

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
Of the 23rd Navajo Nation Council---Second Year 2016

AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING AMENDMENTS TO THE GRANT OF RIGHT-OF-WAY PREVIOUSLY APPROVED TO JEMEZ MOUNTAIN ELECTRIC COOPERATIVE, INC. BY RESOURCES AND DEVELOPMENT COMMITTEE RESOLUTION NO. RDCJN-27-15 ON NAVAJO NATION TRUST LANDS IN HUERFANO AND LAKE VALLEY CHAPTERS, NAVAJO NATION (SAN JUAN COUNTY, NEW MEXICO)

BE IT ENACTED:

SECTION ONE. AUTHORITY

Pursuant to 2 N.N.C. Section 502(B)(2), the Resources and Development Committee of the Navajo Nation Council has authority to give approval of all land withdrawal, non-mineral leases, permits, licenses, rights-of way, surface easements and bonding requirements on Navajo Nation land and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfers, renewals, and termination.

SECTION TWO. FINDINGS

A. Pursuant to Resolution No. RDCJN-27-15, the Resources and Development Committee of the Navajo Nation Council approved the Grant of Right-of-Way to Jemez Mountain Electric Cooperative, Inc. to construct, operate and maintain the Gleason Bridge 14.4 kV electrical distribution power line extension on, over and across Navajo Nation Trust Lands in White Rock Chapter vicinity (San Juan County, New Mexico). Resolution RDCJN-27-15 and its Exhibit D which is its Terms and Conditions, is attached hereto as Exhibit "1," and

B. The Bureau of Reclamation (BIA) Eastern Navajo Agency, P.O. Box 328, Crownpoint, New Mexico 87313, and Jemez Mountain Electric have submitted letters requesting Right-of-Way (ROW) amendment to the Jemez Mountain Electric Gleason Bridge 14.4 kV power line that will increase the length from 5,744.52 feet to 10,273.67 feet on over and across Navajo Nation Trust Lands in Huerfano and Lake Valley Chapters, Navajo Nation (San Juan County,

New Mexico). The letters are attached hereto and incorporated herein as Exhibit "2"; and

C. The right-of way amendment will be an additional 4,529.15 feet long, 20 feet wide, consisting of an additional 2.0795 acres, more or less, located in additional Sections 20, 28-29, Township 23 North, Range 13 West, NMPM, San Juan County, New Mexico attached hereto and incorporated herein as Exhibit "3"; and

D. The Project Review Section with the Navajo Land Department has obtained the consents from the affected land users (i.e. Grazing Permittees) that includes the additional portions requested attached hereto as Exhibit "4"; and

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

SECTION THREE. APPROVAL

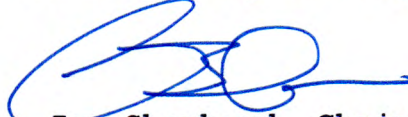
A. The Resources and Development Committee of the Navajo Nation Council hereby approves the amendments to a Grant of Right-of-Way to Jemez Mountain Electric Cooperative, Inc. Gleason Bridge 14.4 kV electric distribution line to increase the length from 5,744.52 feet to 10,273.67 feet (and from 2.698 acres, more or less, to a total overall acreage of 4,807 acres), Navajo Nation (San Juan County, New Mexico). The location is more particularly described on this on the survey map attached hereto as Exhibit "3."

B. 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 attached hereto and incorporated herein as Exhibit "5."

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

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at Navajo Department of Transportation, (Navajo Nation) Tse Bonito, New Mexico, at which quorum was present and that same was passed by a vote of 5 in favor, 0 opposed, 1 abstained this 26th day of July, 2016.

A handwritten signature in blue ink, appearing to read 'Alton Joe Shepherd', is written over the printed name.

