____ ☐ ☐

5. NNEPA _____ Date: _____ ☐ ☐

6. Office of the Attorney General: _____ Date: _____ ☐ ☐

7. OPVP _____ Date: _____ ☐ ☐

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

1. Minerals _____ Date: _____ ☐ ☐

2. OPVP _____ Date: _____ ☐ ☐

3. NLD _____ Date: _____ ☐ ☐

☐ Assignment of Mineral Lease

1. Minerals _____ Date: _____ ☐ ☐

2. DNR _____ Date: _____ ☐ ☐

3. DOJ _____ Date: _____ ☐ ☐

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

1. NLD _____ Date: 14 July 16 ☒ ☐

2. F&W _____ Date: 7/18/16 ☒ ☐

3. HPD _____ Date: 7/20/16 ☒ ☐

4. Minerals _____ Date: 7/27/16 ☒ ☐

5. NNEPA _____ Date: 8/5/2016 ☒ ☐

6. DNR _____ Date: 8/9/16 ☒ ☐

7. DOJ (ic) _____ Date: 1/26/17 ☒ ☐

8. OPVP _____ Date: 2-3-17 ☒ ☐

☐ OTHER:

1. _____ Date: _____ ☐ ☐

2. _____ Date: _____ ☐ ☐

3. _____ Date: _____ ☐ ☐

4. _____ Date: _____ ☐ ☐

5. _____ Date: _____ ☐ ☐



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



DOJ
1/20/16 2:25pm
DATE / TIME
<input type="checkbox"/> 7 Day Deadline
DOC #: 006324 #3
SAS #:
UNIT: NRU

☒ RESUBMITTAL

01/13/17

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

CLIENT TO COMPLETE

DATE OF REQUEST: 1-20-17	ENTITY/DIVISION: DNR - GLDD
CONTACT NAME: Michelle Hoske	DEPARTMENT: GLDD
PHONE NUMBER: 6447	E-MAIL: michellehoske@frontier.com
TITLE OF DOCUMENT: Jemez Mountain Electric Company, Nicky Sandoval	

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 1-20-17 3:03p	REVIEWING ATTORNEY/ADVOCATE: Kevin Chee 1-31-17
DATE/TIME OUT OF UNIT:	

DOJ ATTORNEY / ADVOCATE COMMENTS

Document is legally sufficient after corrections were made.

REVIEWED BY: (PRINT) TAMME Hesse	DATE / TIME 1-24-17	SURNAMED BY: (PRINT) Veronica Brathat	DATE / TIME 1/26/17 7:45am
DOJ Secretary Called: Percy		for Document Pick Up on 1/26/17 at 9:15am By: ah	
PICKED UP BY: (PRINT)		DATE / TIME:	

NNDJ/DRRF-July 2013

NRU
COPY

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

95-44/1070

1451

DATE

6/22/16

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SPECIALTY BANK WITH SECURITY

PAY TO
THE ORDER OF

NAVADO NATION

\$ 500⁰⁰

Five Hundred & 00/100

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www.firstnationalsantafe.com

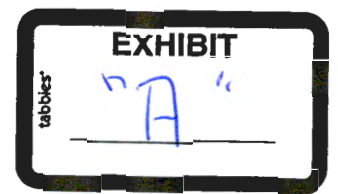
MEMO

Owner - NICKY STANWELL

MP

⑆107000440⑆ ⑈177003277⑈ 1451

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



June 23, 2016

Howard Draper
Project Review Office
Navajo Nation
P.O. Box 9000
Window Rock, AZ 86515

Dear Howard:

Enclosed is a Right of Way application for the Nicky Sandoval 14.4 KV Single Phase power line for Jemez Mountains Electric Cooperative (JMEC) on Navajo Nation Tribal Trust land. The application packet includes:

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

Please let me know if you have any questions.

Sincerely,

Jeanette Reisenburg
Consultant

Project Fact Sheet

Company: Jemez Mountains Electric Cooperative, Inc.
P.O. Box 128
Espanola, NM 87532

Project: **Nicky Sandoval 14.4 kV Single Phase Power Line**

Purpose: To serve Navajo families in the Torreon Chapter

Surface: Navajo Tribal Trust

Tribal Location: NW/4 Section 4, T. 18 N., R. 3 W. and NE/4 Section 8, T. 18 N., R 3 W.,
Sandoval County, NM

Line Length: 2,517.94 feet

Right-of-Way Width: 20 feet

Total acreage 1.162 acres

Contact: Permits West, Inc.
37 Verano Loop
Santa Fe, NM 87508
505/466-8120
Fax: 505/466-9682

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS**

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

1. Applicant Name and Address: Jemez Mountains Electric Cooperative, PO Box 128, Espanola, NM 87532
2. Tract(s) or parcel(s) affected by the right-of-way: Tribal Trust
3. General location (easement description): NW/4 Section 4, T. 18 N., R. 3 W. and NE/4 Section 8, T. 18 N., R. 3 W., Sandoval County, NM.

Said right-of-way across Tribal Trust Lands to be 2,517.94 feet in length, 20 feet in width, and 1.162 acres in size, as shown on attached map and plats of definite location, attached hereto, and made a part hereof.

4. Purpose: *Construction, operation and maintenance of a 14.4 KV electrical distribution line (Project #414095, Nicky Sandoval).*
5. Term (Renewal, if applicable): 20 Years
6. Identify ownership of permanent improvements associated with the right-of-way and the responsibility for constructing, operating, maintaining, and managing; or removal of permanent improvements under §169.105:

REQUIRED SUPPORTING DOCUMENTS [§169.102(b)]:

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

- a. The representative has authority to execute the application;
 - b. The right-of-way will be enforceable against the applicant; and
 - c. The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located.
8. Current environmental and archaeological reports, surveys, and site assessments, as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements;
 9. If required, a statement from the appropriate tribal authority that the proposed right-of-way is in conformance with applicable tribal law.

THE APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

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

Applicant Point of Contact Information:

Name: Permits West, Agent for Jemez Mountains Electric Cooperative

Address: PO Box 128, Espanola, NM 87532

Phone: 505-466-8120

Fax: 505-466-9682

Email: Jeanette@permitswest.com

Date: 6/23/16

Applicant Signature: _____

Applicant (Print Name): Joseph Sanchez

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS**

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

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1. Accurate legal description of the right-of-way, its boundaries, and parcels associated with the right-of way;
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 - b. The right-of-way will be enforceable against the applicant; and
 - c. The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located.
8. Current environmental and archaeological reports, surveys, and site assessments, as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements;
9. If required, a statement from the appropriate tribal authority that the proposed right-of-way is in conformance with applicable tribal law.

THE APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

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Applicant Point of Contact Information:

Name: Permits West, Agent for Jemez Mountains Electric Cooperative

Address: PO Box 128, Espanola, NM 87532

Phone: 505-466-8120

Fax: 505-466-9682

Email: Jeanette@permitswest.com

Date: 6/23/16

Applicant Signature: 

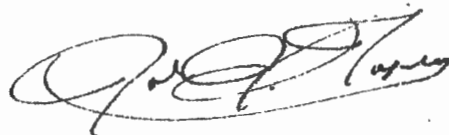
Applicant (Print Name): Joseph Sanchez

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

EVIDENCE OF AUTHORITY OF OFFICERS TO EXECUTE PAPERS

I, John J. Tapia, solemnly swear that Joseph Sanchez was on the 11th day of March, 2015, duly qualified and acting as General Manager of Jemez Mountains Electric Cooperative ("JMEC"), on which day he executed a Right-of-Way Application for and in behalf of said corporation, covering certain Navajo Tribal Trust Indian lands in the State of New Mexico; that he was fully empowered to execute said instrument and all papers in connection therewith, and that here action in executing the same binds the said corporation to full performance of all obligations thereunder.

This 11th day of March, 2015



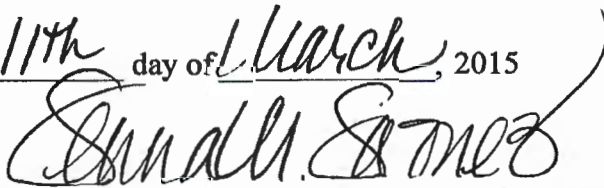
John J. Tapia

Board President, JMEC

Title



Subscribed and sworn to before me this 11th day of March, 2015



Jenna M. Jaquez

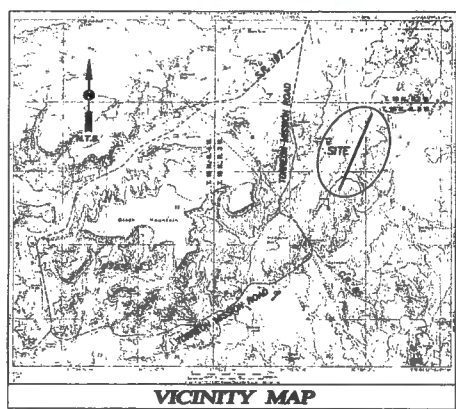
Executive Assistant, JMEC

Title

My Commission Expires:
June 7, 2015



EXHIBIT
"B"



T. 19 N., R. 3 W.
T. 18 N., R. 3 W.

RIGHT-OF-WAY SURVEY FOR
JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.
WITHIN BLM & NAVAJO TRIBAL TRUST LANDS
NICKY SANDOVAL PROJECT
14.4 KV THREE PHASE DISTRIBUTION LINE
WORK ORDER NO. 40032
E 1/2 SECTION 13, TOWNSHIP 21 NORTH,
RANGE 12 WEST, N.M.P.M.
SANDOVAL COUNTY, NEW MEXICO

GRAPHIC SCALE



SURVEY NOTES

1. BEARINGS SHOWN ARE BASED ON NGS 84 GRID NORTH R.T.A DATA GENERATED BY TOPCON HUPER PLUS GLOBAL POSITIONING SYSTEM, UTILIZING ITS SURVEY PRO COORDINATE DATA, GROUND EARTH (GLOBAL) MAP PROJECTION, NEW MEXICO ZONE 3002.
2. DISTANCES ARE GROUND DISTANCES - U.S. SURVEY FOOT.
3. DATE OF FIELD SURVEY: DECEMBER 11 & 12, 2014
4. THE FOLLOWING DOCUMENTS WERE USED TO PREPARE THIS PLAT:
 - A. U.S.G.L.O. ORIGINAL SURVEY PLAT OF TOWNSHIP 21 NORTH, RANGE 8 WEST, NEW MEXICO PRINCIPAL MERIDIAN, APPROVED JUNE 15, 1918.
 - B. DOCUMENTS PROVIDED BY PERMITS WEST
 - C. ANCHOR EASEMENT POCKETS FOR THIS PROJECT ARE 20' WIDE, VARY IN LENGTH AND ARE NOT INCLUDED IN THE LEGAL DESCRIPTION ABOVE.

RIGHT-OF-WAY LEGAL DESCRIPTION

A CERTAIN STRIP OF LAND LYING AND BEING SITUATED WITHIN EASTERN NAVAJO AGENCY TRIBAL TRUST LANDS, AND THE BUREAU OF LAND MANAGEMENT LANDS, COMPRISING OF A PORTION OF THE NE 1/4 OF SECTION 4, THE E 1/2 OF SECTION 5 & THE NW 1/4 OF SECTION 4, TOWNSHIP 18 NORTH, RANGE 3 WEST, OF THE NEW MEXICO PRINCIPAL MERIDIAN, VICINITY OF THE TORREON NAVAJO MISSION, SANDOVAL COUNTY, NEW MEXICO, SAID STRIP OF LAND BEING 20 FEET WIDE, LYING 10 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEING AT AN EXISTING JEMEZ MOUNTAINS ELECTRIC COOPERATIVE POWERPOLE, NO. 03133, DESIGNATED HEREIN AS CENTERLINE STATION 0+00, LYING WITHIN NAVAJO TRIBAL TRUST LANDS FROM WHENCE A BE TO A U.S.G.L.O. BRASS CAP, MARKING THE CORNER OF SECTIONS 4, 5, 8 & 9, T. 18 N., R. 3 W., BEARS S. 55°30'17" E., A DISTANCE OF 2,247.69 FEET.

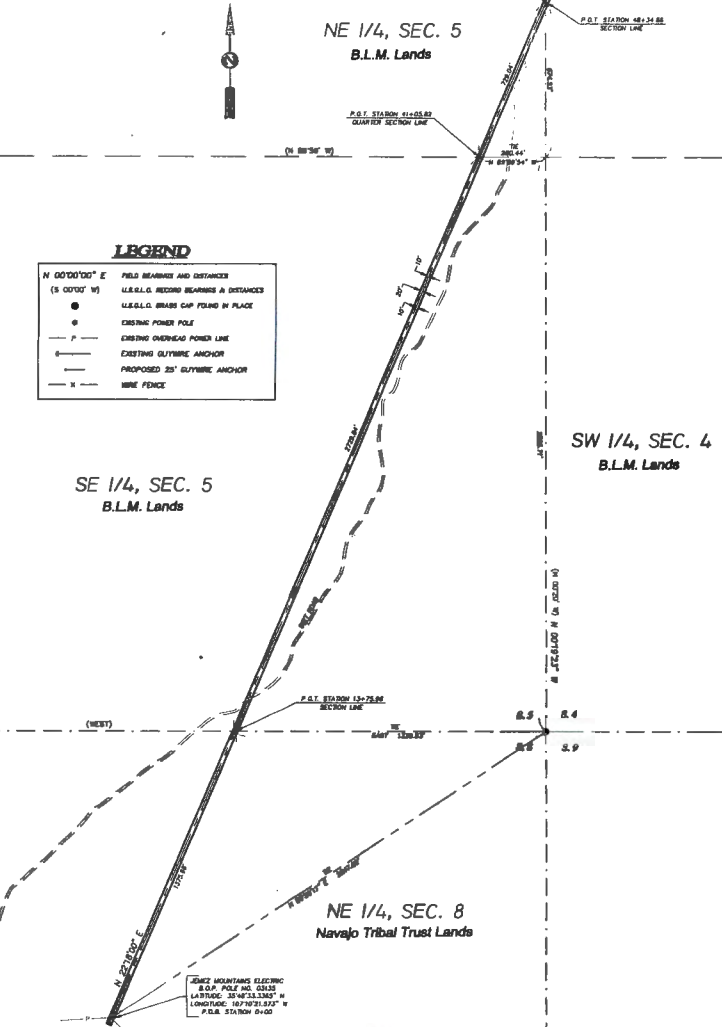
THENCE N. 22°18'00" E., A DISTANCE OF 1,375.00 FEET TO THE DIVISION LINE BETWEEN SECTION 8 AND SECTION 5, HEREIN DESIGNATED AS P.O.T. CENTERLINE STATION 13+75.00, FROM WHENCE A BE TO THE U.S.G.L.O. BRASS CAP MARKING SAID SECTIONS 4, 5, 8 & 9, BEARS DUE EAST, A DISTANCE OF 1,336.53 FEET.

THENCE LEAVING SAID SECTION LINE, N. 22°18'00" E., A DISTANCE OF 2,729.84 FEET TO THE DIVISION LINE BETWEEN THE SE 1/4 & THE NE 1/4 OF SECTION 4, HEREIN DESIGNATED AS P.O.T. CENTERLINE STATION 41+05.82.

THENCE N. 22°18'00" E., A DISTANCE OF 726.04 FEET TO THE DIVISION LINE BETWEEN SECTION 4 AND SECTION 5, HEREIN DESIGNATED AS P.O.T. CENTERLINE STATION 48+31.86, FROM WHENCE A BE TO THE U.S.G.L.O. BRASS CAP, MARKING THE CORNER OF SECTIONS 4 & 5, T. 18 N., R. 3 W., AND SECTIONS 32 & 33, T. 18 N., R. 3 W., BEARS N. 00°19'33" W., A DISTANCE OF 1,851.16 FEET.

THENCE LEAVING SAID SECTION LINE, N. 22°18'00" E., A DISTANCE OF 1,082.98 FEET TO THE TERMINUS POINT, LYING WITHIN NAVAJO TRIBAL TRUST LANDS, CENTERLINE STATION 59+27.82, FROM WHENCE A BE TO THE U.S.G.L.O. BRASS CAP, MARKING THE CORNER OF SECTIONS 4 & 5, T. 18 N., R. 3 W., AND SECTIONS 32 & 33, T. 18 N., R. 3 W., BEARS N. 20°30'33" W., A DISTANCE OF 1,441.41 FEET, SAID STRIP CONTAINING 2.750 ACRES MORE OR LESS, EXCLUDING GUY WIRE ANCHOR POCKETS.

- LEGEND
- N 00°00'00" E FIELD BEARINGS AND DISTANCES (S 00°00' 00" W)
 - U.S.G.L.O. BRASS CAP FOUND IN PLACE
 - U.S.G.L.O. BRASS CAP FOUND IN PLACE
 - EXISTING OVERHEAD POWER LINE
 - EXISTING GUYWIRE ANCHOR
 - PROPOSED 20' GUYWIRE ANCHOR
 - WIRE FENCE



LINE SEGMENT	SECTION	PARCEL	LAND STATUS	R.O.W. WIDTH	CENTERLINE LENGTH	GUY LENGTH	TOTAL LENGTH	LINE ACRES	GUY ACRES	TOTAL ACRES
LINE 1	21-1/2	SECTION 8	BLM	20'	1375.00	0'	1375.00	0.000	0.000	0.000
LINE 2	21-1/2	SECTION 5	BLM	20'	2729.84	0'	2729.84	0.000	0.000	0.000
LINE 3	21-1/2	SECTION 4	BLM	20'	1336.53	0'	1336.53	0.000	0.000	0.000
LINE 4	21-1/2	SECTION 4	BLM	20'	1082.98	0'	1082.98	0.000	0.000	0.000
LINE 5	21-1/2	SECTION 4	BLM	20'	726.04	0'	726.04	0.000	0.000	0.000
LINE 6	21-1/2	SECTION 4	BLM	20'	1375.00	0'	1375.00	0.000	0.000	0.000
TOTALS										

STATE OF NEW MEXICO
COUNTY OF SANDOVAL

I, John Paisano Jr., BEING DULY SWORN, DO HEREBY CERTIFY THAT I AM A LICENSED SURVEYOR FOR THE STATE OF NEW MEXICO, AND THAT I HAVE BEEN DULY SWORN AND QUALIFIED AS SUCH.

SUBSCRIBED TO THE FOLLOWING AFFIDAVIT, IS EMPLOYED BY THE APPLICANT AS A REGISTERED LICENSED SURVEYOR AND THAT HE WAS DIRECTED BY THE APPLICANT TO SURVEY THE LOCATION OF A RIGHT-OF-WAY AND TO PREPARE THIS MAP, THAT THE LOCATION OF THE NICKY SANDOVAL POWER LINE PROJECT, LOCATED IN T18N, R3W, NEW MEXICO PRINCIPAL MERIDIAN, SANDOVAL COUNTY, STATE OF NEW MEXICO IS ACCURATELY REPRESENTED ON THIS MAP, THAT SUCH SURVEY AS REPRESENTED ON THIS MAP HAS BEEN ADOPTED BY THE APPLICANT AS THE DEFINITE LOCATION OF THE RIGHT-OF-WAY THEREBY SHOWN, THAT THE MAP HAS BEEN PREPARED TO BE FILED WITH THE SECRETARY OF INTERIOR ON HIS DULY AUTHORIZED REPRESENTATIVE AS PART OF THE APPLICATION FOR SAID RIGHT-OF-WAY TO BE GRANTED TO THE APPLICANT, ITS SUCCESSORS AND ASSIGNS, WITH THE RIGHT TO CONSTRUCT, MAINTAIN, AND REPAIR IMPROVEMENTS THEREON AND THEREAFTER FOR SUCH PURPOSES, AND WITH THE FURTHER RIGHT IN THE APPLICANT, ITS SUCCESSORS AND ASSIGNS, TO TRANSFER THIS RIGHT-OF-WAY BY ASSIGNMENT, GRANT OR OTHERWISE.

JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.

SUBSCRIBED TO THE AFFIDAVIT

SWORN AND SUBSCRIBED THIS 21st DAY OF June 2014

TOTALY PUBLIC

MY COMMISSION EXPIRES: 6/7/17

OFFICIAL SEAL
HEATHER REISENBURG
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 6/7/17

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM FIELD NOTES OF AN ACTUAL SURVEY PERFORMED BY ME IN DECEMBER 2014, AND THAT THIS PLAT AND SURVEY MEET THE MINIMUM REQUIREMENTS AS ADOPTED BY THE NEW MEXICO BOARD OF REGISTRATION FOR ENGINEERS AND LAND SURVEYORS, AND THAT THIS PLAT AND SURVEY ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

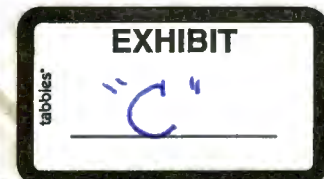
John Paisano Jr. 12-24-14
JOHN PAISANO JR., N.M.P.L.S. NO. 5708 DATE

Quest Network, LLC
9036 Admiral Dwyer Avenue NE, Albuquerque, NM 87111, Email: questnetwork@questnetwork.com
John Paisano Jr., N.M.P.L.S. 505-362-6295 - John Paisano Jr., Operations Manager, 505-280-4031





THE NAVAJO NATION



RUSSELL BEGAYE | JONATHAN NEZ
PRESIDENT | VICE-PRESIDENT

MEMORANDUM

TO : Elerina Yazzie, Supervisor
Project Review Section, NLD

FROM : Esther Kee
Esther Kee, R/W Agent
Project Review Section, NLD

DATE : October 27, 2016

SUBJECT: Field clearance for JMEC Nicky Sandoval PL Project

Jemez Mountain Electric Cooperative, Inc., of Post Office Box 128, Espanola, New Mexico 87532, submitted an application for right of way to construct, operate and maintain a 14.4 kV single phase power line extension to serve Nicky Sandoval residences on Navajo Trust lands near the vicinity of Torreon Chapter.

The right of way will be 2,517.94 feet in length, 20 feet in width, 1.162 acres, in NW/4 of Section 4, T18N, R3W, and NE/4 of Section 8, T18N, R3W, Sandoval County, New Mexico.

The Navajo Nation is the only affected land user and provided the necessary consent from the District 20 Land Board member, Sherwood Willetto, Sr.

Field clearance completed, land user consent, map and supporting documents are all attached for your information and reference.

cc: Project file

Project Fact Sheet

Company: Jemez Mountains Electric Cooperative, Inc.
P.O. Box 128
Espanola, NM 87532

Project: **Nicky Sandoval 14.4 kV Single Phase Power Line**

Purpose: To serve Navajo families in the Torreon Chapter

Surface: Navajo Tribal Trust

Tribal Location: NW/4 Section 4, T. 18 N., R. 3 W. and NE/4 Section 8, T. 18 N., R 3 W.,
Sandoval County, NM

Line Length: 2,517.94 feet

Right-of-Way Width: 20 feet

Total acreage 1.162 acres

Contact: Permits West, Inc.
37 Verano Loop
Santa Fe, NM 87508
505/466-8120
Fax: 505/466-9682

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS**

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

1. Applicant Name and Address: Jemez Mountains Electric Cooperative, PO Box 128, Espanola, NM 87532

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

3. General location (easement description): NW/4 Section 4, T. 18 N., R. 3 W. and NE/4 Section 8, T. 18 N., R. 3 W., Sandoval County, NM.

Said right-of-way across Tribal Trust Lands to be 2,517.94 feet in length, 20 feet in width, and 1.162 acres in size, as shown on attached map and plats of definite location, attached hereto, and made a part hereof.

4. Purpose: *Construction, operation and maintenance of a 14.4 KV electrical distribution line (Project #414095, Nicky Sandoval).*

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

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

REQUIRED SUPPORTING DOCUMENTS [§169.102(b)]:

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

- a. The representative has authority to execute the application;
 - b. The right-of-way will be enforceable against the applicant; and
 - c. The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located.
8. Current environmental and archaeological reports, surveys, and site assessments, as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements;
9. If required, a statement from the appropriate tribal authority that the proposed right-of-way is in conformance with applicable tribal law.

THE APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

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

Applicant Point of Contact Information:

Name: Permits West, Agent for Jemez Mountains Electric Cooperative

Address: PO Box 128, Espanola, NM 87532

Phone: 505-466-8120

Fax: 505-466-9682

Email: Jeanette@permitswest.com

Date: 6/23/16

Applicant Signature: 

Applicant (Print Name): Joseph Sanchez

10-27-16

To: Navajo Land Dept

Re: Land Use Consent

Please be advise that
grazing is cancel in

Pueblo Pintado Range

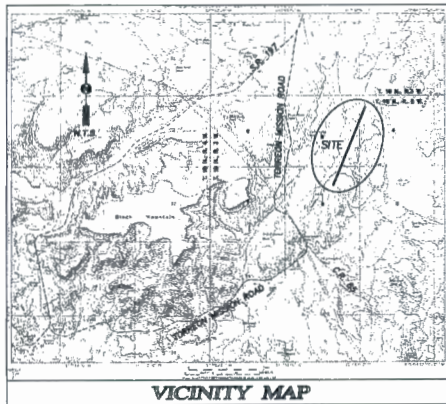
Unit 15. Any question

Please call 505/731-2336.

Sherwood S. Willett Sr

Sherwood Willett Sr

District 20 LBM



VICINITY MAP

LEGEND

N 00°00'00" E	FIELD BEARINGS AND DISTANCES
(S 00°00'00" E)	U.S.G.L. RECORD BEARINGS & DISTANCES
●	U.S.G.L. BRASS CAP FOUND IN PLACE
—	EXISTING POWER POLE
—	EXISTING OVERHEAD POWER LINE
—	EXISTING GUYWIRE ANCHOR
—	PROPOSED 25' GUYWIRE ANCHOR
—	WIRE FENCE

SE 1/4, SEC. 5
B.L.M. Lands

NE 1/4, SEC. 5
B.L.M. Lands

NW 1/4, SEC. 4
Navajo Tribal Trust Lands

SW 1/4, SEC. 4
B.L.M. Lands

NE 1/4, SEC. 8
Navajo Tribal Trust Lands

JEMEZ MOUNTAINS ELECTRIC
R.O.W. PLAT NO. 53137
L.A. 1000.00, 1000.00, 1000.00
LONGITUDE: 107°02'15.00" W
P.D.S. 53137EN 2-10

PROJECT LINE TABLE

LINE SEGMENT	SECTION	PARCEL	LAND STATUS	R.O.W. WIDTH	CENTERLINE LENGTH	QUAY LENGTH	TOTAL LENGTH	LINE AREA	QUAY AREA	TOTAL AREA
LINE 1	NE 1/4	SECTION 5	BLM	20'	1375.00	20'	1395.00	0.632	0.004	0.636
LINE 2	NE 1/4	SECTION 5	BLM	20'	1375.00	20'	1395.00	0.632	0.004	0.636
LINE 3	NE 1/4	SECTION 5	BLM	20'	1375.00	20'	1395.00	0.632	0.004	0.636
LINE 4	NE 1/4	SECTION 5	BLM	20'	1375.00	20'	1395.00	0.632	0.004	0.636
LINE 5	NE 1/4	SECTION 5	BLM	20'	1375.00	20'	1395.00	0.632	0.004	0.636
TOTALS										

**RIGHT-OF-WAY SURVEY FOR
JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.
WITHIN BLM & NAVAJO TRIBAL TRUST LANDS
NICKY SANDOVAL PROJECT
14.4 KV THREE PHASE DISTRIBUTION LINE
WORK ORDER NO. 40032
E 1/2 SECTION 13, TOWNSHIP 21 NORTH,
RANGE 12 WEST, N.M.P.M.
SANDOVAL COUNTY, NEW MEXICO**

GRAPHIC SCALE



SURVEY NOTES

- BEARINGS SHOWN ARE BASED ON WGS 84 GRID NORTH R.T.K. DATA GENERATED BY TOPCON Hiper PLUS GLOBAL POSITIONING SYSTEM, UTILIZING TDS SURVEY PRO COORDINATE DATA, GRID EPOCH (GLOBAL) MAP PROJECTION, NEW MEXICO CENTRAL ZONE 3002.
- DISTANCES ARE GROUND DISTANCES - U.S. SURVEY FOOT.
- DATE OF FIELD SURVEY: DECEMBER 11 & 12, 2014
- THE FOLLOWING DOCUMENTS WERE USED TO PREPARE THIS PLAT:
 - U.S.G.L.O. ORIGINAL SURVEY PLAT OF TOWNSHIP 21 NORTH, RANGE 6 WEST, NEW MEXICO PRINCIPAL MERIDIAN, APPROVED JUNE 15, 1918.
 - DOCUMENTS PROVIDED BY PERMITS WEST
- ANCHOR EASEMENT POCKETS FOR THIS PROJECT ARE 20' WIDE, VARY IN LENGTH AND ARE NOT INCLUDED IN THE LEGAL DESCRIPTION ABOVE.

RIGHT-OF-WAY LEGAL DESCRIPTION

A CERTAIN STRIP OF LAND LYING AND BEING SITUATED WITHIN EASTERN NAVAJO AGENCY TRIBAL TRUST LANDS, AND THE BUREAU OF LAND MANAGEMENT LANDS, COMPRISING OF A PORTION OF THE NE 1/4 OF SECTION 8, THE E 1/2 OF SECTION 5 & THE NW 1/4 OF SECTION 4, TOWNSHIP 18 NORTH, RANGE 3 WEST, OF THE NEW MEXICO PRINCIPAL MERIDIAN, VICINITY OF THE TORRION NAVAJO MISSION, SANDOVAL COUNTY, NEW MEXICO, SAID STRIP OF LAND BEING 20 FEET WIDE, LYING 10 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT AN EXISTING JEMEZ MOUNTAINS ELECTRIC COOPERATIVE POWERPOLE, NO. 03135, DESIGNATED HEREIN AS CENTERLINE STATION 0+00, LYING WITHIN NAVAJO AGENCY TRIBAL TRUST LANDS FROM WHENCE A TIE TO A U.S.G.L.O. BRASS CAP MARKING THE CORNER OF SECTIONS 4, 5, 8 & 9, T. 18 N., R. 3 W., BEARS S. 55°30'17" E., A DISTANCE OF 2,247.69 FEET;

THENCE N. 22°18'00" E., A DISTANCE OF 1,375.98 FEET TO THE DIVISION LINE BETWEEN SECTION 8 AND SECTION 5, HEREIN DESIGNATED AS P.O.T., CENTERLINE STATION 1+375.98, FROM WHENCE A TIE TO THE U.S.G.L.O. BRASS CAP MARKING THE CORNER OF SECTIONS 4, 5, 8 & 9, T. 18 N., R. 3 W., BEARS S. 55°30'17" E., A DISTANCE OF 1,330.53 FEET;

THENCE LEAVING SAID SECTION LINE N. 22°18'00" E., A DISTANCE OF 2,726.84 FEET TO THE DIVISION LINE BETWEEN THE SE 1/4 & THE NE 1/4 OF SECTION 5, HEREIN DESIGNATED AS P.O.T., CENTERLINE STATION 4+1082.82;

THENCE N. 22°18'00" E., A DISTANCE OF 729.04 FEET TO THE DIVISION LINE BETWEEN SECTION 4 AND SECTION 8, HEREIN DESIGNATED AS P.O.T., CENTERLINE STATION 48+34.86, FROM WHENCE A TIE TO THE U.S.G.L.O. BRASS CAP MARKING THE CORNER OF SECTIONS 4 & 5, T. 18 N., R. 3 W., AND SECTIONS 32 & 33, T. 18 N., R. 3 W., BEARS N. 00°19'23" W., A DISTANCE OF 1,851.16 FEET;

THENCE LEAVING SAID SECTION LINE N. 22°18'00" E., A DISTANCE OF 1,082.86 FEET TO THE TERMINUS POINT, LYING WITHIN NAVAJO TRIBAL TRUST LANDS, CENTERLINE STATION 59+37.82, FROM WHENCE A TIE TO THE U.S.G.L.O. BRASS CAP, MARKING THE CORNER OF SECTIONS 4 & 5, T. 18 N., R. 3 W., AND SECTIONS 32 & 33, T. 18 N., R. 3 W., BEARS N. 28°50'52" W., A DISTANCE OF 141.41 FEET, SAID STRIP CONTAINING 2,750 ACRES MORE OR LESS, EXCLUDING GUY WIRE ANCHOR POCKETS.

STATE OF NEW MEXICO
COUNTY OF SANDOVAL

I, John Pasano Jr., BEING DULY SWORN, DO HEREBY CERTIFY THAT I AM THE REGISTERED ALTERNATE FOR JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC. HEREIN AFTER DESIGNATED THE APPLICANT; THAT THE REGISTERED LICENSED SURVEYOR WHO SUBSCRIBED TO THE FOLLOWING AFFIDAVIT, IS EMPLOYED BY THE APPLICANT AS A REGISTERED LICENSED SURVEYOR AND THAT HE WAS DIRECTED BY THE APPLICANT TO SURVEY THE LOCATION OF A RIGHT-OF-WAY AND TO PREPARE THIS MAP, THAT THE LOCATION OF THE NICKY SANDOVAL POWER LINE PROJECT, LOCATED IN T18N, R3W, NEW MEXICO PRINCIPAL MERIDIAN, SANDOVAL COUNTY, STATE OF NEW MEXICO IS ACCURATELY REPRESENTED ON THIS MAP, THAT SUCH SURVEY AS REPRESENTED ON THIS MAP HAS BEEN ADOPTED BY THE APPLICANT AS THE DEFINITE LOCATION OF THE RIGHT-OF-WAY THEREBY SHOWN, THAT THE MAP HAS BEEN PREPARED TO BE FILED WITH THE SECRETARY OF INTERIOR OR HIS DULY AUTHORIZED REPRESENTATIVE AS PART OF THE APPLICATION FOR SAID RIGHT-OF-WAY TO BE GRANTED THE APPLICANT, ITS SUCCESSORS AND ASSIGNS, WITH THE RIGHT TO CONSTRUCT, MAINTAIN, AND REPAIR IMPROVEMENTS, THEREON AND THEREAFTER, FOR SUCH PURPOSES, AND WITH THE FURTHER RIGHT IN THE APPLICANT, ITS SUCCESSORS AND ASSIGNS, TO TRANSFER THIS RIGHT-OF-WAY BY ASSIGNMENT, GRANT OR OTHERWISE.

JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.

SIGNATURE & TITLE

SWORN AND SUBSCRIBED THIS 23rd DAY OF June 2014

NOTARY PUBLIC

MY COMMISSION EXPIRES: 1/1/17



SURVEYORS CERTIFICATION

I HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM FIELD NOTES OF AN ACTUAL SURVEY PERFORMED BY ME IN DECEMBER 2014, AND THAT THIS PLAT AND SURVEY MEET THE MINIMUM REQUIREMENTS AS ADOPTED BY THE NEW MEXICO BOARD OF REGISTRATION FOR ENGINEERS AND LAND SURVEYORS, AND THAT THIS PLAT AND SURVEY ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

John Pasano Jr. 12-24-14
JOHN PASANO JR., N.M.P.L.S. NO. 5708 DATE



Quest Network, LLC

9036 Adams Pkwy, Suite 100, Albuquerque, NM 87117, Email: questnetwork@questnet.com
John Pasano Jr., N.M.P.L.S. 505-262-6295 - John Pasano Jr., Operations Manager, 505-290-4091





June 23, 2016

Esther Kee
Project Review Office
P.O. Box 9000
Window Rock, AZ 86515

Dear Esther:

On behalf of Jemez Mountains Electric Cooperative, Inc., I am requesting a field clearance for the Navajo Nation Tribal Trust portion of the proposed Nicky Sandoval power line in Sandoval County, NM. The project is marked on the attached quad map. The legal descriptions of the project are:

NW/4 Section 4, T. 18 N., R. 3 W. and NE/4 Section 8, T. 18 N., R 3 W., Sandoval County, NM

The proposed right-of-way for the power line is 20 feet in width, 2,517.94 feet in length, and 1.162 acres in size.

Sincerely,

Jeanette Reisenburg
Consultant

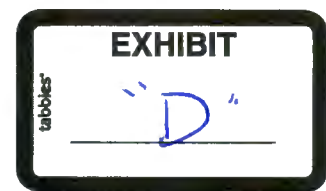


EXHIBIT "D"

NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS
JEMEZ MOUNTAINS ELECTRICAL COOPERATIVE, INC. (GRANTEE)

1. The term of the right-of-way shall be for five (5) years, beginning on the date the right-of-way is granted by the Secretary of the Interior.
2. Consideration for the right-of-way is assessed at \$16,424.87 and shall be paid in full to the Controller of the Navajo Nation, in lawful money of the United States, and a copy of the receipt for such payment provided to the Navajo Nation Minerals Department, or its successor, within _____ days of approval of and consent to the grant of the right-of-way by the Navajo Nation.

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

3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of constructing, operating and maintaining a single phase power line. The Grantee may not develop, use or occupy the right-of-way for any other purpose, nor allow others to use or occupy the right-of-way for any other purpose, without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation. The Grantee may not develop, use or occupy the right-of-way for any unlawful purpose.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
 - a. Title 25, Code of Federal Regulations, Part 169; subject to the terms of this right-of-way.
 - b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices;
 - c. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., and the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq.; and
 - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq., Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.
6. The Grantee shall clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during any surface disturbance activities.

7. The Grantee shall reclaim all surface lands disturbed related to the right-of-way, as outlined in a restoration and revegetation plan, which shall be approved by Navajo Nation Environmental Protection Agency (NNEPA) prior to any surface disturbance. The Grantee shall comply with all provisions of such restoration and revegetation plan and shall notify the Director of the NNEPA immediately upon completion of the surface disturbance activities so that a site inspection be can made.
8. The Grantee shall at all times during the term of the right-of-way and at the Grantee's sole cost and expense, maintain the land subject to the right-of-way and all improvements located thereon and make all necessary and reasonable repairs.
9. The Grantee shall obtain prior written permission to cross existing rights-of-way, if any, from the appropriate parties.
10. The Grantee shall be responsible for and promptly pay all damages when they are sustained.
11. The Grantee shall indemnify and hold harmless the Navajo Nation and the Secretary of the Interior and their respective authorized agents, employees, landusers and occupants, against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of right-of-way by the Grantee.
12. The Grantee shall not assign, convey, transfer or sublet, in any manner whatsoever, the right-of-way or any interest therein, or in or to any of the improvements on the land subject to the right-of-way, without the prior written consent of the Navajo Nation and the Secretary of the Interior. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation.
13. The Navajo Nation may terminate the right-of-way for violation of any of the terms and conditions stated herein. In addition, the right-of-way shall be terminable in whole or part by the Navajo Nation for any of the following causes:
 - a. Failure to comply with any terms and conditions of the grant or of applicable laws or regulations;
 - b. A non-use of the right-of-way for the purpose for which it is granted for a consecutive two year period; and
 - c. The use of the land subject to the right-of-way for any purpose inconsistent with the purpose for which the right-of-way is granted.
 - d. An abandonment of the right-of-way.
14. At the termination of this right-of-way, the Grantee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. Upon the written request of the Navajo Nation, the Grantee shall provide the Navajo Nation, at the Grantee's sole cost and expense, with an environmental audit assessment of the premises at least sixty (60) days prior to delivery of said premises.
15. Holding over by the Grantee after the termination of the right-of-way shall not constitute a renewal or extension thereof or give the Grantee any rights hereunder or in to the land subject to the right-of-way or to any improvements located thereon.

16. The Navajo Nation and the Secretary shall have the right, at any reasonable time during the term of the right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any improvements located thereon.
17. By acceptance of the grant of right-of-way, the Grantee consents to the full territorial legislative, executive and judicial jurisdiction of the Navajo Nation, including but not limited to the jurisdiction of the Navajo Nation, including but not limited to the jurisdiction of levy fines and to enter judgments for compensatory and punitive damages and injunctive relief, in connection with all activities conducted by the Grantee within the Navajo Nation or which have a proximate (legal) effect on persons or property within the Navajo Nation.
18. By acceptance of the grant of right-of-way, the Grantee covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision shall be construed to negate or impair federal responsibilities with respect to the land subject to the right-of-way or to the Navajo Nation.
19. Any action or proceeding brought by the Grantee against the Navajo Nation in connection with or arising out of the terms and conditions of the right-of-way shall be brought only in the Courts of the Navajo Nation, and no such action or proceeding shall be brought by the Grantee against the Navajo Nation in any court of any state.
20. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.
21. Except as prohibited by applicable federal law, the law of the Navajo Nation shall govern the construction, performance and enforcement of the terms and conditions contained herein.
22. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of the Grantee, and the term "Grantee," whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.
23. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the right-of-way and all lands burdened by the right-of-way, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the right-of-way; and the right-of-way and all lands burdened by the right-of-way shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.
24. The Navajo Nation reserves the right to grant rights-of-way within the right-of-way referenced herein for utilities, provided that such rights-of-ways do not unreasonably interfere with the Grantee's use of the right-of-way

1. HPD REPORT NO:	2. (FOR HPD USE ONLY)	3. RECIPIENT'S ACCESSION NO.
4. TITLE OF REPORT: An Intensive Cultural Resource Survey of 18.24 acres for Jemez Electric Cooperative Nicky Sandoval Overhead Powerline, Sandoval County, New Mexico		5. FIELDWORK DATES December 12, 2014
Author(s): Douglas H. M. Boggess		6. REPORT DATE January 5, 2015
7. CONSULTANT NAME AND ADDRESS Gen'l Charge: Douglas H. M. Boggess Org. Name: Lone Mountain Archaeological Services, Inc. Org. Address: 2625 Pennsylvania NE, Ste. 2000 Albuquerque, NM 87110 Phone: 505-881-0011		8. PERMIT NO. B14572
		9. CONSULTANT REPORT NO. 1901
10. SPONSOR NAME AND ADDRESS Ind. Responsible: Mike Deutsch Org. Name: Permits West, Inc. (on behalf of Jemez Electric Co-op) Org. Address: 37 Verano Loop, Santa Fe NM, 87508 Phone: 505-466-8120		11. SPONSOR PROJECT NO.
		12. AREA OF EFFECT <u>5.55</u> AC (2.44 ac on NN, 3.11 ac on BLM) AREA SURVEYED <u>18.24</u> AC (8.15 ac on NN, 10.09 ac on BLM)
13. LOCATION (MAP ATTACHED)		
a. Agency: <u>Eastern Navajo</u> b. Chapter: <u>Torreon</u> c. County: <u>Sandoval</u> d. State: <u>New Mexico</u> e. Land Status: <u>Tribal Trust Lands, BLM-Albuquerque</u> f. UTM Northern Terminus: Zone <u>13</u> Easting <u>304441</u> Northing <u>3966646 (NAD83)</u> UTM Southern Terminus: Zone <u>13</u> Easting <u>303688</u> Northing <u>3964943</u> g. Area: <u>T18N R 3W</u> , Sections: <u>4, 5, 8</u> N.M.P.M. h. 7.5' Map Name(s): <u>Wolf Stand, NM (1961) 35107-G2</u> i. Lead Agency: <u>NNHPD</u>		
14. SUMMARY (REPORT ATTACHED)		
a. Description of Undertaking: Placement of at least 16 powerline poles, and an overhead powerline within a 20 ft wide right-of-way along a 5,976.82 ft long route. The powerline will be 5,927.82 ft long with an additional 49 ft for guy wires. This powerline is intended to serve Mr. Nicky Sandoval's home.		
b. Existing Data Review: Lone Mountain conducted files reviews of the archaeological records at NNHPD and the TCP program at NNHPD, on December 5, 2014, New Mexico's ARMS files on October 14, 2014 and at the BLM-Albuquerque offices on December 8, 2014. The NNHPD records search did not show any previously recorded sites, but did identify NNHPD No. 88-169 (a power line survey) and NNHPD No. 05-867 (a homesite survey) at or near the southern end of the current survey corridor. No nearby Traditional Cultural Properties are on file at NNHPD. ARMS records identified LA 47247, a site near the northern end of the survey area. This site appears to have been an abandoned recent Navajo homesite that is located to the north of Mr. Sandoval's current homesite. There are no additional records on file at BLM-Albuquerque. No one at the Torreon Chapter house knew of any previously unrecorded Traditional Cultural Properties.		
c. Area of Environmental and Cultural Setting: The project area is located on top of a low ridge forming the western rim of Cañon Medio. Vegetation consists of grasses, and sparse stands of piñon, and juniper. The area is made up of Lewis Shale, Upper Cretaceous series shales and mudstones. Outcrops of this material are present near the crest of the ridge. Elevations are between 6,500 ft amsl and 6,670 ft amsl. Predicted soils are Las Lucas-Persayo association, composed of mixed alluvium and residuum derived from sedimentary and igneous rocks. The project area and its surroundings show significant disturbances due to both natural and human causes. The location on varying slopes makes the area subject to water erosion. The surface exhibits signs of sheetwash, slopewash, and gully formation near mudstone outcrops. There is a worn two-track running along the ridgeline that is occasionally within the area of potential effect. The proposed powerline has been staked to the south of an existing buried waterline, which has an accompanying two-track road. Refuse associated with the in-use home(s) at the east end of the survey area is evident across the eastern end of the survey corridor. The surveyed area falls in a part of northwest New Mexico known to have been inhabited by Paleoindian peoples pursuing large game across the landscape between 10,500 and 5500 B.C. (if not earlier), and by early Archaic peoples hunting smaller game and gathering. By 1700 B.C., maize had appeared in the Southwest (Vierra 2005:3) and by A.D. 300, pottery was being used in the pithouse villages built by the Anasazi. The area appears to fall at the southern edge the Chaco Canyon culture area. Many of the Anasazi abandoned the Chaco greathouses between A.D. 1150 and 1200 to join other pueblos, while others became the ancestors of Navajo clans. The Navajo have retained histories that describe their relationships (both trade and intermarriage) with the Anasazi (e.g., Begay 2004).		
d. Field Methods: Doug Boggess surveyed a 20 ft wide right-of-way with a 50 ft buffer on either side for a total width of 120 ft. along a staked centerline.		

15. CULTURAL RESOURCE FINDINGS:

a. Location/Identification of Each Value:

There are no archaeological remains, just some recent roadside refuse along two-track roads. The proposed powerline's northern terminus is at an in-use homesite, that belongs to Mr. Nicky Sandoval

Mr. Sandoval's home (NAD83):

Zone 13 Easting 304469 Northing 3966643

b. Evaluation of Significance of Each Value (above):

There no significant archaeological findings

16. MANAGEMENT SUMMARY (Recommendations): There will no effect on any archaeological or cultural resources and no further work is recommended. Archaeological clearance is recommended for construction of the proposed overhead powerline.

17. CERTIFICATION

SIGNATURE:

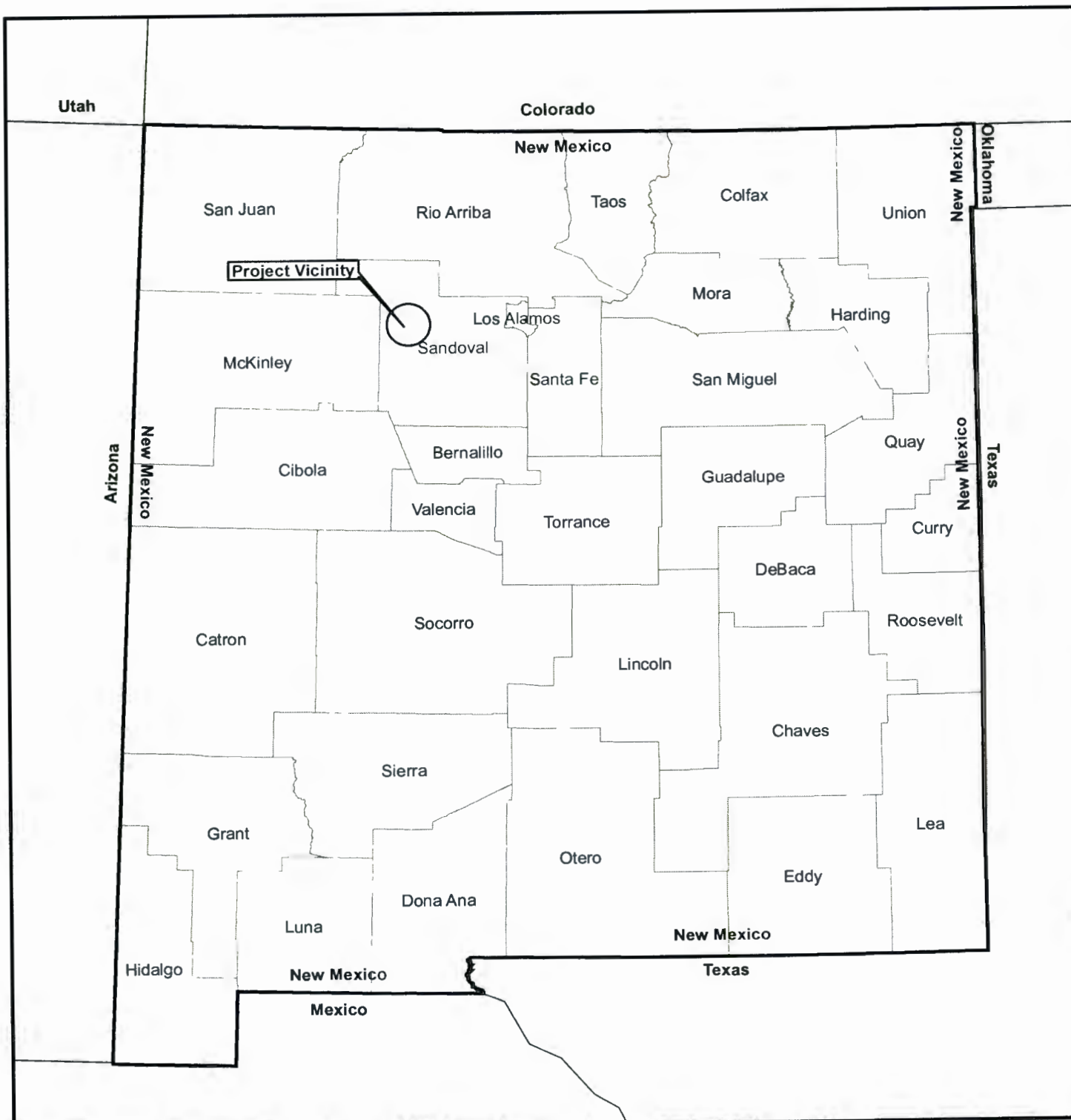
Direct Charge Name: Douglas H. M. Boggess

Date: January 5, 2015

SIGNATURE:

General Charge Name: Douglas H. M. Boggess

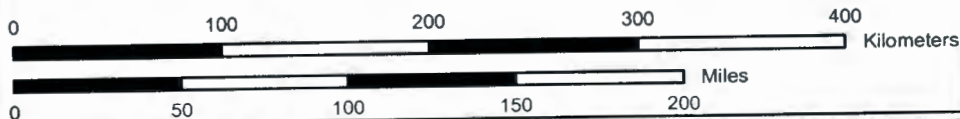
Date: January 5, 2015



Legend

 Counties

Source: ArcGIS10.1 Database



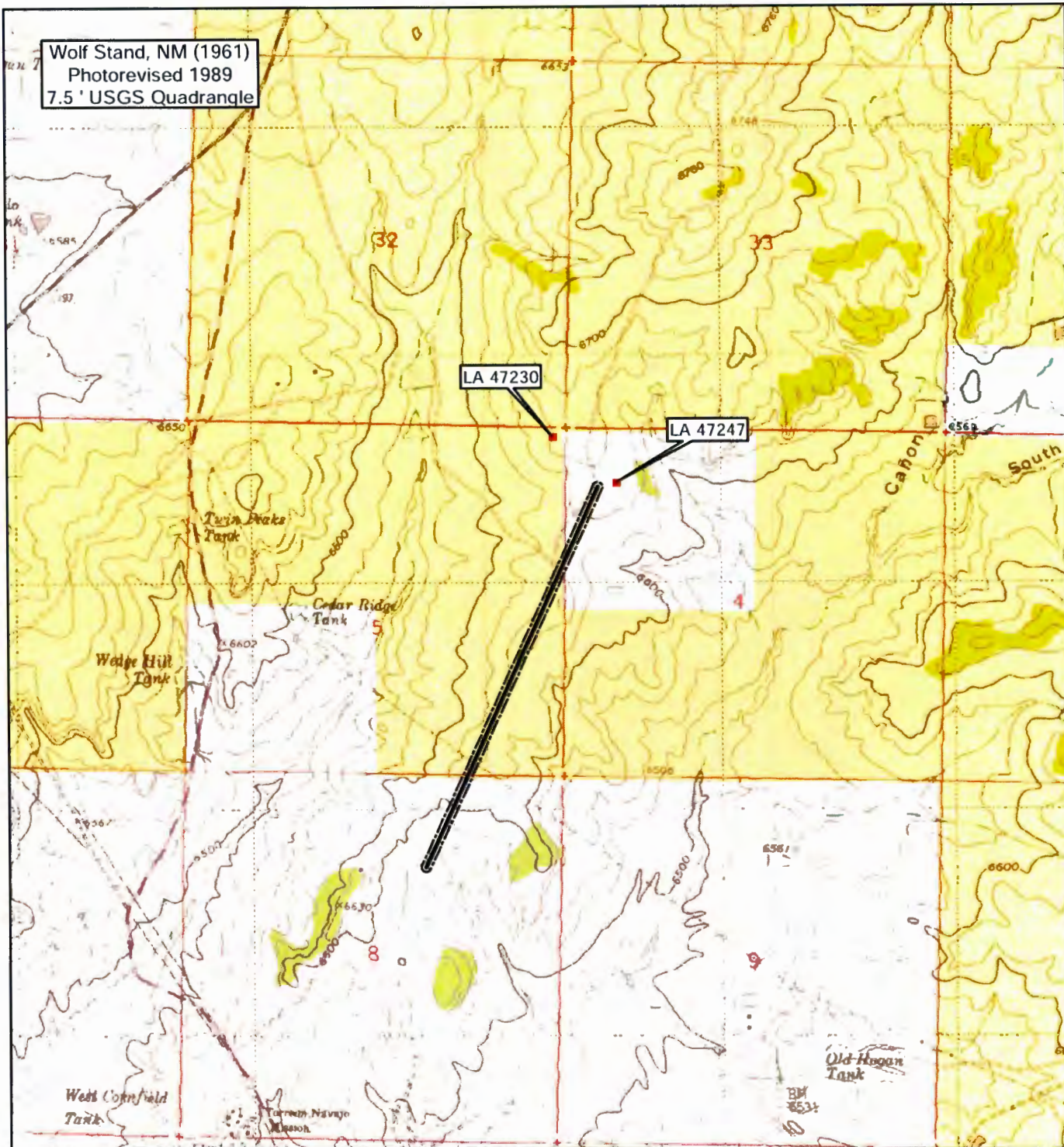
**Nicky Sandoval Proposed
Power Line
Cultural Resource Survey
Project Vicinity Map**

Lone Mountain Archaeological Services

Drawn by: T. Cordua
LMAS No.: 1901

Client: Jemez
Mountains Electric
Cooperative

Wolf Stand, NM (1961)
Photorevised 1989
7.5' USGS Quadrangle

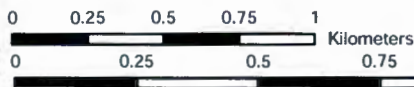


Legend

- Proposed Power Line
- Cultural Buffer
- Previously Recorded Site

Land Ownership

- Bureau of Land Management
- Private
- Tribal Land



T18N, R3W,
Sections 4, 5, and 8
Sandoval County, NM



Nicky Sandoval Proposed Power Line Cultural Resource Survey Project Area

Lone Mountain Archaeological Services, Inc.

Drawn by: T. Cordua
LMAS No.: 1901

Client:
Jemez Mountains
Electric Cooperative



THE NAVAJO NATION
Historic Preservation Department
Cultural Resource Compliance Section
PO Box 4950, Window Rock, AZ 86515
TEL: (928) 871-7198 / 7147 FAX: (928) 871-7886

TRADITIONAL CULTURAL PROPERTY (TCP) RECORD
SEARCH VERIFICATION FORM

DATE	December 4, 2014
COMPANY	Lone Mountain Archaeological Services, Inc.
PROJECT NAME	Nicky Sandoval Powerline
PROJECT NUMBER	
PERMIT NUMBER	B14572
PROJECT LOCATION	T18N, R3W, Sections 4,5, 8
USGS QUAD MAP:	Wolf Stand, NM (1961)

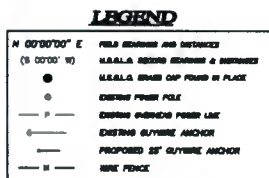
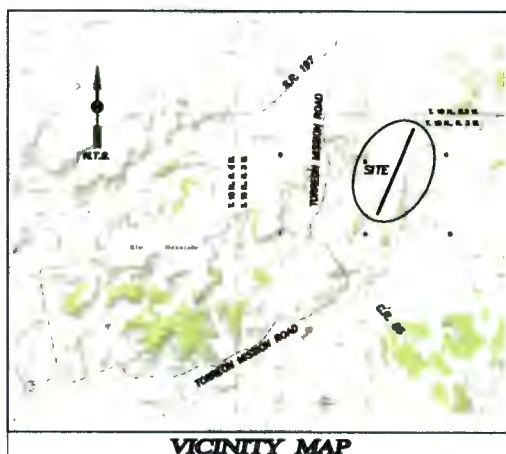
A literature search of TCP Records at NNHPD on the above date indicates the following:

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

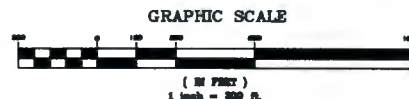
Researcher's Name:	Doug Boggess
NNHPD/TCP Program Reviewer:	<i>Lamara Price</i>

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

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



RIGHT-OF-WAY SURVEY FOR
JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.
WITHIN ILM & NAVAJO TRIBAL TRUST LANDS
NICKY SANDOVAL PROJECT
14.4 KV THREE PHASE DISTRIBUTION LINE
WORK ORDER NO. 410032
E 1/2 SECTION 13, TOWNSHIP 21 NORTH,
RANGE 12 WEST, N.M.P.M.
SANDOVAL COUNTY, NEW MEXICO



SURVEY NOTES

1. BEARINGS SHOWN ARE BASED ON WGS 84 GRID NORTH R.T.K DATA GENERATED BY TOPCON REAL TIME POSITIONING SYSTEM, UTILIZING TWO SURVEY POINT COORDINATE DATA. ODDO EDMS (GLOBAL) MAP PROJECTION, NEW MEXICO CENTRAL ZONE 3002.
2. DISTANCES ARE GROUND DISTANCES - U.S. SURVEY FOOT.
3. DATE OF FIELD SURVEY: DECEMBER 11 & 12, 2014
4. THE FOLLOWING DOCUMENTS WERE USED TO PREPARE THIS PLAT:
 - A. U.S.G.O. ORIGINAL SURVEY PLAT OF TOWNSHIP 21 NORTH, RANGE 8 WEST, NEW MEXICO PRINCIPAL MERIDIAN, APPROVED JUNE 15, 1916.
 - B. DOCUMENTS PROVIDED BY PERMITS WEST
5. ANCHOR EASEMENT DOCKETS FOR THIS PROJECT ARE SET HERE, VARY IN LENGTH AND ARE NOT INCLUDED IN THIS LEGAL DESCRIPTION.