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

Motion: Honorable Leonard Pete
Second: Honorable Walter Phelps

LEGISLATIVE SUMMARY SHEET

Tracking No. 0209-16

DATE: June 28, 2016

TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING AMENDMENTS TO THE GRANT OF RIGHT-OF-WAY PREVIOUSLY APPROVED TO JEMEZ MOUNTAIN ELECTRIC COOPERATIVE, INC. BY RESOURCES AND DEVELOPMENT COMMITTEE RESOLUTION NO. RDCJN-27-15 ON NAVAJO NATION TRUST LANDS IN HUERFANO AND LAKE VALLEY CHAPTERS, NAVAJO NATION (SAN JUAN COUNTY, NEW MEXICO)

PURPOSE: Approving Amendments to the Grant of Right-of-Way Previously Approved to Jemez Mountain Electric Cooperative, Inc. by Resources and Development Committee Resolution No. RDCJN-27-15 on Navajo Nation Trust Lands in Huerfano and Lake Valley Chapters, San Juan County, New Mexico.

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 to review each proposed resolution in detail.

5-DAY BILL HOLD PERIOD: None
Website Posting Time/Date: 5:00pm 7/5/16
Posting End Date: 7/10/2016
Eligible for Action: 7/11/2016

PROPOSED STANDING COMMITTEE RESOLUTION
23rd NAVAJO NATION COUNCIL -- Second Year, 2016

INTRODUCED BY


(Prime Sponsor)

TRACKING NO. 0209-14

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING
AMENDMENTS TO THE GRANT OF RIGHT-OF-WAY PREVIOUSLY APPROVED
TO JEMEZ MOUNTAIN ELECTRIC COOPERATIVE, INC. BY RESOURCES AND
DEVELOPMENT COMMITTEE RESOLUTION NO. RDCJN-27-15 ON NAVAJO
NATION TRUST LANDS IN HUERFANO AND LAKE VALLEY CHAPTERS,
NAVAJO NATION (SAN JUAN COUNTY, NEW MEXICO)

BE IT ENACTED:

SECTION ONE. AUTHORITY

Pursuant to 2 N.N.C. Section 502(B)(2), the Resources and Development Committee of the Navajo Nation Council has authority to give approval of all land withdrawal, non-mineral leases, permits, licenses, rights-of way, surface easements and bonding requirements on Navajo Nation land and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfers, renewals, and termination.

SECTION TWO. FINDINGS

A. Pursuant to Resolution No. RDCJN-27-15, the Resources and Development Committee of the Navajo Nation Council approved the Grant of Right-of-Way to

1 Jemez Mountain Electric Cooperative, Inc. to construct, operate and maintain the
2 Gleason Bridge 14.4 kV electrical distribution power line extension on, over and
3 across Navajo Nation Trust Lands in White Rock Chapter vicinity (San Juan
4 County, New Mexico). Resolution RDCJN-27-15 and its Exhibit D which is its
5 Terms and Conditions, is attached hereto as Exhibit "1," and

6 B. The Bureau of Reclamation (BIA) Eastern Navajo Agency, P.O. Box 328,
7 Crownpoint, New Mexico 87313, and Jemez Mountain Electric have submitted
8 letters requesting Right-of-Way (ROW) amendment to the Jemez Mountain
9 Electric Gleason Bridge 14.4 kV power line that will increase the length from
10 5,744.52 feet to 10,273.67 feet on over and across Navajo Nation Trust Lands in
11 Huerfano and Lake Valley Chapters, Navajo Nation (San Juan County, New
12 Mexico). The letters are attached hereto and incorporated herein as Exhibit "2";
13 and

14 C. The right-of way amendment will be an additional 4,529.15 feet long, 20 feet
15 wide, consisting of an additional 2.0795 acres, more or less, located in additional
16 Sections 20, 28-29, Township 23 North, Range 13 West, NMPM, San Juan
17 County, New Mexico attached hereto and incorporated herein as Exhibit "3"; and

18 D. The Project Review Section with the Navajo Land Department has obtained the
19 consents from the affected land users (i.e. Grazing Permittees) that includes the
20 additional portions requested attached hereto as Exhibit "4"; and

21 E. The environmental and archaeological studies have been completed and are
22 attached hereto and incorporated herein by this reference.