RIGHT-OF-WAY LEGAL DESCRIPTION

A CERTAIN STRIP OF LAND LYING AND BEING SITUATED WITHIN EASTERN NAVAJO AGENCY TRIBAL TRUST LANDS, AND THE BUREAU OF LAND MANAGEMENT LANDS, COMPRISING OF A PORTION OF THE NE 1/4 OF SECTION 8, THE E 1/2 OF SECTION 5 & THE NW 1/4 OF SECTION 4, TOWNSHIP 18 NORTH, RANGE 3 WEST, OF THE NEW MEXICO PRINCIPAL MERIDIAN, VICINITY OF THE TOWN OF NAVAJO MISSION, SANDOVAL COUNTY, NEW MEXICO, SAID STRIP OF LAND BEING 20 FEET WIDE, LYING 10 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT AN EXISTING JEMEZ MOUNTAINS ELECTRIC COOPERATIVE POWERPOLE, NED. 03135, DESIGNATED HEREON AS CENTERLINE STATION 0+00, LYING WITHIN NAVAJO TRIBAL TRUST LANDS FROM WHENCE A TIE TO A U.S.G.L.G. BRASS CAP, MARKING THE CORNER OF SECTIONS 4, 5, 8 & 9, T. 18 N., R. 3 W., BEARS S. 85°30'17" E. A DISTANCE OF 2,242.80 FEET:

THENCE N. 22°18'00" E., A DISTANCE OF 1,375.88 FEET TO THE DIVISION LINE BETWEEN SECTION 8 AND SECTION 5, HEREIN DESIGNATED AS P.Q.T. CENTERLINE STATION 13+75.88, FROM WHENCE A TIE TO THE U.S.G.L.G. BRASS CAP MARKING SAID SECTIONS 4, 5 & 8, BEARS DUE EAST, A DISTANCE OF 1,393.65 FEET.

THENCE LEAVING SAID SECTION LINE, N. 22°18'00" E., A DISTANCE OF 2,729.64 FEET TO THE DIVISION LINE BETWEEN THE SE 1/4 & THE NE 1/4 OF SECTION 5, HEREIN DESIGNATED AS P.O.T. CENTERLINE STATION 41+05.62:

THENCE N. 27°18'00" E., A DISTANCE OF 728.04 FEET TO THE DIVISION LINE BETWEEN SECTION 4 AND SECTION 35, HEREIN DESIGNATED AS P.O.T. CENTERLINE STATION 48+34.66, FROM WHENCE A TIE TO THE U.S.G.L.G. BRASS CAP MARKING THE CORNER OF SECTIONS 4 & S. T. 18 N., R. 3 W., AND SECTIONS 32 & 33, T. 19 N., R. 3 W., BEARS N. 00°18'23" W., A DISTANCE OF 1,051.18 FEET;

THENCE LEAVING SAID SECTION LINE N. 22°18'00" E., A DISTANCE OF 1,082.98 FEET TO THE TERMINUS POINT, LYING WITHIN NAVAJO TRIBAL TRUST LANDS, CENTERLINE STATION 38+27.82, FROM WHENCE A TIE TO THE U.S.G.L.O. BRASS CAP, MARKING THE CORNER OF SECTIONS 4 & 8, T. 18 N., R. 3 W., AND SECTIONS 32 & 33, T. 19 N., R. 3 W., BEARS N. 26°50'32" W., A DISTANCE OF 841.41 FEET, SAID STRIP CONTAINING 2,750 ACRES MORE OR LESS, EXCLUDING GULCHES, WET, ANCHOR ROCKETS.

STATE OF NEW MEXICO) ss
COUNTY OF SANDOMIA)

THE UNDERSIGNED DO HEREBY CERTIFY THAT I AM THE REGISTERED LICENSED SURVEYOR FOR JENSEN JOHNSTON ELECTRIC COOPERATIVE, INC. AND THAT I AM THE REGISTERED LICENSED SURVEYOR FOR THE FOLLOWING APPLICANT: THAT THE REGISTERED LICENSED SURVEYOR WHO IS REQUESTING THE FOLLOWING APPLICANT TO BE LICENSED AS A LICENSED SURVEYOR AND THAT HE WAS DIRECTED BY THE APPLICANT TO SURVEY THE LOCATION OF THE PROPOSED 138KV TRANSMISSION LINE PROJECT, LOCATED IN TOWN, RURAL NEW MEXICO PRINCIPAL MERIDIAN, SANDOVAL COUNTY, STATE OF NEW MEXICO IS ACCURATELY REPRESENTED ON THIS MAP, THAT SUCH SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT OF 1908, AND THAT THE MAP IS A TRUE AND CORRECT COPY OF THE RIGHT-OF-WAY THEORY SHOWN. THAT THE MAP HAS BEEN PREPARED TO BE FILED WITH THE SECRETARY OF INTERIOR OR HIS DESIGNEE. THAT THE APPLICANT REQUESTS THAT THE APPLICATION FOR SURVEY RIGHT-OF-WAY TO BE GRANTED THE APPLICANT, ITS SUCCESSORS AND ASSIGNS, WITH THE RIGHT TO CONSTRUCT, MAINTAIN, AND REPAIR IMPROVEMENTS, THEREON AND THEREAFTER, FOR THE PURPOSES OF THE PROJECT, AND THAT THE APPLICANT REQUESTS THAT ITS SUCCESSORS AND ASSIGNS, TO TRANSFER THIS RIGHT-OF-WAY BY ASSIGNMENT, GRANT OR

JMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.

SIGNATURE _____

SWORN AND SUBSCRIBED THE _____ DAY OF _____ 19____

MY COMMISSION EXPIRES _____

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM FIELD NOTES OF AN ACTUAL SURVEY PERFORMED BY ME IN DECEMBER 2014, AND THAT THIS PLAT AND SURVEY MEET THE MINIMUM REQUIREMENTS AS ADOPTED BY THE NEW MEXICO BOARD OF REGISTRATION FOR ENGINEERS AND LAND SURVEYORS, AND THAT THIS PLAT AND SURVEY ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

John Paisano Jr. 12-24-14
JOHN PAISANO JR. N.M.P.S. NO. 5708 DATE



Quest Network, LLC

9016 Federal Drury Avenue NE, Albuquerque, NM 87111, Email: quandts@earthlink.net
John Paterno Jr., NRP/LS, 505-262-6299 • John Paterno II, Operations Manager, 505-280-4098

PROJECT LINE TABLE											
LINE SEGMENT	SECTION	PARCEL	LAND STATUS	R.O.W.	WIDTH	CENTERLINE LENGTH	GUY LENGTH	TOTAL LENGTH	LINE ACRES	GUY ACRES	TOTAL ACRES
LINE 1	1/4	T-2 SECTION 2	WATER RIGHT	5'	172.00'	172.00'	0'	172.00'	0.00	0.00	0.00
LINE 2	1/4	T-2 SECTION 2	WATER RIGHT	5'	220.00'	220.00'	0'	220.00'	0.00	0.00	0.00
LINE 3	1/4	T-2 SECTION 2	WATER RIGHT	5'	220.00'	220.00'	0'	220.00'	0.00	0.00	0.00
LINE 4	1/4	T-2 SECTION 2	WATER RIGHT	5'	220.00'	220.00'	0'	220.00'	0.00	0.00	0.00
LINE 5	1/4	T-2 SECTION 2	WATER RIGHT	5'	220.00'	220.00'	0'	220.00'	0.00	0.00	0.00
TOTAL 5						852.00'	0'	852.00'	0.00	0.00	0.00



THE NAVAJO NATION

RUSSELL BEGAYE
JONATHAN NEZ V



ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF EXECUTIVE DIRECTOR/ADMINISTRATION

OFFICE OF ENVIRONMENTAL REVIEW

PO BOX 339 WINDOW ROCK ARIZONA 86515 Office: 928/871-7188 Fax: 928/871-7996

Website: www.navajonationepa.org

M E M O R A N D U M

TO: Howard Draper, Program & Project Specialist
Project Review Office
Navajo Land Department
Division of Natural Resources

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

DATE: August 5, 2016

SUBJECT: 164 EOR 006324 JMEC ROW for Nicky Sandoval 14.4 kV Torreon New Mexico

Jemez Mountains Electric Cooperative Inc., (JMEC), submitted a right-of-way application to construct a 14.4 kV single phase distribution power line. The proposed power line will start at an existing power pole and end at Nicky Sandoval's residence. The total length of the proposed power line on Navajo Tribal Trust Land including the guy and anchor acreage is 2,517.94 feet and the total acreage of the project is 1.16 acres.

If the following recommendations from NNEPA are adhered to, the proposed project will not have a significant effect (direct, indirect, or cumulative) on the quality of the human environment considering the context and intensity of impacts.

1. Navajo Nation Clean Water Act:

- a. §Section 401 is required if any drainage with discernable ordinary high water mark will be crossed and/or disturbed.
- b. §Section 402 – Land surface disturbance in excess of 1.0 acre will require compliance with the federal General Construction Permit requirements for storm water discharges. The project will disturb scattered 1.16 acres of surface land. Best Management Practices is highly recommended to be implemented to control sediment runoff.

2. Navajo Nation Safe Drinking Water Act:

- If there are any questions, you may contact me at 928/871-7188. Thank you.


Contact Person: Permits West Inc., Jeanette Reisenburg, 505-466-8120

**THE
NAVAJO
NATION**

THE DIVISION OF NATURAL RESOURCES

M E M O R A N D U M

**TO: ALL Department Managers
Division of Natural Resources**

FROM: 
Biddah Becker, Division Director
Division of Natural Resources

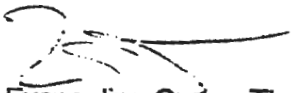
SUBJECT: Delegation of Authority

DATE: January 12, 2016

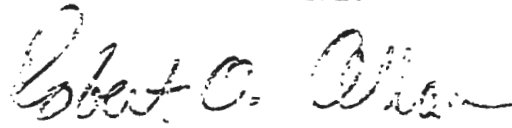
Please be advised that in the event that either I, Division Director of the Division of Natural Resources, or Ms. Evangeline Curley-Thomas, Deputy Director, Division of Natural Resources, are not in the office or otherwise unavailable, Mr. Robert O. Allan, Principal Attorney, Division of Natural Resources, shall be delegated authority as the Acting Division Director of the Division of Natural Resources. This is a standing delegation of authority until further notice.

Please cooperate with Mr. Allan in this standing delegation of authority. Should you have any questions, please contact me.

ACKNOWLEDGED:


Evangeline Curley-Thomas, Deputy Director
Division of Natural Resources

ACKNOWLEDGED:


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

ENVIRONMENTAL ASSESSMENT **FOR**



JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.
P.O. BOX 128
ESPAÑOLA, NM 87532
(505) 753-2105

NICKY SANDOVAL POWER LINE PROJECT

ON NAVAJO TRIBAL TRUST LANDS
Sections 4 and 8, T. 18 N., R. 3 W.
SANDOVAL COUNTY, NM

MAY 13, 2016

PREPARED BY:



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- Appendix 1: Topographic Map of Project Area
- Appendix 2: Navajo Fish and Wildlife Correspondence Letter
- Appendix 3: Threatened, Endangered, and Special Status Wildlife Species Report
- Appendix 4: Plant Survey Report
- Appendix 5: Cultural Resources Compliance Form
- Appendix 6: Biological Resources Compliance Form

1. Introduction

Jemez Mountains Electric Cooperative, Inc. (JMEC) proposes to construct a 14.4 kV single-phase distribution power line, approximately one-half mile northeast of the Torreon Navajo Mission in Sandoval County, NM (Proposed Action). The Proposed Action is located in the NW/4 of Section 4 and the NE/4 of Section 8 in T. 18 N., R. 3 W., of the Wolf Stand 7.5-minute Quadrangle, Sandoval County, NM. The proposed power line will start at an existing power pole and will end at the home of Nicky Sandoval. The total length of the proposed power line on Navajo Tribal Trust land, including guy and anchor acreage, is 25,17.94 feet and the total acreage is 1.16 acres. A topographic map of the location is attached as Appendix 1. This Environmental Assessment (EA) will address the Proposed Action with regards to potential impacts to the surrounding environment.

*Ret.
2,517.94'*

1.1 Purpose and Need

The purpose of the Proposed Action is to construct a 14.4 kV single-phase distribution power line to the residence of Nicky Sandoval located northeast of Torreon Navajo Mission, New Mexico.

1.2 Conformance with Applicable Land Use Plans and Other Environmental Assessments

This EA addresses the potential impacts imposed on surrounding resources by the Proposed Action. Impacts are presented on a site-specific basis as required by the National Environmental Policy Act (NEPA), as amended (NEPA 1969). The proposed project will not be in conflict with any local, county, or state plans. JMEC will file a right-of-way (ROW) application with the Bureau of Indian Affairs (BIA).

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

Compliance with Section 106, Responsibilities of the National Historic Preservation Act, are adhered to by following the Navajo Nation Cultural Resources Protection Act; the Bureau of Land Management (BLM) New Mexico State Historic Preservation Officer (SHPO) protocol agreement, which is authorized by the National Programmatic Agreement between the BLM, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers; and other applicable BLM handbooks (NHPA 1966).

The Navajo Nation Department of Fish & Wildlife (NNDFW) Natural Heritage Program has been consulted with respect to species of concern that are known to occur, or that have the potential to occur, within the area of the Proposed Action (Appendix 2). Species of concern

listed by the NNDFW will be evaluated in Section 3 of this document and in the Wildlife and Plant Survey Reports attached as Appendices 3 and 4, respectively.

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

Additionally, JMEC is required to:

- Comply with all applicable federal, state, and local laws and regulations.
- Obtain the necessary permits for construction of the power line.

2. Alternatives Including the Proposed Action

2.1 Alternative A - No Action

The BLM NEPA Handbook (H-1790-1) states that in EAs for externally initiated proposed actions, the No Action Alternative generally means that the proposed activity will not take place (USDI BLM 2008). This alternative would deny approval to construct the power line and the current land and resource uses would continue to occur in the proposed project area. No mitigation measures would be required.

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

2.2 Alternative B - Proposed Action

JMEC proposes to construct a 14.4 kV single-phase, overhead, raptor-safe power line on Navajo Tribal Trust lands in Sandoval County from an existing power line to the residence of Nicky Sandoval.

The Proposed Action crosses starts at power pole #03136 on Navajo Tribal Trust land in Section 8, T. 18 N., R. 3 W., as indicated on the topographic map shown in Appendix 1. It runs northeastward through BLM land in Section 5, T. 18 N., R. 3 W before crossing back onto Navajo Tribal Trust land in Section 4, T. 18 N., R. 3 W. It ends at the private residence of Nicky Sandoval.

The proposed structures will include a number of pole structures, each 40 feet in height, buried approximately five feet below grade with guy anchors at each end, bearing change, and connection. All pole structures will include one wooden pole.

All access along the power line route will be from existing roads, and cross-country within the ROW only. The total length of the proposed ROW on Navajo Tribal Trust land is 2517.94 feet and the width is 20 feet, for a total disturbed area of 1.16 acres (including guys and anchors). Soil and vegetation will be minimally disturbed at the location of poles and guys.

Table 2.1 summarizes the project land use specifications. The estimated duration from start of construction is approximately one month.

Table 2.1: Land Use Specifications Summary

<i>Land Ownership</i>	<i>Location</i>	<i>Centerline Length (ft)</i>	<i>Guy Wire Length (ft)</i>	<i>Total Length incl. guys (ft)</i>	<i>Total Area incl. guys (ac)</i>
Navajo Tribal Trust	NW/4 Section 4, T18N, R3W	1375.98	25	1400.98	0.646
Navajo Tribal Trust	NE/4 Section 8, T18N, R3W	1092.96	24	1116.96	0.516
TOTAL	n/a	2468.94	49	2517.94	1.162

Most of the route crosses a broad valley known as South Cañon Medio. To access the construction site, existing roads will be used. Construction will entail driving a truck-mounted auger from these roads, then driving cross-country to the location of each structure and digging a hole. A truck-mounted crane will raise and set the pole, and the hole will be backfilled and tamped. The electric wires will be strung on the poles with the assistance of a reel truck and a winch truck. No temporary roadways or use areas will be required and no blading or blasting will be performed as part of the project.

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

2.3 Reclamation

Disturbed areas will be restored as closely as possible to their original condition upon completion of construction. Reclamation measures will include ripping compacted and disturbed areas at least 12 inches deep on the contour, harrowing, applying a native seed mix as prescribed by the BIA or Navajo Nation, and mulching. Noxious weeds will be controlled in accordance with Navajo Nation Environmental Protection Agency (EPA) requirements.

2.4 Alternatives Considered But Not Analyzed In Detail

One alternative that was considered is the use of an alternative energy source. The use of on-site diesel or gas engines to provide power to the current private residence is an alternative to providing electricity via a power line. However, electricity is quieter, less expensive, and requires less maintenance. In addition, any on-site engines would require regular re-fueling, which would increase operating expenses due to fuel costs and man hours for fueling and maintaining the engines.

Photovoltaic (PV) cells are costly and inconvenient for intensive or widespread use. PV cell electricity typically costs 800% more than that delivered from a power line. A typical battery can store a maximum of 72 hours of electricity, and many batteries would be needed to power the electrical needs of this home. The need for multiple batteries would be costly and potentially unreliable during long stretches of inclement weather.

Wind generators are also expensive and can be impractical due to the necessity to place the windmills on high points in the direct stream of wind. This project area may not have a suitable location to support wind-generated energy.

These alternative energy sources are impractical for powering this private residence and the proposed power line best meets the energy needs required at this time.

Another alternative considered was to bury the entire length of the line rather than use an overhead span from the existing power pole to the residence. Burying the entire length by trenching would disturb far more land, and would increase the amount of erosion and subsequent possibility of noxious weeds becoming established than digging the footings for power poles to support an overhead line.

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

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

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

3. Description of Affected Environment

This section describes the environment that will be affected by implementation of the alternatives described in Section 2. Aspects of the affected environment described in this section focus on the relevant major resources or issues. Only aspects of the affected environment that are potentially impacted are described.

3.1 Air Resources

The proposed project is located in Sandoval County, NM on Navajo Tribal Trust lands. The US Environmental Protection Agency (USEPA), Region 9, and the Navajo Nation Environmental Protection Agency Air Quality Control Program are responsible for administering air quality regulations on Navajo Tribal Trust lands in New Mexico. The Navajo Nation Air Quality Control Program (NNAQCP) is responsible for the implementation and enforcement of the Navajo Air Pollution Prevention and Control Act (NAPPCA) (Navajo Nation Council 2004).

Air resources include air quality and climate. The USEPA has the primary responsibility for regulating air quality, including seven nationally regulated ambient air pollutants. Air quality is determined by atmospheric pollutants and chemistry, dispersion meteorology, and terrain; and also includes applications of noise, smoke management, and visibility. Greenhouse gas (GHG) emissions, such as carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), water vapor, and several trace gases, can affect air quality (USEPA Apr. 2013).

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

Air Quality

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

Air quality in the area near the proposed project is generally good and the Proposed Action is not located in an area designated by the USEPA as a “non-attainment area” for any listed pollutants regulated under the Clean Air Act (USEPA Apr. 2016).

The USEPA's Inventory of US Greenhouse Gas Emissions and Sinks found that in 2014 total U.S. GHG emissions were over 6.8 billion metric tons and that total U.S. GHG emissions have increased by 7.4% from 1990 to 2014. Emissions increased from 2013 to 2014 by 1% (70.5 million metric tons CO₂ Eq.). The increase was due to the relatively cool winter conditions in 2014 that led to an increase in fuels for residential and commercial heating. Transportation emissions increased due to an increase in vehicle miles traveled and fuel use across on-road transportation modes and there was an increase in industrial production across multiple sectors. (USEPA Apr. 2016)

Since 1990, U.S. emissions have increased at an average annual rate of 0.3 percent (USEPA Apr. 2016). It is likely, then, that levels of these GHGs will continue to increase. But, it is hoped that the rate of increase will continue to slow as greater awareness of the potential environmental and economic costs associated with increased levels of GHGs result in behavioral and industrial adaptations.

Other factors that currently affect air quality in the area include wind-borne dust and dust from vehicular traffic on disturbed or unpaved surfaces.

Climate

The average global temperature has risen about 1°F (1°C) from the late nineteenth century through 2015 (GISTEMP Team 2016). The continued increase in GHG levels in Earth's atmosphere assures a long-term rise in global temperatures (NASA 2013). On the current course of GHG increases, scientists expect each successive decade to be warmer than the previous one (NASA 2013).

In 2014, the Intergovernmental Panel on Climate Change (IPCC) concluded that it is now 95 percent certain that humans are the main cause of current global warming. The National Academy of Sciences (NAS) believes that the need for urgent action to address climate change is now indisputable and it has called upon the G8+5 nations to seize all opportunities to coordinate their simultaneous work on the climate and economic agendas (NAS 2009).

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

3.1.1 No Action Alternative

3.1.1.1 Direct and Indirect Effects

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

3.1.2 Proposed Action

3.1.2.1 Direct and Indirect Effects

Air Quality

1. There will be a short-term (approximately one month) increase in dust during construction of the Proposed Action. This impact would subside as disturbed areas are reclaimed.
2. There will be a minor, short-term increase (approximately one month) in local combustive emissions from operating vehicles and earth moving equipment.
3. There will be a minor long-term impact to air quality from motorized vehicles performing periodic maintenance of the power line.
4. There will be minor and sporadic, long-term fugitive dust creation during maintenance of the power line.

Climate

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

3.1.2.2 Mitigation

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

3.2 Cultural Resources

Lone Mountain Archaeological Services, Inc. performed a Class III archaeological survey in the project area. A determination of "no historic properties affected" was made. The Cultural Resources Compliance Form is attached as Appendix 5.

3.2.1 No Action Alternative

3.2.1.1 Direct and Indirect Effects

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

3.2.2 Proposed Action

3.2.2.1 Direct and Indirect Effects

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

3.2.2.2 Mitigation

Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered during the Proposed Action by JMEC, or any person working on their behalf, will be immediately reported to the NNHPD at (928) 871-7148, and to any other necessary agencies. JMEC will suspend all operations in the immediate area of such discovery until approval to proceed is issued by the NNHPD. An evaluation of the discovery will be made by the NNHPD archaeologist to determine appropriate action to prevent the loss of significant cultural or scientific values.

3.3 Environmental Justice

Executive Order 12898 requires federal agencies to assess projects to ensure there are no disproportionately high or adverse environmental, health, or safety effects on minority and low-income populations (1994). Minorities comprise a high percentage of the population residing in Sandoval County (USDI BLM 2012).

3.3.1 No Action Alternative

3.3.1.1 Direct and Indirect Effects

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

3.3.2 Proposed Action

3.3.2.1 Direct and Indirect Effects

The purpose of the Proposed Action is to provide power to a private residence on Navajo Tribal Trust land. A private residence located on Navajo Tribal Trust land is likely considered to be minority and could potentially represent a low-income population. A positive direct effect will be access to electricity for this resident. The Proposed Action is not located on public lands and the area is not used for wood gathering or hunting. If there are any grazing permits in the area, the permittees will be contacted. Negative direct effects to minority or low-income populations include a slight increase in activity and noise disturbance during construction activities.

3.3.2.2 Mitigation

Regarding an increase in noise disturbance, see Section 3.8 Noise, below.

3.4 Floodplains

According to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map, the Proposed Action is not within the 100-year floodplain (USDHS FEMA 2008). No perennial streams, alkali seeps, or wetlands are recorded in the immediate area of the proposed power line.

3.4.1 No Action Alternative

3.4.1.1 Direct and Indirect Effects

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

3.4.2 Proposed Action

3.4.2.1 Direct and Indirect Effects

The Proposed Action is not located in the 100-year floodplain. Therefore, no impacts to floodplains are anticipated.

3.5 General Topography/Surface Geology

The Proposed Action area is located one-half mile northeast of the Torreon Navajo Mission in Sandoval County, New Mexico. The project area is in the Navajo section of the Colorado

Plateau physiographic province. The area's topography is comprised of mesas, bajadas, broad valleys, slopes, drainages, and badlands. The elevation of the project area ranges from approximately 6,700 feet at the northern end of the project corridor to 6,630 feet at the southern of the project corridor. An existing two-track road parallels the northern two-thirds of the proposed project corridor and the Torreon Mission Road (NM Hwy. 197) is located one-quarter mile west of the project area. There are no drainages or unique habitat elements in the within the right-of-way (ROW) and there are no perennial or intermittent streams, riparian areas, or wetlands in the project area.

Soils throughout the project area consist of the Las Lucas-Persayo association fan and slope alluvium derived from igneous and sedimentary sandstone and shale (NMBGMR 2003; USDA, NRCS, 2015). Las Lucas soils are found on alluvial fans, terraces, and on valley sides. Las Lucas soils are loams and are deep, and well drained (USDA, NRCS, 2015). Persayo soils are found on knolls and hills and are also derived from igneous and sedimentary rock.

Table 2.1: Land Use Specifications Summary, above, outlines the project's affected area.

3.5.1 No Action Alternative

3.5.1.1 Direct and Indirect Effects

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

3.5.2 Proposed Action

3.5.2.1 Direct and Indirect Effects

1. A direct effect to the natural topography will result from accessing and installing new power line poles and guy anchors.
2. The indirect effect of disturbance and loss to soil and seed banks will result from installing the power line poles.

3.5.2.2 Mitigation

1. Surface disturbance and vehicular traffic will be limited to approved roads and locations to reduce the extent of disturbance.
2. Disturbed areas will be reclaimed pursuant to Section 2.3. Reseeding will help prevent soil loss and seed bank disturbance/loss. Successful reclamation will take two to three years.
3. Use of BMPs listed in Section 2.2.

3.6 Invasive, Non-native Species

There are seventeen species listed on the BIA Navajo Noxious Weed List (USDI OSM 1999). None of these species are present in the project area.

3.6.1 No Action Alternative

3.6.1.1 Direct and Indirect Effects

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

3.6.2 Proposed Action

3.6.2.1 Direct and Indirect Effects

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

3.6.2.2 Mitigation

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

3.7 Land Use

The Proposed Action is located on Navajo Tribal Trust lands. Current land uses include residential living, livestock grazing, and oil and gas production. There are no farmlands in the Proposed Action area.

3.7.1 No Action Alternative

3.7.1.1 Direct and Indirect Effects

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

3.7.2 Proposed Action

3.7.2.1 Direct and Indirect Effects

1. The Proposed Action will affect 1.162 acres of Navajo Tribal Trust lands.
2. Short-term impacts will come from minimal land clearing for power line pole, wire, and guy placement.

3.7.2.2 Mitigation

1. Reclamation of the Proposed Action as stated in Section 2.3 will replace, and may even enhance, vegetative cover along the overhead span right-of-way. Successful reclamation is expected to take two to three years.
2. If grazing permits are identified in the project area, the permittees will be contacted to gain written permission for JMEC's proposed use of the land as part of this project.

3.8 Noise

Noise is not currently regulated or managed by the Navajo Nation. The Proposed Action is in a rural location and is not in any BLM-designated Noise Sensitive Area. Aside from the residence gaining power as part of this project, the next nearest resident is approximately 720 feet southwest of the southern end of the proposed power line. Low-level noises are emitted from traffic on roadways. The most likely receptors of noise generated from the Proposed Action will be those traveling to the area for work activities.

3.8.1 No Action Alternative

3.8.1.1 Direct and Indirect Effects

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

3.8.2 Proposed Action

3.8.2.1 Direct and Indirect Effects

1. Noise will be generated as part of construction activities associated with the Proposed Action.
2. Occasional maintenance and/or monitoring vehicles will travel to and within the project area during normal operations.

3.8.2.2 Mitigation

1. Construction will be conducted during daylight hours and will be limited to approved locations.
2. Vehicular traffic will be restricted to approved areas and will not exceed what is necessary for the construction and maintenance of the Proposed Action.
3. Noise associated with construction activities will cease after approximately one month. Once construction is complete and operation begins, noise will return to background level.

3.9 Public Health and Safety

The closest resident in the project area is Nicky Sandoval, who will obtain power from the proposed power line. The next nearest resident is approximately 720 feet southwest of the southern end of the proposed power line. During construction, JMEC employees are the most likely persons to be in the immediate vicinity of the Proposed Action.

3.9.1 No Action Alternative

3.9.1.1 Direct and Indirect Effects

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

3.9.2 Proposed Action

3.9.2.1 Direct and Indirect Effects

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

3.9.2.2 Mitigation

1. Only approved areas will be used during construction to minimize hazards to workers and the general public.
2. All applicable laws, regulations, and policies will be followed during construction and maintenance activities, or while responding to any emergency.

-
3. BMPs and appropriate Occupational Safety and Health Administration standards and guidelines will be implemented to minimize negative effects to public health and safety.

3.10 Soils

Soils throughout the project area consist of the Las Lucas-Persayo association fan and slope alluvium derived from igneous and sedimentary sandstone and shale (NMBGMR 2003; USDA, NRCS 2015). Las Lucas soils are found on alluvial fans, terraces, and on valley sides. Las Lucas soils are loams and are deep, and well drained. Persayo soils are found on knolls and hills and are also derived from igneous and sedimentary rock. (USDA, NRCS 2015) The underlying bedrock is in the Nacimiento Formation (NMBGMR 2003).

3.10.1 No Action Alternative

3.10.1.1 Direct and Indirect Effects

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

3.10.2 Proposed Action

3.10.2.1 Direct and Indirect Effects

1. Soils will be structurally reduced and mixed, exposed to the elements of wind and water erosion, and compacted.
2. Due to wind and water, the soils will be subject to an undetermined amount of erosion until vegetation is established.

3.10.2.2 Mitigation

1. Successful reclamation of the Proposed Action outlined in Section 2.3 will reduce long-term negative impacts to soils. Re-seeding will reduce sediment loading by stabilizing the soil. Successful reclamation is expected to take two to three years.
2. Use of BMPs as outlined in Section 2.2 will reduce impacts to soils.

3.11 Threatened, Endangered, and Special Status Species

A wildlife biologist conducted a pedestrian wildlife survey of the project area to inspect for the potential presence of threatened, endangered, or special status species on March 30, 2015.

No federally- or Navajo- listed threatened, endangered, or special status species were observed during the wildlife survey.

One BLM-listed special status species was observed during the wildlife survey: the loggerhead shrike (*Lanius ludovicianus*). The project area provides habitat for this species.

Although not observed during the survey, the project area provides suitable habitat for several special status bat species to forage including the fringed myotis bat (*Myotis thysanodes thysanodes*), long-eared myotis bat (*Myotis evotis evotis*), spotted bat (*Euderma maculatum*), Yuma myotis bat (*Myotis yumanensis yumanensis*), long-legged myotis (*Myotis volans*), and small-footed myotis (*Myotis ciliolabrum*). The project area also provides suitable foraging habitat and areas that may serve as perches for ferruginous hawks (*Buteo regalis*) and golden eagles (*Aquila chrysaetos*), which are Navajo Nation Endangered Species and are also protected by the Migratory Bird Treaty Act (MBTA). A known active golden eagle nest is within ten miles of the project area and a historic nest is within three miles (Kendall 2013). Marginal habitat exists in the project area for the pinyon jay (*Gymnorhinus cyanocephalus*). The full Threatened, Endangered, and Special Status Wildlife Species Report is attached as Appendix 3.

Three migratory bird species that are protected under the MBTA were observed during the wildlife survey (MBTA 1918). These include the loggerhead shrike, common raven (*Corvus corax*), and Say's phoebe (*Sayornis saya*). Because there will be minimal ground disturbance in association with the proposed power line construction, and given the sparsely vegetated nature of the project area, no take of nesting birds is anticipated from the project if Section 3.11.2.2 Mitigation, below, is followed.

No threatened, endangered, or special status plant species of concern to the Navajo Natural Heritage Program or the United States Fish and Wildlife Service occur in the Proposed Action area. The full Plant Survey Report is attached as Appendix 4.

3.11.1 No Action Alternative

3.11.1.1 Direct and Indirect Effects

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

3.11.2 Proposed Action

3.11.2.1 Direct and Indirect Effects

1. The addition of power poles may increase the occurrence of nesting raptors in the project area.
2. The MBTA protects migratory birds from a “take”. Take is defined as “to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or any attempt to carry out these activities”. A “take” does not include habitat destruction or alteration, as long as there is not a direct taking of birds, nests, eggs, or parts thereof. Nesting migratory birds could be adversely impacted by a potential take.
3. Overhead power lines have a direct effect on raptors. Raptors and other birds are killed every year by electrocution from perching or nesting on power lines.

3.11.2.2 Mitigation

1. Construction should not take place during migratory bird nesting season, which is March 15-August 15. If construction activities must occur during this period, surveys for nests must be conducted beforehand. This will protect nesting migratory birds from a potential take.
2. Power line construction will be raptor-safe and will follow the Avian Power Line Interaction Committee’s (APLIC) *Suggested Practices for Avian Protection on Power Lines* and Navajo Nation’s *Raptor Electrocution Prevention Regulations* (APLIC 2006; NNDFW NNHP 2008).
3. Minimize vegetation removal where possible.
4. Properly contain and promptly clean up and spilled environmental contaminants or trash from construction events.
5. Reclamation, as outlined in Section 2.3, will ensure a viable native plant community at the end of reclamation efforts and monitor for invasive or noxious plant species that could hamper reclamation success.

3.12 Vegetation, Forestry

The San Juan/Chaco Tablelands and Mesas ecoregion of plateaus, valleys, and canyons contains a mix of desert scrub, semi-desert shrub-steppe, and semi-desert grasslands (Omernik 2009). Vegetation along the proposed power line route is composed of a juniper-grassland. The southwestern half of the corridor is dominated by alkali sacaton (*Sporobolus airoides*), sand dropseed (*S. cryptandrus*), blue grama (*Bouteloua gracilis*), and purple three-awn (*Aristida purpureum*). Vegetation in the northeastern half of the corridor includes small stands of big sagebrush (*Artemisia tridentata*), Greene’s rabbitbrush (*Chrysothamnus*

greeneii), and pale wolfberry (*Lycium pallidum*) growing along the margins of small rock outcrops. There are no forestry resources in the project area. A complete inventory of plant species can be found in Appendix 4.

3.12.1 No Action Alternative

3.12.1.1 Direct and Indirect Effects

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

3.12.2 Proposed Action

3.12.2.1 Direct and Indirect Effects

The Proposed Action will affect 1.162 acres of Navajo Tribal Trust lands.

3.12.2.2 Mitigation

Reclamation, as outlined in Section 2.3, will mitigate impacts to vegetation from the construction of the Proposed Action. Reseeding will replace vegetation removed or damaged during construction. Successful reclamation is expected to take two to three years.

3.13 Visual Resources

Visual resources are not currently inventoried or managed by the Navajo Nation. However, the BLM has developed a Visual Resource Management (VRM) classification system designed to maintain or enhance visual qualities and describe different degrees of modification to the landscape. There are four VRM classes (Classes I through IV), which identify suggested degrees of allowed human modification to a landscape. Class I allows the least modification and Class IV allows the most (USDI BLM 2012).

The Proposed Action is surrounded by an area that the BLM currently designates as VRM Class IV. Projects constructed in Class IV areas can make major modifications to the existing character of the landscape. The level of change to the characteristic landscape can be high. (USDI BLM 2012).

3.13.1 No Action Alternative

3.13.1.1 Direct and Indirect Effects

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

3.13.2 Proposed Action

3.13.2.1 Direct and Indirect Effects

1. Short-term impacts to visual resources could come from dust, truck traffic, and placement of heavy equipment during construction.
2. The power line will interrupt the line of sight and will introduce vertical elements to the landscape.

3.13.2.2 Mitigation

Short-term impacts to visual resources from construction will cease after approximately one month.

3.14 Wastes, Hazardous and Solid

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

3.14.1 No Action Alternative

3.14.1.1 Direct and Indirect Effects

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

3.14.2 Proposed Action

3.14.2.1 Direct and Indirect Effects

Trash and unwanted materials will be generated by construction.

3.14.2.2 Mitigation

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

3.15 Water Resources

The project is located in a depression known as the San Juan Basin. The San Juan Basin flows toward the Chaco and San Juan Rivers to discharge and recharges near the Zuni Uplift in the Chuska Mountains (Robson 1995). The project area receives approximately 10.21 inches of annual precipitation (WRCC 2016).

The hydrologic setting of the immediate project area is mostly characterized by ephemeral drainages filled with alluvium, which is the principle source of ground water recharge. Surface flows are associated with small ephemeral drainages and occur from snow melt and precipitation. The ephemeral drainages have beds that are categorized as sandy, silty, clayey or gravelly.

The area drains via Cañon Medio into Torreon wash. Ephemeral flows in these drainages are limited to spring snowmelt and occasional monsoonal rainfall.

The groundwater zones present beneath the project area include the shallow Mesa Verde Aquifer, Dakota-Glen Canyon Aquifer System, and deep Coconino-De Chelly Aquifer. The Mesa Verde Aquifer is high in chloride concentrations. The Dakota-Glen Canyon Aquifer System is highly mineralized and has a substantial amount of dissolved halite, most likely from an unplugged or poorly plugged oil test hole (Robson 1995). The Coconino-De Chelly Aquifer contains a lot of dissolved minerals, more concentrated in some regions than in others. It also contains dissolved halite, much like that of the Dakota-Glen Canyon Aquifer, but is less concentrated (Allen 2011).

The plant survey report indicated no perennial streams, alkali seeps, or wetlands in the immediate area of the Proposed Action area (Appendix 4).

3.15.1 No Action Alternative

3.15.1.1 Direct and Indirect Effects

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

3.15.2 Proposed Action

3.15.2.1 Direct and Indirect Effects

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

3.15.2.2 Mitigation

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

3.16 Wildlife

Wildlife species occurring in the project area are typical of arid grasslands and open habitats represented in the project area. Typical mammals include coyotes (*Canis latrans*), kangaroo rats (*Dipodomys spp.*), and black-tailed jackrabbits (*Lepus californicus*). Common resident and breeding bird species include western bluebird (*Sialia mexicana*), chipping sparrow (*Spizella pallida*), western scrub jay (*Aphelocoma californica*), juniper titmouse (*Baeolophus ridgewayi*), and common raven (*Corvus corax*). Reptilian species include sagebrush lizards (*Sceloporus graciosus*).

See Appendix 3 for a complete inventory of wildlife species observed in the project area.

3.16.1 No Action Alternative

3.16.1.1 Direct and Indirect Effects

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

3.16.2 Proposed Action

3.16.2.1 Direct and Indirect Effects

1. The wildlife that uses the site may die or be displaced during construction. Removal of or damage to vegetation during construction of the Proposed Action may reduce wildlife forage and cover in the area.
2. The new power line and associated structures may be attractive as a perch sites for some avian species.