23 24 SECTION THREE. APPROVAL

25 A. The Resources and Development Committee of the Navajo Nation Council hereby
26 approves the amendments to a Grant of Right-of-Way to Jemez Mountain Electric
27 Cooperative, Inc. Gleason Bridge 14.4 kV electric distribution line to increase the
28 length from 5,744.52 feet to 10,273.67 feet (and from 2.698 acres, more or less, to
29 a total overall acreage of 4,807 acres), Navajo Nation (San Juan County, New
30

1 Mexico). The location is more particularly described on this on the survey map
2 attached hereto as Exhibit "3."

3 B. The Resources and Development Committee of the Navajo Nation Council hereby
4 approves the right-of way subject to, but not limited to, the following terms and
5 conditions attached hereto and incorporated herein as Exhibit "5."

6 C. The Resources and Development Committee of the Navajo Nation Council hereby
7 authorizes the President of the Navajo Nation to execute any and all documents
8 necessary to affect the intent and purpose of this resolution.
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NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

ETHEL B. BRANCH
ATTORNEY GENERAL

RODGERICK T. BEGAY
ACTING DEPUTY ATTORNEY GENERAL

MEMORANDUM

TO: ALL CONCERNED

FROM: 
Veronica Blackhat, Assistant Attorney General
Natural Resources Unit, Department of Justice

DATE: February 8, 2016


SUBJECT: **STANDING DELEGATION OF AUTHORITY**

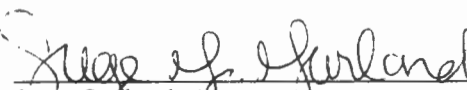
Please be advised the personnel listed below, in order of succession, will be delegated, authority to act in the capacity of the Acting Assistant Attorney General, Natural Resources Unit during my absence from the office. Also, please be advised the personnel listed below, in order of succession, will have surname authority, unless indicated otherwise. This delegation will be effective immediately.

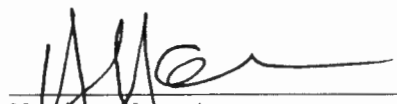
The authorized delegation will include all routine duties of the Assistant Attorney General, Natural Resources Unit. Any matters regarding personnel issues will be held for my review/decision upon my return. This Standing Delegation of Authority supersedes all delegations.

Thank you for your cooperation.


ADMINISTRATIVE REVIEW

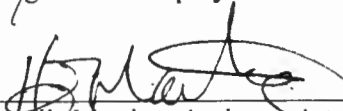

April Quinn, Attorney
Natural Resources Unit, Department of Justice

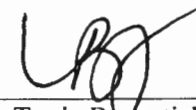

Sage Gaffand, Attorney
Natural Resources Unit, Department of Justice


Harrison Karr, Attorney
Natural Resources Unit, Department of Justice

SURNAME AUTHORITY


Paul Spruhan, Assistant Attorney General
Litigation & Employment Unit, DOJ


Kandis Martine, Assistant Attorney General
Human Services/Government Unit, DOJ


LaTonia Bagenti-Johnson, Acting Assist. Atty. General
Economic/Community Development Unit, DOJ

Z:\NRU\RJOHNSON\ROSITA-1\FORMS



RDCJN-27-15

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

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF RIGHT-OF-WAY TO JEMEZ MOUNTAIN ELECTRIC COOPERATIVE, INC. TO CONSTRUCT, OPERATE AND MAINTAIN THE GLEASON BRIDGE 14.4kV ELECTRICAL DISTRIBUTION POWERLINE EXTENSION PROJECT TO SERVICE NAVAJO FAMILIES IN HUERFANO ON NAVAJO NATION TRUST LANDS IN WHITE ROCK CHAPTER VICINITY (SAN JUAN COUNTY, NEW MEXICO)

BE IT ENACTED:

Section One. Findings

- A. Pursuant to 2 N.N.C. § 500, the Resources and Development Committee is hereby established as a standing committee of the Navajo Nation Council; and
- B. Pursuant to 2 N.N.C. § 501(B)(2), the Resources and Development Committee of the Navajo Nation Council has authority to give final approval of all land withdrawals, non-mineral leases, permits, licenses, rights-of-way, surface easement and bonding requirements on Navajo Nation Lands and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfer, renewals, and terminations; and
- C. The Jemez Mountain Electric Cooperative, Inc., P.O. Box 10, Cuba, New Mexico 87013, has submitted a Right-of-Way (ROW) application to construct, operate and maintain the Gleason Bridge 14.4 kV electrical distribution power line extension project to service Navajo families in Huerfano on, over and across Navajo Nation Trust Lands in White Rock Chapter vicinity (San Juan County, New Mexico), described in documents attached hereto and made a part hereof as Exhibit "A": and
- D. The proposed right-of-way is 5,744.52 feet long, 20 feet wide, consisting of 2.698 acres, more or less, located in the Southwest Quarter (SW $\frac{1}{4}$) of Section 28, Township 23

North, Range 13 West, NMPM, San Juan County, New Mexico, and more particularly described on the survey map attached hereto and made a part hereof as Exhibit "B"; and

- E. The Project Review Section with the Navajo Land Department has obtained the necessary consents from the affected land users, attached hereto as Exhibit "C"; and
- F. All environmental and archaeological studies and clearances were completed and attached hereto by this reference.

Section Two. Approval

- A. The Navajo Nation hereby approves the Grant of Right-of-Way and to Jemez Mountain Electric Cooperative, Inc., to construct, operate and maintain the Gleason Bridge 14.4 kV electrical distribution power line extension project to service Navajo families in Huerfano on, over and across Navajo Nation Trust Lands in White Rock Chapter vicinity (San Juan County, New Mexico). The location is more particularly described on the map attached hereto as Exhibit "B."
- B. The Navajo Nation hereby approves the Right-of-Way subject to, but not limited to, the following terms and conditions attached hereto and incorporated herein as Exhibits "D."
- C. The Navajo Nation hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to affect the intent and purpose of this resolution.

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at Navajo Nation Council Chambers, Window Rock, Navajo Nation (Arizona), at which quorum was present and that same was passed by a vote of 3 in favor, 0 opposed, 0 abstain this 9th day of June, 2015.

A handwritten signature in black ink, appearing to read 'Alton Joe Shepherd', with a long horizontal line extending to the right.

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

Motion: Honorable Leonard Tsosie
Second: Honorable Leonard Pete
Vote: 3-0 (Chair not voting)

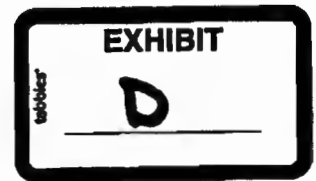


EXHIBIT "D"

NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS

Jemez Mountain Electric Cooperative, Inc. (GRANTEE)
(Gleason Bridge at Huerfano and White Rock Chapters, New Mexico)

1. The Term of the right-of-way shall be for twenty (20) years, beginning on the date the right-of-way (ROW) is granted by the Secretary of Interior.
1. Consideration for the right-of-way is assessed at \$42,088.80. The Navajo Nation contributes this amount to the project to provide electricity to Navajo homes in the vicinity of Huerfano and White Rock Chapters, San Juan County, New Mexico.
3.
 - a. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of constructing, operating and maintaining 14.4 KV electrical distribution power line. The Grantee may not develop, use or occupy the right-of-way for any other purpose without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation. The grantee may not develop, use of occupy the right-of-way for any unlawful purpose.
 - b. The use of the right-of-way to provide electricity to commercial customers will require the written approval of the Navajo Nation and consideration to be paid.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
 - a. Title 25, Code of Federal Regulations, Part 169;
 - b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to 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.