3.16.2.2 Mitigation

1. Reclamation of the Proposed Action, as outlined in Section 2.3, will reduce the long-term impacts to wildlife that use the area. Reseeding disturbed areas will replace vegetation removed during construction. In some instances, there may be a benefit from successful reclamation due to an increase in vegetative cover and wildlife forage. Successful reclamation is expected to take two to three years.
2. Vehicles will be restricted to existing roads and the proposed power line route to reduce impacts to ground dwelling wildlife at the project site.
3. The power line will be constructed according to raptor-safe power pole design standards for new power line construction within Raptor Sensitive Areas (RSA) (APLIC 2006; NNDFW NNHP 2008).

3.17 Cumulative Effects

3.17.1 No Action Alternative

Under the No Action Alternative, this project would not be approved or constructed so this project would not contribute to the cumulative disturbance in the area.

3.17.2 Proposed Action

The Proposed Action will affect 1.162 acres on Navajo Tribal Trust lands. Reasonably foreseeable future development may include the installation of additional

power lines in the vicinity of the Proposed Action due to its proximity to NM 197. These installations would add to the cumulative disturbance in the area.

4. Consultation/Coordination

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

Table 4.1: Interdisciplinary Project Team

Member	Title	Organization	Onsite Inspection	Date of Inspection
Robyn Tierney	Botanist	Permits West, Inc.	yes	3/27/15
Celia Cook	Wildlife Biologist	Permits West, Inc.	yes	3/30/15
Douglas H.M. Boggess	Archaeologist	Lone Mountain Archaeological Svc., Inc.	yes	12/5/14
Mike Deutsch	Project Coordinator	Permits West, Inc.	yes	11/11/14
John Paisano, Jr.	Surveyor	Quest Network, LLC	yes	Dec 2014
Liz Berdugo	Consultant/Author	Permits West, Inc.	no	n/a

5. Contact Information

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505-466-8120
Fax: 505-466-9682

Sonya Binion
Jemez Mountains Electric Cooperative, Inc.
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575-289-3241
Fax: 575-289-0103

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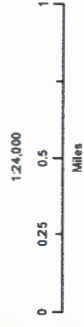
Nicky Sandoval Proposed Power Line Map

Sec. 4, 5, & 8, Township 18N, Range 3W
Sandoval County, New Mexico

USGS Quad(s): Wolf Stand

Work Order #: 410032

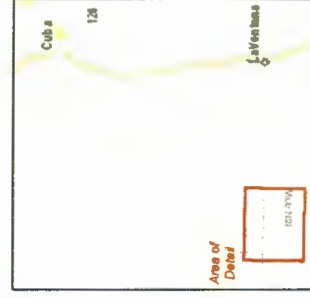
Proposed Electric Distribution Line



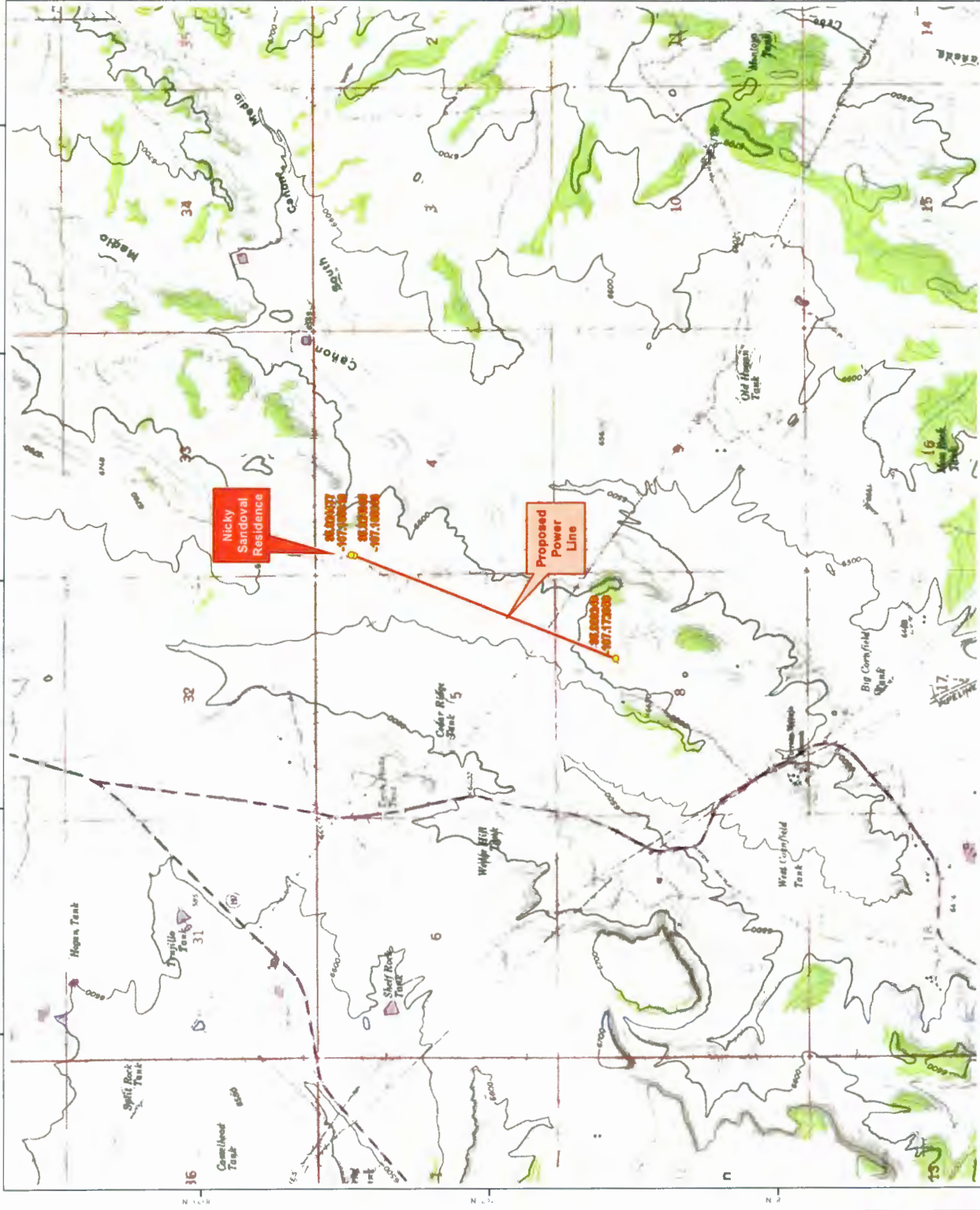
NAD 1983 New Mexico State Plane West
FPS 3003 Feet



Prepared by Permits West, Inc., May 12, 2016
for Jemez Mountains Electric Cooperative, Inc.



Appendix 1





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<http://nnhp.nndfw.org>

14perm106

02-December-2014

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

SUBJECT: JMEC Nicky Sandoval Residential Power Line Project

Mike Deutsch,

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

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

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

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

Species of concern include protected, candidate, and other rare or otherwise sensitive species, including certain native species and species of economic or cultural significance. For legally protected species, the following tribal and federal statuses are indicated: NESL, federal Endangered Species Act (ESA), Migratory Bird Treaty Act (MBTA), and Eagle Protection Act (EPA). No legal protection is afforded species with only ESA candidate, NESL group 4 status, and species listed on the Sensitive Species List. Please be aware of

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

- A. **Biological Resource Land Use Clearance Policies and Procedures (RCP)** - The purpose of the RCP is to assist the Navajo Nation government and chapters ensure compliance with federal and Navajo laws which protect, wildlife resources, including plants, and their habitat resulting in an expedited land use clearance process. After years of research and study, the NNDFW has identified and mapped wildlife habitat and sensitive areas that cover the entire Navajo Nation.
The following is a brief summary of six (6) wildlife areas:
1. **Highly Sensitive Area** – recommended no development with few exceptions.
 2. **Moderately Sensitive Area** – moderate restrictions on development to avoid sensitive species/habitats.
 3. **Less Sensitive Area** – fewest restrictions on development.
 4. **Community Development Area** – areas in and around towns with few or no restrictions on development.
 5. **Biological Preserve** – no development unless compatible with the purpose of this area.
 6. **Recreation Area** – no development unless compatible with the purpose of this area.
- None** - outside the boundaries of the Navajo Nation
This is not intended to be a full description of the RCP please refer to the our website for additional information at <http://www.nndfw.org/clup.htm>.
- B. **Raptors** – If raptors are known to occur within 1 mile of project location: Contact Chad Smith at 871-7070 regarding your evaluation of potential impacts and mitigation.
- o **Golden and Bald Eagles**- If Golden or Bald Eagle are known to occur within 1 mile of the project, decision makers need to ensure that they are not in violation of the Golden and Bald Eagle Nest Protection Regulations found at http://nnhp.nndfw.org/docs_reps/gben.pdf.
 - o **Ferruginous Hawks** – Refer to "Navajo Nation Department of Fish and Wildlife's Ferruginous Hawk Management Guidelines for Nest Protection" http://nnhp.nndfw.org/docs_reps.htm for relevant information on avoiding impacts to Ferruginous Hawks within 1 mile of project location.
 - o **Mexican Spotted Owl** - Please refer to the Navajo Nation Mexican Spotted Owl Management Plan http://nnhp.nndfw.org/docs_reps.htm for relevant information on proper project planning near/within spotted owl protected activity centers and habitat.
- C. **Surveys** – Biological surveys need to be conducted during the appropriate season to ensure they are complete and accurate please refer to NN Species Accounts http://nnhp.nndfw.org/sp_account.htm. Surveyors on the Navajo Nation must be permitted by the Director, NNDFW. Contact Jeff Cole at (928) 871-7068 for permitting procedures. Questions pertaining to surveys should be directed to the NNDFW Zoologist (Chad Smith) for animals at 871-7070, and Botanist (Andrea Hazelton) for plants at (928)523-3221. Questions regarding biological evaluation should be directed to Jeff Cole at 871-7068.
- D. **Oil/Gas Lease Sales** – Any settling or evaporation pits that could hold contaminants should be lined and covered. Covering pits, with a net or other material, will deter waterfowl and other migratory bird use. Lining pits will protect ground water quality.
- E. **Power line Projects** – These projects need to ensure that they do not violate the regulations set forth in the Navajo Nation Raptor Electrocutation Prevention Regulations found at http://nnhp.nndfw.org/docs_reps/repr.pdf.

- J. **Life Length of Data Request** – The information in this report was identified by the NNHP and NNDFW's biologists and computerized database, and is based on data available at the time of this response. If project planning takes more than two (02) years from the date of this response, verification of the information provided herein is necessary. It should not be regarded as the final statement on the occurrence of any species, nor should it substitute for on-site surveys. Also, because the NNDFW information is continually updated, any given information response is only wholly appropriate for its respective request.
- K. **Ground Water Pumping** – Projects involving the ground water pumping for mining operations, agricultural projects or commercial wells (including municipal wells) will have to provide an analysis on the effects to surface water and address potential impacts on all aquatic and/or wetlands species listed below. NESL Species potentially impacted by ground water pumping: *Carex specuicola* (Navajo Sedge), *Cirsium rydbergii* (Rydberg's Thistle), *Primula specuicola* (Cave Primrose), *Platanthera zothecina* (Alcove Bog Orchid), *Puccinellia parishii* (Parish Alkali Grass), *Zigadenus vaginatus* (Alcove Death Camas), *Perityle specuicola* (Alcove Rock Daisy), *Symphyotrichum welshii* (Welsh's American-aster), *Coccyzus americanus* (Yellow-billed Cuckoo), *Empidonax traillii extimus* (Southwestern Willow Flycatcher), *Rana pipiens* (Northern Leopard Frog), *Gila cypha* (Humpback Chub), *Gila robusta* (Roundtail Chub), *Ptychocheilus lucius* (Colorado Pikeminnow), *Xyrauchen texanus* (Razorback Sucker), *Cinclus mexicanus* (American Dipper), *Speyeria nokomis* (Western Seep Fritillary), *Aechmophorus clarkia* (Clark's Grebe), *Ceryle alcyon* (Belted Kingfisher), *Dendroica petechia* (Yellow Warbler), *Porzana carolina* (Sora), *Catostomus discobolus* (Bluehead Sucker), *Cottus bairdi* (Mottled Sculpin), *Oxyloma kanabense* (Kanab Ambersnail)

7. Resources

National Environmental Policy Act

Navajo Endangered Species List:

<http://nnhp.nndfw.org/endangered.htm>

Species Accounts:

http://nnhp.nndfw.org/sp_account.htm

Biological Investigation Permit Application

http://nnhp.nndfw.org/study_permit.htm

Navajo Nation Sensitive Species List

http://nnhp.nndfw.org/study_permit.htm

Various Species Management and/or Document and Reports

http://nnhp.nndfw.org/docs_reps.htm

Consultant List

(Coming Soon)

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



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

xc: file/chrono

WILDLIFE SURVEY REPORT

FOR

JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.'S

NICKY SANDOVAL POWER LINE PROJECT

Sections 4, 5, and 8, T. 18 North, R. 3 West, Sandoval County, NM



JANUARY 13, 2016

PREPARED BY:

CELIA COOK



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

1.0 INTRODUCTION

Threatened, endangered, and special status wildlife species surveys were conducted for the proposed Jemez Mountains Electric Cooperative, Inc. (JMEC) Nicky Sandoval 14.4-kV power line in Sections 4, 5, and 8, T. 18 N., R. 3 W. in Sandoval County, New Mexico. The project area is located on Navajo Tribal Trust lands and Bureau of Land Management (BLM) lands approximately 0.5 miles northeast of the Torreon Navajo Mission.

2.0 METHODS

Prior to the field survey, the Navajo Nation Department of Fish and Wildlife Natural Heritage Program (NNHP) was consulted. A response dated December 2, 2014 identifies a list of NNHP and federal Endangered Species Act (ESA) threatened, endangered, or special status (TES) wildlife species that have potential to occur within or in the vicinity of the project area (Detsoi, 2014). The proposed project area was also evaluated for the potential occurrence of Rio Puerco Field Office, BLM's list of bureau sensitive species (USDI, BLM 2012). These efforts revealed TES species that are protected under tribal and/or federal laws, and interagency agreements, and that are either known to occur within the project area, or have habitat requirements consistent with available habitat in the vicinity of the project area.

On March 30, 2015, wildlife biologist Celia Cook conducted a pedestrian survey of the project area. The purpose of the survey was to evaluate the area for the potential presence of TES species and their habitats. Weather during the survey was cool, with five- to ten-mph winds and partly cloudy skies. Temperatures were in the mid to upper 50s (°F).

The surveyed area consisted of the proposed power line and a minimum 50-foot buffer on either side of the right of way (ROW). Habitat and existing conditions were evaluated. A half-mile radius around the project area was surveyed for raptor activity and nests. Numerous additional line-of-sight surveys for wildlife, nests, or unique habitat were also conducted from various locations within the project area.

3.0 PROJECT DESCRIPTION AND EXISTING HABITAT

The proposed project consists of constructing a single-phase, 14.4-kV, overhead electric distribution line from an existing power pole at 35.809249 latitude, -107.172659 longitude to the Nicky Sandoval residence at 35.824305 latitude, -107.165033 longitude. The power line corridor, with guys, measures 5976.82 feet in length, is 20-feet wide, and encompasses 2.75 acres. The proposed power line begins at an existing transmission line's power pole on Navajo Tribal Trust land in the NE/4 of Section 8, T. 18 N., R. 3 W., Sandoval County, NM (Wolf Stand, NM, 7.5-minute USGS quadrangle), then extends northeast onto BLM lands through the SE/4 of Section 5, on to the Nicky Sandoval residence on Navajo Tribal Trust land in the NW/4 of Section 4, T. 18 N., R. 3 W. An existing road that parallels most of the proposed project line will be used to access the project area where possible during construction. The power line will be built raptor-safe, and construction and installation will require minimal disturbance to the landscape.

General topography surrounding the project area consists of wide valleys rimmed with mesas, badlands, and buttes, and is divided by large washes and drainages. Exposed sandstone bedrock is present along steeper slopes and drainages. Vegetation is sparse and representative plants indicate dry, harsh conditions. The vegetation community could be classified as desert grassland/scrubland with pockets of juniper. Historically, livestock has grazed the area.

In the immediate vicinity of the project, representative plants include native grasses such as alkali sacaton (*Sporobolus airoides*), sand dropseed (*S. cryptandrus*), blue grama (*Bouteloua gracilis*), and purple three-awn (*Aristida purpureum*). Overstory plants include juniper (*Juniperus monosperma*), big sagebrush (*Artemesia tridentata*), Greene's rabbitbrush (*Chrysothamnus Greenei*), and pale wolfberry (*Lycium pallidum*). Small rocky outcrops support various cactus species. The landscape within the project ROW is rolling and generally follows an existing two-track road. Elevation ranges from 6600 to 6700 feet. There are no drainages or unique habitat elements within the ROW and there are no perennial or intermittent streams, riparian areas, or wetlands in the project area.

4.0 GENERAL WILDLIFE

Wildlife species occurring in the project area are typical of arid grasslands and open habitats represented in the project area. Typical mammals include coyotes (*Canis latrans*), kangaroo rats (*Dipodomys spp.*), and black-tailed jackrabbits (*Lepus californicus*). Common resident and breeding bird species include western bluebird (*Sialia mexicana*), chipping sparrow (*Spizella pallida*), western scrub jay (*Aphelocoma californica*), juniper titmouse (*Baeolophus ridgewayi*), and common raven (*Corvus corax*). Reptilian species include sagebrush lizards (*Sceloporus graciosus*). A list of species observed during the March 30, 2015 survey is presented in Section 7.0 of this report.

5.0 THREATENED & ENDANGERED AND SPECIAL STATUS SPECIES

Threatened, endangered, and special status wildlife species with potential to occur on or near the site have been identified by the Navajo Fish and Wildlife Natural Heritage Program Navajo Endangered Species List (NESL), the U.S. Fish and Wildlife Endangered Species Act (ESA), and the BLM Rio Puerco Field Office Resource Management Plan. These resources have identified ESA-listed species, as well as species of concern. Species have been identified and/or listed due to declining populations, habitat fragmentation, or other impacts affecting the success of the species. Conserving wildlife and preventing the need for further listing or listing upgrades is the primary goal of an overall agency effort between the Navajo tribe, the federal government, and other land administrators.

The following Table 1 lists ESA, NESL, and BLM species of concern that have potential to occur in the project area. Species associated with aquatic ecosystems are generally not included in the analysis (e.g., fish species) since these habitats do not occur within the project area. Species listed include ESA and NESL species, and those that are recognized by the BLM's Rio Puerco Field Office for Sandoval County as Special Status Species. It should be noted that all migratory birds in this table are also protected under the federal Migratory Bird Treaty Act (MBTA 1918).