☐ 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 *See Ltr of 01/29/14* _____ Date: *04 Nov 14* ☒ ☐
2. F&W _____ Date: *12/08/14* ☒ ☐
3. HPD _____ Date: *11-4-14* ☒ ☐
4. Minerals _____ Date: *12-15-2015* ☒ ☐
5. NNEPA _____ Date: *12-03-2014* ☒ ☐
6. DNR _____ Date: *12/16/2014* ☒ ☐
7. DOJ *(ic)* _____ Date: *1/15/2015* ☒ ☐
8. OPVP _____ Date: *1/10/15* ☒ ☐

☐ OTHER:

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



Electric Cooperative, Inc.
P.O. Box 128, Espanola, New Mexico, 87532

Phone:
Espanola 505-753-2105
Cuba 575-289-3241
Jemez Springs 575-829-3550

Your Touchstone Energy Cooperative
A member of the Touchstone Energy Group

EXHIBIT

2

April 5, 2016

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

Dear Howard:

On June 9, 2015, the Resources and Development Committee approved a right-of-way for the Gleason Bridge power line across Tribal Trust lands. This power line will be constructed and operated by Jemez Mountains Electric Cooperative, Inc. (JMEC) to serve households in the White Rock Chapter. The resolution did not include all of the Tribal Trust land and therefore the ROW application was not accepted by BIA.

The correct legal description, line length and acreage for the power line on Tribal Trust land is:

SW/4 Sec. 20, T. 23 N. R. 13 W.
SW/4 Sec. 28, T. 23 N. R. 13 W.
Sec. 29, T. 23 N., R. 13 W., San Juan County, NM

Line length: 10, 273.67
Project Acreage: 4.807

JMEC respectfully requests that Tribal Resolution RNCJN-27-15 be amended to reflect the legal description, line length and acreage as stated above.

Please contact me if you have any questions regarding this request.

Sincerely,

Nathan Duran
District Manager
Jemez Mountains Electric Cooperative, Inc.

Howard Draper

From: Carmen Campbell <ccampbell@jemezcoop.org>
Sent: Tuesday, April 5, 2016 11:33 AM
To: howarddraper@frontiernet.net
Cc: Nathan Duran; Sonya Binion
Subject: FW: Message from "RNP002673648D85"
Attachments: 20160405110215754.pdf

Howard, please find the letter requesting the amendment to the resolution. The original will be mailed today. Please let me know if you need anything else from us.

Sincerely,

Carmen Campbell

Regulatory and Tribal Liaison

Jemez Mountains Electric Cooperative, Inc.

(505)367-1194 (505)929-2226 cell



May 28, 2014

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

Dear Howard:

Enclosed you will find a revised Right-of-Way Application and plat for the Gleason Bridge project, Project #412085. The application packet for this project was first submitted on March 21, 2014.

The ROW application and the plat that were originally submitted indicated 5744.52 feet for the length of the proposed power line and 2.698 acres for the project area across portions of Sections 20 and 28, however, a revised plat we recently received on this project indicates that an additional section, Section 29, should now be included as Tribal Trust land; it was originally designated as Public Land Order land. The inclusion of this section will now increase the line length to 10,273.67 feet and the project area to 4.807 acres.

It is my understanding that Esther Kee is still negotiating the field clearance for this project and that a project number has not yet been assigned for the 164 process. Hopefully these revised documents can replace those originally submitted without complication.

Please contact me if you have any questions about this request.

Sincerely,

Jeanette Reisenburg
Consultant



June 2, 2014

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

Dear Esther:

On March 19, 2014 I requested a field clearance based on a preliminary plat we obtained from Jemez Mountains Electric's engineering firm. That plat had 4,529.15 acres of land listed as PLO (Public Land Order) land, so I did not include that in the field clearance request. We have since learned this designation was incorrect and these acres are Tribal Trust. Consequently, attached is a revised field clearance request with the new land status and acreage amounts.

According to my GIS mapping of the area, this revised request should not affect the grazing allotments, and therefore the grazing allottees who would be required to give their consent.

Please let me know if you have any questions.

Sincerely,

Mike Deutsch
Project Manager



United States Department of the Interior
Bureau of Indian Affairs
Eastern Navajo Agency
P. O. Box 328
Crownpoint, New Mexico 87313



In Reply, Refer to:

4N420 – Real Estate Services
Rights of Way

SEP 08 2015

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Jeanette Reisenburg, Consultant
Permits West, Inc.
37 Verano Loop
Santa Fe, New Mexico 87508

Dear Ms. Reisenburg:

A review was conducted on the proposed Right of Way for the entitled Gleason Bridge Power Line, Project No. 412085, which was received on June 23, 2015. The following has been determined:

- The Approved Tribal Consent dated July 18, 2015, was issued for Section 20, Township 23 North, Range 13 West and Section 28, Township 23 North, Range 13 West for 2.698 acres.

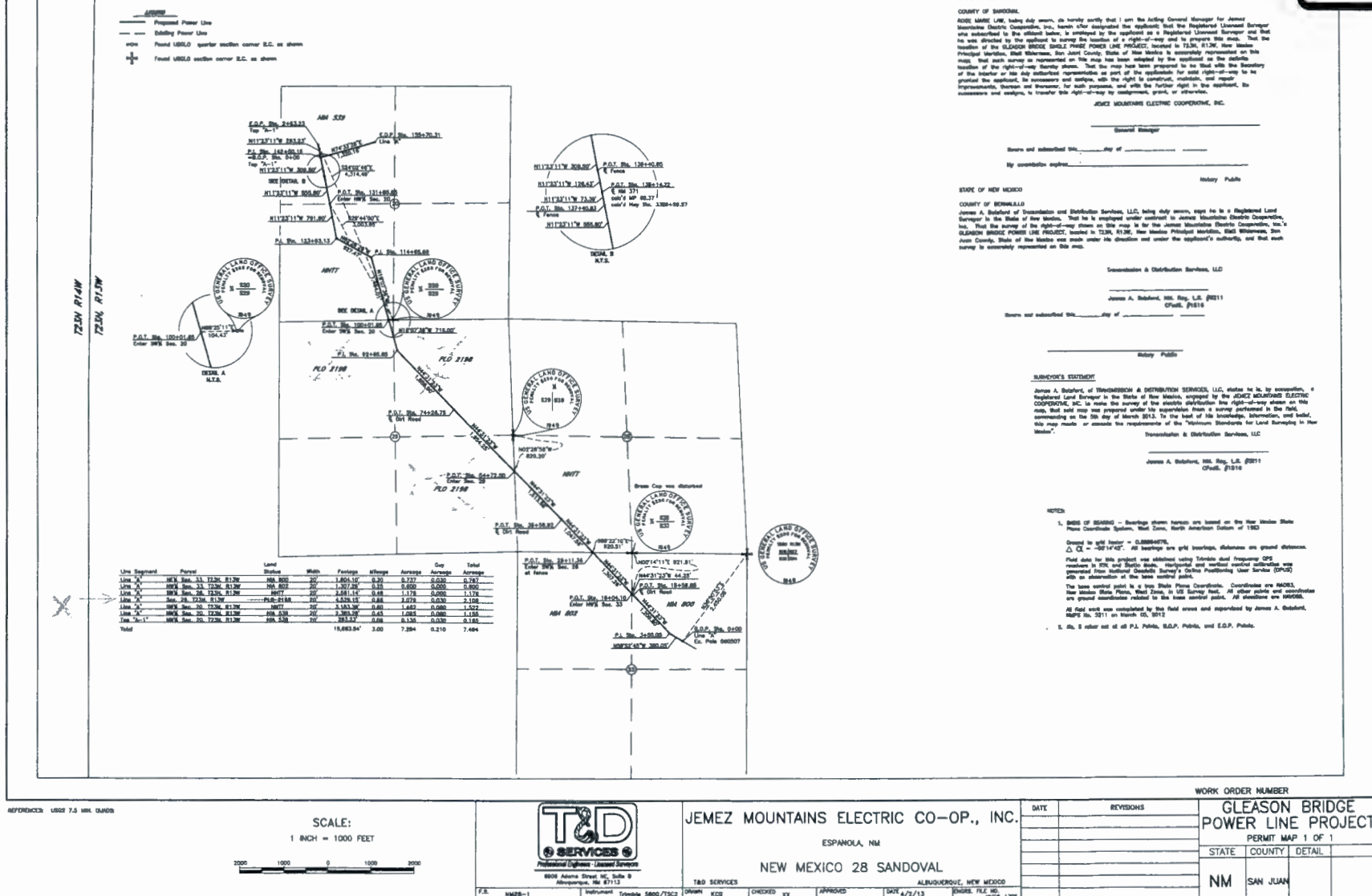
The Tribal Consent excluded Section 29, Township 23 North, Range 13 West with a total acreage of 4.807, which would include the entire Tribal Trust Right of Way requested through this application.