Table 1. Threatened, Endangered, and Special Status Wildlife Species with Potential to Occur in the Project Area

SPECIES	STATUS*	HABITAT ASSOCIATIONS	POTENTIAL TO OCCUR**
AMPHIBIANS			
Jemez Mountain salamander (<i>Plethodon neomexicanus</i>)	Federal – E NM – E BLM – SSS	Mossy, wet areas beneath logs and debris; needs loose moist soils for burrowing	NP
MAMMALS			
Black-footed ferret (<i>Mustela nigripes</i>)	NESL - Group 3 Federal – E	Medium to large active prairie dog towns (>80 ha, and 20 burrows/ha) or complex of towns (two or more towns within 7 km)	NP
Goat Peak pika (<i>Ochotona princeps nigrescens</i>)	BLM - SSS	High elevation talus slopes	NP
NM meadow jumping mouse (<i>Zapus hudsonius luteus</i>)	Federal E NM – E BLM – SSS	Wet meadows associated with riparian corridor, wetlands, and marshes	NP
Townsend's pale big-eared bat (<i>Corynorhinus townsendii pallascens</i>)	BLM - SSS	Arid western shrub and pine forest; maternity colonies in mines, caves, and buildings; sensitive to disturbance	NP
Big free-tailed bat (<i>Nyctinomops macrotis</i>)	BLM - SSS	Coniferous and mixed woodlands with rocky cliffs and crevices	NP
Fringed myotis bat (<i>Myotis thysanodes thysanodes</i>)	BLM - SSS	Mid-elevation grasslands, deserts, pinyon, oak, and ponderosa woodlands as well as upper elevation forests	NS
Long-eared myotis bat (<i>Myotis evotis evotis</i>)	BLM - SSS	Coniferous forests at moderate elevations, including ponderosa pine woodlands and pinyon-juniper woodlands, as well as upper-elevation forests	NS
Spotted bat (<i>Euderma maculatum</i>)	NM - T BLM - SSS	Wide variety of woodland habitats and semi-desert shrublands, especially with sandstone cliffs and rocky areas	NS
Yuma myotis bat (<i>Myotis yumanensis yumanensis</i>)	BLM - SSS	Usually associated with permanent sources of water but can be found in a variety of habitats	NS
Long-legged myotis (<i>Myotis volans</i>)	BLM - SSS	Rocky, broken lowlands with cliffs and canyons	NS
Occult myotis (<i>Myotis occultus</i>)	BLM - SSS	Usually present near areas of open water	NP
Small-footed myotis (<i>Myotis ciliolabrum</i>)	BLM - SSS	Rock outcrops, open grasslands, canyons	NS
BIRDS			
Golden eagle (<i>Aquila chrysaetos</i>)	NESL - Group 3 Federal - EPA	Requires steep, tall cliffs and buttes or mature conifer forest for breeding; forages over large areas around breeding sites	S
Peregrine falcon (<i>Falco peregrinus</i>)	NESL - Group 4 NM - T	Rare breeders (NM) in rocky, steep cliff areas; generally near water or mesic canyons; also migrates statewide	NP
Yellow billed cuckoo (<i>Coccyzus americanus</i>)	Federal - T NM - T BLM - SSS	Riparian woodlands, woodlots, orchards	NP
Mexican spotted owl (<i>Strix occidentalis lucida</i>)	Federal - T NESL - Group 3 BLM - SSS	Rocky canyons in mature montane forests and mixed conifer forested below 9500 ft in elevation	NP

SPECIES	STATUS*	HABITAT ASSOCIATIONS	POTENTIAL TO OCCUR**
Ferruginous hawk (<i>Buteo regalis</i>)	NESL - Group 3 BLM - SSS	Usually associated with open grasslands and prairies; nests in badlands and occasionally on power poles	S
Northern goshawk (<i>Accipiter gentilis</i>)	BLM - SSS	Mature conifer and alpine forests	NP
Western burrowing owl (<i>Athene cunicularia hypugaea</i>)	NESL - Group 4 BLM - SSS	Prefers shortgrass prairie or disturbed grasslands and shrublands with sufficient burrows for nesting; usually associated with prairie dog colonies	NP
Mountain plover (<i>Charadrius montanus</i>)	NESL - Group 4 BLM - SSS	Dry, disturbed, or intensively grazed, open and flat tablelands	NP
Pinyon jay (<i>Gymnorhinus cyanocephalus</i>)	BLM - SSS	Flocks and forages in pinyon-juniper woodlands and adjacent habitats	S
Loggerhead shrike (<i>Lanius ludovicianus</i>)	BLM - SSS	Shrub and desert scrub habitat edges, shrubby areas along fence lines, as well as grassland and chaparral.	K
Baird's sparrow (<i>Ammodramus bairdii</i>)	NM - T BLM - SSS	Arid deserts and grasslands with widely scattered shrubs at low elevations	NP
Gray vireo (<i>Vireo vicinior</i>)	NESL - Group 4 NM - T BLM - SSS	Open woodlands/shrublands on mesas and foothills with conifers and shrubs; Juniper spp. typically dominant	NP
Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>)	NESL - Group 2 Federal – E NM-T BLM - SSS	Dense riparian and wetland thickets, usually with willow and/or saltcedar and Russian olive component	NP

***Status**

NESL: Group 1 – Extirpated from Navajo Reservation; Groups 2 and 3- Endangered; Group 4- at risk for listing but under review
 Federal (ESA): E – Endangered; T – Threatened; C – Candidate; EPA- Bald and Golden Eagle Protection Act
 New Mexico State: E – Endangered; T – Threatened
 BLM: SSS = Special Status Species

****Potential to Occur**

K - Known, documented observation within project area
 S - Habitat suitable and species likely to occur within the project area
 NS - Habitat suitable but species is not suspected to occur within the project area
 NP - Habitat not present and species unlikely to occur within the project area as breeder but may occur as transient or migrant

6.0 SURVEY RESULTS AND DISCUSSION

No NESL listed or federally listed wildlife species were observed during the March 30, 2015 wildlife survey. Habitat was present for several wildlife species listed in Table 1. These species have an “S” or an “NS” indicated for them in the *Potential to Occur* column. An “S” indicates that suitable habitat is present within the project area, and an “NS” indicates that suitable habitat is present but that the species is not suspected to occur, usually because of some limiting factor. These species are discussed below.

6.1 SPECIAL STATUS BAT SPECIES

Several of the bat species presented in Table 1 have the potential to forage near the site. Foraging habitat includes open woodlands, drainages, and grasslands, similar to that which is present in the vicinity of the project area. Roosting habitat in the vicinity of the project area is limited to old buildings and cliffs, or crevices. No bats or bat sign

were observed during surveys and no open water exists near the project area. It is unknown how power lines affect bats or bat behavior. Currently, many bat species are considered vulnerable and populations are declining across North America. The primary reasons for bat population decline include disease, habitat loss, water contamination, pesticide poisoning, and disturbance and destruction of day roosts.

6.2 GOLDEN EAGLE

No evidence of golden eagles was observed within the project area. There is no suitable nesting habitat for the golden eagle within the project area. The closest known active nest for this species is within ten miles of the project area and a historic nest (status unknown) is located within three miles of the project area (Kendall 2013). Existing power lines within the project area likely serve as perches for golden eagles and it is likely that they occasionally pass through and/or forage in the project area.

Golden eagles are generally at risk due to habitat loss, fragmentation and/or environmental pollutants, as well as other factors, including electrocution on power lines.

6.3 FERRUGINOUS HAWK

No suitable nest habitat for the ferruginous hawk is present in the project area. The closest known nest sites are in badland areas approximately 30 miles northwest of the project area (Kendall, 2013). However, it is possible that ferruginous hawks could show up in the project area as foraging birds or migrants. Existing power lines within the project area could serve as perches for ferruginous hawks. Ferruginous hawks are generally at risk due to habitat loss and fragmentation, and/or environmental pollutants, as well as other factors, including electrocution on power lines.

6.4 PINYON JAY

Marginal habitat exists for the pinyon jay in the vicinity of the project area. These birds require substantial stands of pinyon and only small patches of pinyon and juniper are present in the vicinity of the project area. Pinyon jay populations are vulnerable to habitat loss from the bark beetle (*Ips confusus*).

6.5 LOGGERHEAD SHRIKE

Habitat for the loggerhead shrike is present within the project area, especially along the valley bottoms to the southeast and northwest of the project area. In these areas large shrubs provide suitable habitat. Northern shrikes may be at risk due to habitat loss and other factors. Northern shrikes are known to perch on power lines.

6.5 MIGRATORY BIRDS

Migratory birds are protected under the Migratory Bird Treaty Act (MBTA 1918). Birds protected under the Act include all common songbirds, waterfowl, shorebirds, hawks, owls, eagles, ravens, crows, native doves and pigeons, swifts, martins, swallows and others, including their body parts (feathers, plumes etc.), nests, and eggs. The Act protects migratory birds from a "take". Take is defined as "to pursue, hunt, shoot,

wound, kill, trap, capture, or collect, or any attempt to carry out these activities". A "take" does not include habitat destruction or alteration, as long as there is not a direct taking of birds, nests, eggs, or parts thereof.

Three migratory bird species were observed during the March 30, 2015 wildlife survey. These species are presented in Section 7.0.

7.0 SPECIES OBSERVED DURING THE SURVEY

While the field survey focused on the potential presence of listed and special status species, observations of non-listed species were also noted. The following list includes all wildlife species observed:

AVIAN SPECIES OBSERVED:

- Loggerhead shrike (*Lanius ludovicianus*)
- Common raven (*Corvus corax*)
- Say's phoebe (*Sayornis saya*)

MAMMALIAN SPECIES OBSERVED:

- Coyote (*Canis latrans*)
- Horse (*Equus caballus*)
- Kangaroo rat (*Dipodomys sp.*)
- Packrat (*Neotoma sp.*)
- Badger (*Taxidea taxus*)
- Desert cottontail (*Sylvilagus audubonii*)
- Black-tailed jackrabbit (*Lepus californicus*)

8.0 GENERAL RECOMMENDATIONS

Construction and operation of the proposed Nicky Sandoval power line should be conducted to ensure minimal adverse impact on wildlife. Mitigation measures should include:

- Following guidelines in the Avian Power Line Interaction Committee's *Suggested Practices for Avian Protection on power Lines: The State of the Art in 2006*;
- Minimizing vegetation removal where possible;
- Avoiding construction during migratory bird breeding season March 15 - August 15;
- Properly containing and promptly cleaning up any spilled environmental contaminants or trash from construction events;
- Using effective reclamation methods to ensure a viable native plant community at the end of reclamation efforts and monitoring for invasive or noxious plant species that would hamper reclamation success.

9.0 REFERENCES

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Jemez Mountain Electric Cooperative, Inc.

Proposed Nicky Sandoval Power Distribution Line

Sections 4, 5, and 8, Township 18N, Range 3W, Sandoval County, New Mexico

Plant Survey Report

Prepared by Robyn W. Tierney, Permits West, Inc., Santa Fe, New Mexico

April 15, 2015

This report discusses the potential for disturbance to Navajo Natural Heritage Program (NNHP) plant species of concern including the Navajo Nation NESL Group 4 species, Parish's alkali grass (*Puccinellia parishii*), San Juan milkweed (*Asclepias sanjuanensis*), and beautiful gilia (*Allicelia formosa*) that have the potential to occur within the proposed Nicky Sandoval Power Line project area, Torreon Chapter, Sandoval County (NESL 2008). The proposed project area was also evaluated for the potential of disturbance to the federally threatened (NESL Group 2) Zuni fleabane (*Erigeron rhizomatus*), and the Rio Puerco Field Office, Bureau of Land Management's (RPFO, BLM 2012) list of bureau sensitive species including the gypsum townsendia (*Townsendia gypsophila*), Knight's milk-vetch (*Astragalus knightii*), New Mexico spiny milkvetch (*Astragalus kentrophyta* var. *neomexicana*), Santa Fe milkvetch (*Astragalus feensis*), Sivinski's fleabane (*Erigeron sivinskii*), tufted evening primrose (*Oenothera caespitosa*), tufted sand verbena (*Abronia bigelovii*), and Wright's nipple cactus (*Mammillaria wrightii*).

PROJECT DESCRIPTION

The proposed project consists of constructing a single-phase, 14.4-kV, overhead electric distribution line. The power line corridor with guys, measures 5,976.82 feet in length, is 20-feet wide, and encompasses 2.75 acres. The proposed power line begins at an existing transmission line's power pole on Navajo Tribal Trust Lands in the NE/4 of Section 8, T 18N, R 3W, Sandoval County, New Mexico (Wolf Stand, NM, 7.5-minute USGS quadrangle), then extends northeast onto Bureau of Land Management (BLM) lands through the SE/4 of Section 5 to the Nicky Sandoval residence on Navajo Tribal Trust Lands in the NW/4 of Section 4, T 18N, R 3W. An existing two-track dirt road that parallels most of the proposed project line will be used to access the project area where possible during construction.

The project area is in the Navajo section of the Colorado Plateau physiographic province. The area's topography is comprised of mesas, bajadas, broad valleys, slopes, drainages, and badlands. The proposed power line is located on the eastern side of Cañon Medio, approximately one-half mile northeast of the Torreon Navajo Mission. The line begins at an existing power pole located in a broad

valley known as South Cañon Medio, then extends northward along the western edge of the valley. Vegetation along the route is composed of a juniper-grassland. The southwestern half of the corridor is dominated by alkali sacaton (*Sporobolus airoides*), sand dropseed (*S. cryptandrus*), blue grama (*Bouteloua gracilis*), and purple three-awn (*Aristida purpureum*). Vegetation in the northeastern half of the corridor includes small stands of big sagebrush (*Artemesia tridentata*), Greene's rabbitbrush (*Chrysothamnus Greenei*), and pale wolfberry (*Lycium pallidum*) growing along the margins of small rock outcrops.

Soils throughout the project area consist of the Las Lucas-Persayo association fan and slope alluvium derived from igneous and sedimentary sandstone and shale (NMBGMR 2003; USDA, NRCS, *Web Soil Survey* 2015). Las Lucas soils are found on alluvial fans, terraces, and on valley sides. Las Lucas soils are loams and are deep, and well drained (USDA, NRCS, *Web Soil Survey* 2015). Persayo soils are found on knolls and hills and are also derived from igneous and sedimentary rock.

The elevation of the project area ranges from approximately 6,700 feet at the northern end of the project corridor to 6,630 feet at the southern of the project corridor. Disturbances in the project area include existing homes at each end of the proposed project corridor with dirt roads, bladed parking areas, outbuildings, and extensive grazing by horses and other livestock. An existing two-track road parallels the northern two-thirds of the proposed project corridor and the Torreon Mission Road (NM Hwy. 197) is located one-quarter mile west of the project area.

METHODOLOGY

The proposed Nicky Sandoval power line was surveyed on March 27, 2015 by botanist Robyn Tierney. Weather during the survey was sunny, with high temperatures in the lower to mid-60's F° and a light breeze of one to four miles per hour. Sensitive plant species listed by the Navajo Natural Heritage Program (NNHP 2008), the U.S. Fish and Wildlife Service's Information, Planning, and Conservation System (IPaC 2015) and the BLM in Table 1, below, were the focus of the survey. However, all species encountered during the survey were examined. Prior to conducting the survey, a data request was also made to the NNHP for Navajo Nation endangered species known to occur, or with the potential to occur, on the Wolf Stand, NM, 7.5-minute USGS quadrangle. The request reply (NNHP File#14perm106) was received on December 2, 2014.

The pedestrian survey was conducted as a zigzag transect along each side of the project centerline, covering both the 20-foot width of the project corridor and a buffer zone of 200 feet on each side of the proposed line. The purpose of the survey was to inspect for and to identify species of concern. All plants observed in the project area were identified in order to provide a more complete description of the project area environment. A list of the plants observed in the project area is included at the end of this report in Table 2.

SURVEY RESULTS

Species of Interest to the NNHP, the U.S. Fish and Wildlife Service (USFWS) and the BLM: This report discusses the potential for disturbance to federally listed plant species and plant species of concern identified by the NNHP (2008) the USFWS (IPaC 2015), and the Rio Puerco Field Office, BLM's (RPFO, BLM 2012) that may occur in the project area. Additional details on the status, habitat, and the potential for each of these species to occur in the project area are presented in the following table.

Table 1. Status, habitat, and potential to occur in the project area

SPECIES STATUS*	HABITAT	POTENTIAL TO OCCUR IN THE PROJECT AREA**
<i>Abronia bigelovii</i> Tufted sand verbena RPFO BLM Sensitive	Locally common and restricted to hills and ridges of barren gypsum in the Todilto Formation, at 5,700-7,400 ft. (NMRPTC 1999, revised 2014)	NP - No appropriate habitat: gypsic soils derived from the Nacimiento Formation do not occur in the project area.
<i>Aliciella formosa</i> Beautiful gilia NESL Group 4	Salt desert scrub communities in soils derived from the Nacimiento Formation at 5,000 – 6,400 ft. (Roth 2008; NMRPTC 1999, revised 2014)	NP - No appropriate habitat: soils derived from the Nacimiento Formation do not occur in the project area.
<i>Asclepias sanjuanensis</i> San Juan Milkweed USFWS Species of Concern NESL Group 4	Sandy loam soils, usually in disturbed sites, in juniper savanna and Great Basin desert scrub; 5,000 - 5,500 ft. (Roth 2001; NMRPTC 1999, revised 2014)	NP -No appropriate habitat: there are no sandy loam soils in juniper savanna and Great Basin scrublands within the project area. Also, the site's elevation is greater than 5,500 ft.
<i>Astragalus feensis</i> Santa Fe milkvetch RPFO BLM Sensitive	Sandy benches and gravelly hillsides in piñon-juniper woodland or plains-mesa grassland; 5,100-6,000 ft. (NMRPTC 1999, revised 2014)	S - Suitable habitat: there is suitable habitat consisting of sandy benches in piñon-juniper woodland within the project corridor.
<i>Astragalus kentrophyta</i> var. <i>neomexicana</i> New Mexico spiny milkvetch RPFO BLM Sensitive	A relatively common and weedy species found in the piñon-juniper woodlands of northern NM (NMRPTC 1999, revised 2014)	S - Suitable habitat: there is suitable habitat consisting of sandy benches in piñon-juniper woodland within the project corridor.
<i>Astragalus knightii</i> Knight's milk-vetch RPFO BLM Sensitive	Rimrock ledges of Dakota Formation sandstone in juniper savannah and grassland; 5,700-5,900 ft. Presently known only from the Mesa Prieta area of the middle Rio Puerco drainage (NMRPTC 1999, revised 2014)	NP - No appropriate habitat: there are no rim rock ledges of Dakota Formation sandstones in the project area.

SPECIES STATUS*	HABITAT	POTENTIAL TO OCCUR IN THE PROJECT AREA**
<i>Erigeron rhizomatus</i> Zuni fleabane USFWS Threatened NESL Group 2	Species is found on nearly barren detrital clay hillsides with soils derived from shales of the Chinle or Baca formations (often seleniferous); most often on north- or east-facing slopes in open piñon-juniper woodlands at 7,300-8,000 ft. (NMRPTC 1999, Sivinski and Lightfoot 1991, Sivinski and Tonne 1999, Sivinski and Tonne 2004, USFWS 2007)	NP - No appropriate habitat: There are no barren detrital clay hillsides with soils derived from Chinle or Baca shale formations in the project area or open piñon-juniper woodlands in the project area. Project is at a lower elevation than that preferred by the fleabane.
<i>Erigeron sivinskii</i> Sivinski's fleabane RPFO BLM Sensitive	Chinle shale in piñon-juniper woodland and Great Basin desert scrub; 6,100-7,400 ft. (NMRPTC 1999)	NP - No appropriate habitat: There is no Chinle shale in the project area.
<i>Mammillaria wrightii</i> Wright's nipple cactus RPFO BLM Sensitive	Semidesert grasslands, plains grasslands, piñon-juniper woodlands, gentle slopes, mesas, valleys, usually on alluvial or igneous substrates; sometimes sympatric with <i>M. viridiflora</i> , but usually occupying deeper soils (FNA 2008)	S - Suitable habitat: There is suitable habitat consisting of alluvial substrates in piñon-juniper woodlands within the project corridor.
<i>Oenothera caespitosa</i> Tufted evening primrose RPFO BLM Sensitive	Sagebrush communities at 3,690-7,808 ft.; occurs in a disjunct population in Sandoval County (NMRPTC 1999, revised 2014)	NP - No appropriate habitat: There are no sagebrush communities within the project area.
<i>Puccinellia parishii</i> Parish's alkali grass	White-crustured alkaline springs, seeps, and seasonally wet areas that occur at the heads of drainages or on gentle slopes at 2,600-7,200 ft., range-wide. The species requires continuously damp soils during its late winter to spring growing period (Roth 2001; NNHP 2008; NMRPTC 1999, revised 2014)	NP - No appropriate habitat: There are no white-crustured, alkaline springs, seeps, or seasonally wet areas within the project area.
<i>Schlerocactus papyracanthus</i> Grama grass cactus RPFO BLM Sensitive	Piñon -juniper woodlands and desert grasslands on sandy soils at elevations between 4,900 and 7,200 ft. (NMRPTC 1999, revised 2014)	NS - Suitable habitat: There is marginally suitable habitat consisting of grassy swales in piñon-juniper woodland within the project corridor, but this species may not occur within the project area because of the extensive grazing disturbance.