It is recommended that the issue cited above be addressed prior to resubmittal of the Right of Way application. If you have any questions or comments pertaining to this matter do not hesitate to contact Lenora L. Bates, Realty Specialist at (505) 786-6002.

Sincerely,


Agency Realty Officer

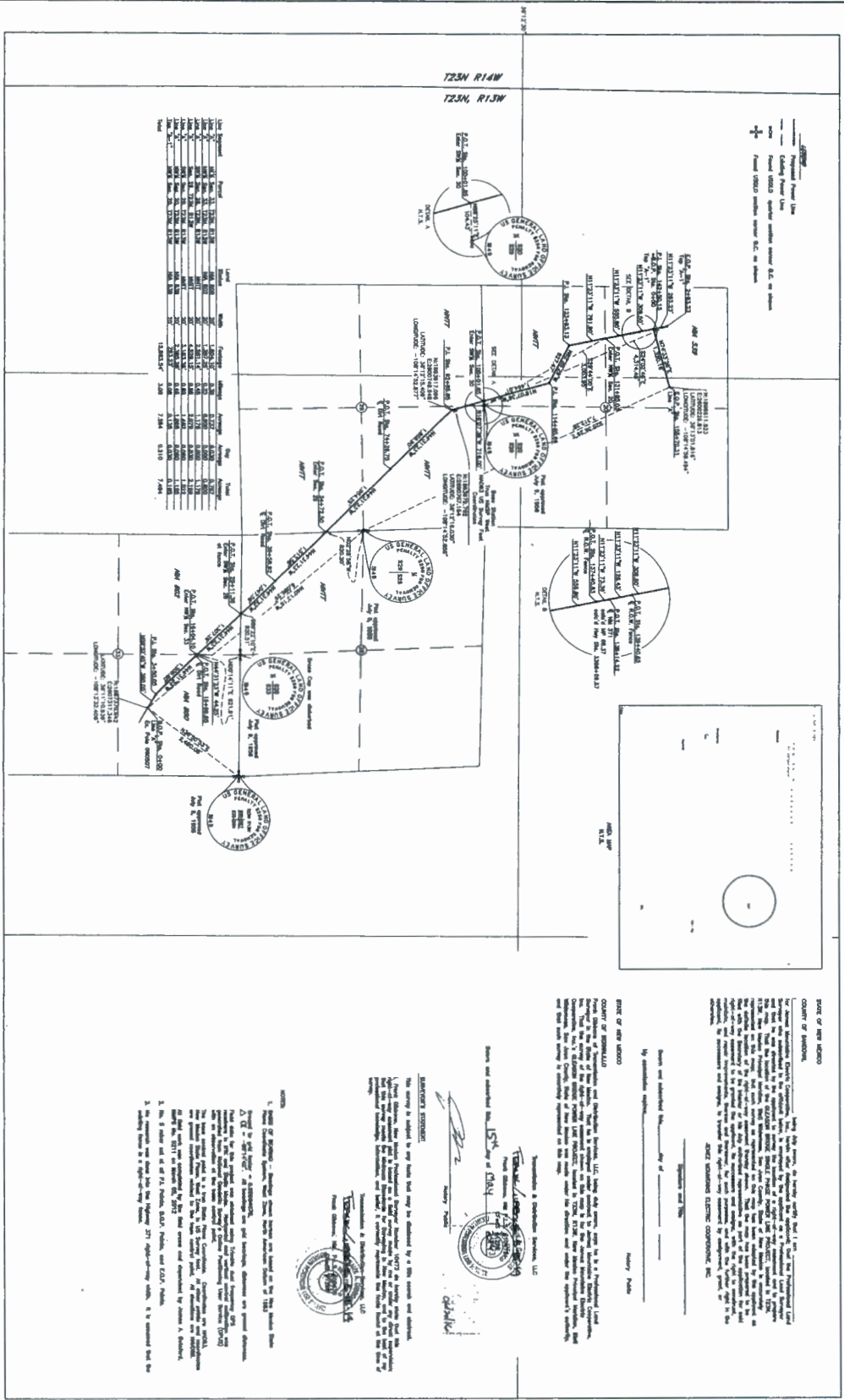
Enclosures



100' 15" W

100' 15" W

Legend:
--- Proposed Power Line
--- Existing Power Line
--- Road 100' 0" Right of Way
--- Road 100' 0" Right of Way
--- Road 100' 0" Right of Way



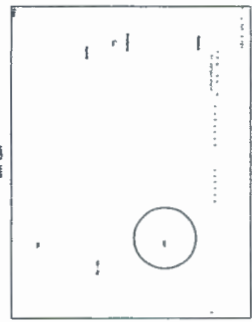
Station	Point	Lat	Long	Alt	Dist	Time
1.000	1.000	31.1231	-107.1231	1000	0.00	0.00
1.001	1.001	31.1231	-107.1231	1000	0.00	0.00
1.002	1.002	31.1231	-107.1231	1000	0.00	0.00
1.003	1.003	31.1231	-107.1231	1000	0.00	0.00
1.004	1.004	31.1231	-107.1231	1000	0.00	0.00
1.005	1.005	31.1231	-107.1231	1000	0.00	0.00
1.006	1.006	31.1231	-107.1231	1000	0.00	0.00
1.007	1.007	31.1231	-107.1231	1000	0.00	0.00
1.008	1.008	31.1231	-107.1231	1000	0.00	0.00
1.009	1.009	31.1231	-107.1231	1000	0.00	0.00
1.010	1.010	31.1231	-107.1231	1000	0.00	0.00