SPECIES STATUS	HABITAT	POTENTIAL TO OCCUR IN THE PROJECT AREA*
<i>Townsendia gypsophila</i> Gypsum townsendia RPFO BLM Sensitive	Weathered gypsum outcrops of the Jurassic-age Todilto and overlying Morrison formations. The largest populations occur on highly gypsiferous soils rather than pure gypsum; smaller populations grow on Todilto gypsite, a highly pure, crustose form of gypsum	NP - No appropriate habitat: There are no gypsic soils or Todilto gypsite within the project area.

***Status**

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

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

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

NESL – Navajo Endangered Species List (NNHP 2008)

Group 2 – Endangered: A species or subspecies whose prospects of survival or recruitment are in jeopardy.

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

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

RPFO BLM – Rio Puerco Field Office, Bureau of Land Management Sensitive Species (RPFO BLM 2012)

****Potential to Occur**

K – Known, documented observation within project area

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

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

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

No perennial streams, alkali seeps, or wetlands are recorded in the immediate area of the project line (National Wetlands Inventory, USFWS 2014) and none were observed within the boundaries of the proposed corridor. Cañon Medio, an ephemeral tributary to Torreon Wash, is located approximately one-half mile east of the project corridor.

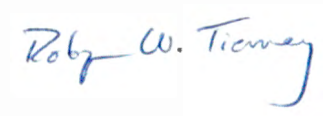
No noxious weed species identified by the Navajo Nation (USDI, OSMRE 1999) or listed by the New Mexico Department of Agriculture (NMDA 2009) were observed in the proposed project corridor.

No federally listed or sensitive plant species were observed in the project area (NNHP 2008, IPaC 2014). Plant species that were observed are listed in Table 2, below.

DISCUSSION

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

Signature of Author:



Robyn Tierney April 17, 2015
Botanist

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Table 2. Plants Observed in the Vicinity of the Proposed Nicky Sandoval Power Line Project

Scientific names are from the US Department of Agriculture Plants Database (2014). Identifications are based on Heil et al, 2013, and Weber and Wittman 2012.

Trees

<i>Juniperus monosperma</i>	One seed juniper
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Shrubs and Subshrubs

<i>Artemesia tridentata</i>	Big sagebrush
<i>Artemesia spinescens</i>	Budsage
<i>Atriplex canescens</i>	Four-wing saltbush
<i>Chrysothamnus greenei</i>	Greene's rabbitbrush
<i>Lycium pallidum</i>	Pale wolfberry
<i>Atriplex confertifolia</i>	Shadscale saltbush
<i>Gutierrezia sarothrae</i>	Snakeweed

Cacti

<i>Cylindropuntia sp.</i>	Cane cholla
<i>Opuntia polyacantha</i>	Starvation pricklypear
<i>Ferrocactus sp.</i>	Fishhook cactus

Grasses and Grass-like Plants

<i>Aristida purpurea</i>	Purple threeawn
<i>Bouteloua gracilis</i>	Blue grama
<i>Bouteloua barbata</i>	Six-weeks grama
<i>Munroa squarrosa</i>	False buffalograss
<i>Pleuraphis jamesii</i>	Galleta
<i>Sporobolus cryptandrus</i>	Sand dropseed
<i>Sporobolus airoides</i>	Alkali sacaton

Forbs

<i>Ambrosia acanthicarpa</i>	Bur ragweed
<i>Amaranthus albus</i>	White pigweed
<i>Chamaesyce micromeris</i>	Desert spurge
<i>Dimorphocarpa sp.</i>	Spectacle-pod species
<i>Eriogonum spp. (2)</i>	Buckwheat species
<i>Heterotheca villosa</i>	Hairy goldenaster
<i>Portulaca oleracea</i>	Little hogweed
<i>Proatriplex sp.</i>	Annual atriplex or orach
<i>Machaeranthera bigelovii</i>	Bigelow's tansyaster
<i>Mentzelia sp.</i>	Blazing star species
<i>Verbesina encelioides</i>	Golden crownbeard
<i>Salsola tragus</i>	Russian thistle

Yucca sp.

Yucca species

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THE NAVAJO NATION
HISTORIC PRESERVATION DEPARTMENT
PO Box 4950, Window Rock, Arizona 86515
TEL: (928) 871-7198 / 7134 FAX: (928) 871-7886

CULTURAL RESOURCE COMPLIANCE FORM

ROUTE COPIES TO:

☒ LMAS

NNHPD NO.: **HPD-15-045**

OTHER PROJECT NO.: **LMAS 1901**

PROJECT TITLE: An Intensive Cultural Resource Survey of 16.5 acres for Jemez Electric Cooperative's Nicky Sandoval Overhead Powerline, Sandoval County, New Mexico

LEAD AGENCY: BIA/NR

SPONSOR: Mike Deutsch, 37 Verano Loop, Santa Fe, New Mexico 87508

PROJECT DESCRIPTION: The undertaking will involve the placement of at least 16 power line poles, and an overhead power line within a 20 foot wide right-of-way along a 5,976.82 foot long route. Power line will be 5,927.82 foot long with an additional 49 foot for guy wires. The area of potential effect is 1.162-acres on Navajo Nation Land. Ground disturbance will be intensive & extensive with the use of heavy equipment.

LAND STATUS: Navajo Tribal Trust & BLM

CHAPTER: Torreon

LOCATION: T. 18 N, R. 03 W - Sec. 4, 5 & 8; Wolf Stand Quadrangle, Sandoval County, New Mexico, NMPM

PROJECT ARCHAEOLOGIST: Douglas H. M. Boggess

NAVAJO ANTIQUITIES PERMIT NO.: 814572

DATE INSPECTED: 12/05/2014

DATE OF REPORT: 01/05/2015

TOTAL ACREAGE INSPECTED: 16.5 - acres total (7.0-acres on Navajo Tribal Trust; 9.5-acres on BLM Land)

METHOD OF INVESTIGATION: Class III pedestrian inventory with transects spaced 15 m apart.

LIST OF CULTURAL RESOURCES FOUND: None

LIST OF ELIGIBLE PROPERTIES: None

LIST OF NON-ELIGIBLE PROPERTIES: None

LIST OF ARCHAEOLOGICAL RESOURCES: None

EFFECT/CONDITIONS OF COMPLIANCE: No historic properties affected.

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

FORM PREPARED BY: Tamara Billie

FINALIZED: February 13, 2015

Notification to Proceed

Recommended

Conditions:

☒ Yes ☐ No

☐ Yes ☒ No

Tamara Billie 2/13/15
The Navajo Nation
Historic Preservation Office

Date

Navajo Region Approval

☒ Yes ☐ No

[Signature] 2/26/15
BIA - Navajo Regional Office

Date

TM 2-26-15

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.: Nicky Sandoval Power Line

DESCRIPTION: JMEC proposes to construct, operate, and maintain a single-phase overhead distribution power line to serve the Nicky Sandoval residence. The power line would be a total of 2,517.94 ft. in length with a 20-ft. wide corridor (including guys and anchors), consisting of 1.162± acres.

LOCATION: NW¼ of Section 4 and NE¼ of Section 8, T18N, R03W, Torreon, Sandoval County, New Mexico

REPRESENTATIVE: Permits West, Inc. for Jemez Mountains Electric Cooperative, Inc. (JMEC)

ACTION AGENCY: Bureau of Indian Affairs and Navajo Nation

B.R. REPORT TITLE / DATE / PREPARER: EA-Nicky Sandoval Power Line, Appendices 3 & 4/13 MAY 2016/Permits West, Inc.

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3. Suitable nesting habitat is present for Migratory Birds not listed under the NESL or ESA. Migratory Birds and their habitats are protected under the Migratory Bird Treaty Act (16 USC §703-712).

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA


AVOIDANCE / MITIGATION MEASURES: JMEC will implement mitigation measures to avoid impacts on species protected under the MBTA that could potentially nest within and adjacent to the proposed action area.

CONDITIONS OF COMPLIANCE*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/17 JUN 2016

COPIES TO: (add categories as necessary)

☐ _____ ☐ _____

2 NTC § 164 Recommendation: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Conditional Approval (with memo) <input type="checkbox"/> Disapproval (with memo) <input type="checkbox"/> Categorical Exclusion (with request letter)	Signature  Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife	Date <u>6/17/16</u>
---	--	----------------------------

☐ 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

THE NAVAJO NATION



RUSSELL BEGAYE **PRESIDENT**
JONATHAN NEZ **VICE PRESIDENT**

MEMORANDUM

TO : Jeffrey Cole, Wildlife Manager
Department of Fish and Wildlife
DIVISION OF NATURAL RESOURCES

FROM : *[Signature]*
For Gloria M. Tom, Department Manager II
Department of Fish and Wildlife
DIVISION OF NATURAL RESOURCES

DATE : June 17, 2016

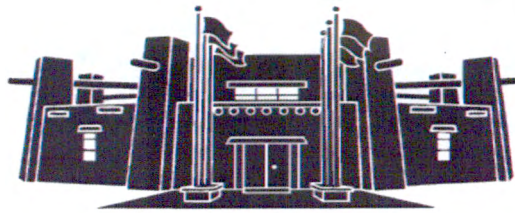
SUBJECT : DELEGATION OF AUTHORITY

I will be on travel Friday, June 17, 2016. Therefore, I am hereby delegating you to act in the capacity of the Director, Department of Fish and Wildlife, effective 12:00 pm on Friday, June 17, 2016. This delegation shall end at 5:00 p.m. on Friday, June 17, 2016.

Your authority will cover the review and signing off of all routine documents pertaining to the Department of Fish and Wildlife, except for issues that you feel should have the attention of the Director.

ACKNOWLEDGEMENT:

[Signature]
Jeffery Cole, Wildlife Manager
Department of Fish & Wildlife




MEMORANDUM

TO:

Honorable Jonathan Perry
Navajo Nation Council

FROM:


Edward A. McCool, Principal Attorney
Office of Legislative Counsel

DATE:

February 13, 2017

SUBJECT: AN ACTION: RELATING TO RESOURCES AND DEVELOPMENT;
APPROVING THE GRANT OF RIGHT-OF-WAY TO JEMEZ MOUNTAINS ELECTRIC
COOPERATIVE, INC. FOR THE NICKY SANDOVAL 14.4 KV SINGLE PHASE
POWER LINE TO SERVE FAMILIES IN THE TORREON CHAPTER LOCATED ON
NAVAJO NATION TRUST LANDS (SANDOVAL 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 as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge. Please ensure that this particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§ 700, 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 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

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0096-17_____

SPONSOR: Jonathan Perry

TITLE: An Action Relating To Resources And Development; Approving The Grant Of Right-Of-Way To Jemez Mountains Electric Cooperative, Inc. For The Nicky Sandoval 14.4 KV Single Phase Power Line To Serve Families In The Torreon Chapter Located On Navajo Nation Trust Lands (Sandoval County, New Mexico)

Date posted: March 7, 2017 at 9:40am

Digital comments may be e-mailed to 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) 871-7590**

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.: 0096-17

SPONSOR: Honorable Jonathan Perry

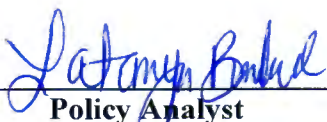
TITLE: An Action Relating To Resources And Development; Approving The Grant Of Right-Of-Way To Jemez Mountains Electric Cooperative, Inc. For The Nicky Sandoval 14.4 KV Single Phase Power Line To Serve Families In The Torreon Chapter Located On Navajo Nation Trust Lands (Sandoval County, New Mexico)

Posted: March 7, 2017 at 9:40 PM

5 DAY Comment Period Ended: March 12, 2017

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inclusive Comments	<i>None</i>



**Policy Analyst
Office of Legislative Services**

3/13/17 8:31am

Date/Time

Committee Report

THE RESOURCES AND DEVELOPMENT COMMITTEE OF THE NAVAJO NATION COUNCIL to who has been assigned;

LEGISLATION NO. 0096-17

AN ACT RELATING TO RESOURCES AND DEVELOPMENT: APPROVING THE GRANT OF RIGHT-OF-WAY TO JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC. FOR THE NICKY SANDOVAL 14.4 KV SINGLE PHASE POWER LINE TO SERVE FAMILIES IN THE TORREAN CHAPTER LOCATED ON NAVAJO NATION TRUST LANDS (SANDOVAL COUNTY, NEW MEXICO)

Sponsor: Honorable Jonathan Perry

Amendment One (1): Page 2, Line 4, Insert 1/4 after NW; and Page 2, Line 5, Insert 1/4 after NE;

Amendment Two (2): Extract Old Exhibit "D" (Old Terms and Conditions five years, \$16,424.87) and replace with New Exhibit "D" (New Terms and Conditions twenty years, \$16,547.54);


Amendment Three (3): Page 2, Line 11, overstrike \$16,424.87, replace with \$16,547.54 to correspond with New Exhibit "D" as opposed to \$16,424.87;

Amendment Four (4): Page 2 of 3, Line 26, insert new language,

waives consideration for the right-of-way project and bonding requirement, Title 25, CFR, Part 169.103 because the project will benefit Navajo residents.

Has had under consideration and report the same with the recommendation that Legislation 0096-17 PASS with four (4) amendments and no directive;

Respectfully Submitted,



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

Dated: March 28, 2017

Amendment One (1) Motion

Motion by: Honorable Leonard Pete
Seconded by: Honorable Benjamin Bennett
Vote: 4 in favor; 0 Opposed; CNV

Amendment Two (2) Motion

Motion by: Honorable Benjamin Bennett
Seconded by: Honorable Leonard Pete
Vote: 4 in favor; 0 Opposed; CNV

Amendment Three (3) Motion

Motion by: Honorable Benjamin Bennett
Seconded by: Honorable Leonard Pete
Vote: 4 in favor; 0 Opposed; CNV

Amendment Four (4)

Motion by: Honorable Benjamin Bennett
Seconded by: Honorable Leonard Pete
Vote: 5 in favor; 0 Opposed; CNV

Main Motion

Motion by: Honorable Benjamin Bennett
Seconded by: Honorable Leonard Pete
Vote: 5 in favor; 0 Opposed; CNV

EXHIBIT " D "

NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS

JEMEZ MOUNTAINS ELECTRICAL COOPERATIVE, INC. (GRANTEE)

1. The term of the right-of-way shall be for twenty (20) years, beginning on the date the right-of-way is granted by the Secretary of Interior.
2. Consideration for the right-of-way is assessed at \$ 16,647.54 and shall be paid in full to the Controller of the Navajo Nation, in lawful money of the United States, and a copy of the receipt for such payment provided to the Navajo Nation Minerals Department, or its successor, within 10 days of approval of and consent to the grant of the right-of-way by the Navajo Nation.

If consideration has been waived, the Navajo Nation contributes the amount listed above to the project because the project serves a public purpose and will benefit Navajo residents.
3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of construction, maintenance, and operation of a 14.4 kV electrical distribution line. The Grantee may not develop, use or occupy the right-of-way for any other purpose, nor allow others to use or occupy the right-of-way for any other purpose, without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation. The Grantee may not develop, use or occupy the right-of-way for any unlawful purpose.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
 - a. Title 25, Code of Federal Regulations, Part 169; subject to the terms of this right-of-way.
 - b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archaeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices;
 - c. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., and the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq.; and
 - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq. Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.

6. The Grantee shall clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uprooted or otherwise accumulated during any surface disturbance activities.
7. The Grantee shall reclaim all surface lands disturbed related to the right-of-way, as outlined in a restoration and revegetation plan, which shall be approved by the Navajo Nation Environmental Protection Agency (NNEPA) prior to any surface disturbance. The Grantee shall comply with all provisions of such restoration and revegetation plan and shall notify the Director of the NNEPA immediately upon completion of the surface disturbance activities so that a site inspection can be made.
8. The Grantee shall at all times during the term of the right-of-way and at the Grantee's sole cost and expense, maintain the land subject to the right-of-way and all improvements located thereon and make all necessary and reasonable repairs.
9. The Grantee shall obtain prior written permission to cross existing rights-of-way, if any, from the appropriate parties.
10. The Grantee shall be responsible for and promptly pay all damages when they are sustained.
11. The Grantee shall indemnify and hold harmless the Navajo Nation and the Secretary of the Interior and their respective authorized agents, employees, landusers and occupants, against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of right-of-way by the Grantee.
12. The Grantee shall not assign, convey, transfer or sublet, in any manner whatsoever, the right-of-way or any interest therein, or in or to any of the improvements on the land subject to the right-of-way, without the prior written consent of the Navajo Nation and the Secretary of the Interior. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation.
13. The Navajo Nation may terminate the right-of-way for violation of any of the terms and conditions stated herein. In addition, the right-of-way shall be terminable in whole or part by the Navajo Nation for any of the following causes:
 - a. Failure to comply with any term or condition of the grant or of applicable laws or regulations;
 - b. A non-use of the right-of-way for the purpose for which it is granted for a consecutive two year period; and
 - c. The use of the land subject to the right-of-way for any purpose inconsistent with the purpose for which the right-of-way is granted.
 - d. An abandonment of the right-of-way.
14. At the termination of this right-of-way, the Grantee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. Upon the written request of the Navajo Nation, the Grantee shall provide the Navajo Nation, at the Grantee's sole cost and expense, with an environmental audit assessment of the premises at least sixty (60) days prior to delivery of said premises.
15. Holding over by the Grantee after the termination of the right-of-way shall not constitute a renewal or extension thereof or give the Grantee any rights hereunder or in or to the land subject to the right-of-way or to any improvements located thereon.

16. The Navajo Nation and the Secretary of the Interior shall have the right, at any reasonable time during the term of the right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any improvements located thereon.
17. By acceptance of the grant of right-of-way, the Grantee consents to the full territorial legislative, executive and judicial jurisdiction of the Navajo Nation, including but not limited to the jurisdiction of the Navajo Nation, including but not limited to the jurisdiction to levy fines and to enter judgments for compensatory and punitive damages and injunctive relief, in connection with all activities conducted by the Grantee within the Navajo Nation or which have a proximate (legal) effect on persons or property within the Navajo Nation.
18. By acceptance of the grant of right-of-way, the Grantee covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision shall be construed to negate or impair federal responsibilities with respect to the land subject to the right-of-way or to the Navajo Nation.
19. Any action or proceeding brought by the Grantee against the Navajo Nation in connection with or arising out of the terms and conditions of the right-of-way shall be brought only in the Courts of the Navajo Nation, and no such action or proceeding shall be brought by the Grantee against the Navajo Nation in any court of any state.
20. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.
21. Except as prohibited by applicable federal law, the law of the Navajo Nation shall govern the construction, performance and enforcement of the terms and conditions contained herein.
22. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of the Grantee, and the term "Grantee," whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.
23. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the right-of-way and all lands burdened by the right-of-way, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the right-of-way; and the right-of-way and all lands burdened by the right-of-way shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.
24. The Navajo Nation reserves the right to grant rights-of-way within the right-of-way referenced herein for utilities, provided that such rights-of-ways do not unreasonably interfere with the Grantee's use of the right-of-way.