1.011	1.011	31.1231	-107.1231	1000	0.00	0.00
1.012	1.012	31.1231	-107.1231	1000	0.00	0.00
1.013	1.013	31.1231	-107.1231	1000	0.00	0.00
1.014	1.014	31.1231	-107.1231	1000	0.00	0.00
1.015	1.015	31.1231	-107.1231	1000	0.00	0.00
1.016	1.016	31.1231	-107.1231	1000	0.00	0.00
1.017	1.017	31.1231	-107.1231	1000	0.00	0.00
1.018	1.018	31.1231	-107.1231	1000	0.00	0.00
1.019	1.019	31.1231	-107.1231	1000	0.00	0.00
1.020	1.020	31.1231	-107.1231	1000	0.00	0.00

SCALE:
1 INCH = 1000 FEET



JEMEZ MOUNTAINS ELECTRIC CO-OP, INC.
ESPANOLA, NM
NEW MEXICO 28 SANDOVAL

DATE	REVISIONS	WORK ORDER NUMBER 412065
		GLEASON BRIDGE
		POWER LINE PROJECT
		PERMIT MAP 1 OF 1
STATE	COUNTY	DETAIL
NM	SAN JUAN	



STATE OF NEW MEXICO
COUNTY OF SANDOVAL
JEMEZ MOUNTAINS ELECTRIC CO-OP, INC.
ESPANOLA, NM
NEW MEXICO 28 SANDOVAL

APPROVED BY: [Signature]
DATE: 10/15/14
PROJECT: JEMEZ MOUNTAINS ELECTRIC CO-OP, INC.
ESPANOLA, NM
NEW MEXICO 28 SANDOVAL



THE NAVAJO NATION
Navajo Land Department

P.O. Box # 2249 · Window Rock, Arizona 86515 · (928) 871-6401 · FAX: (928) 871-7039



MEMORANDUM

TO : Howard P. Draper, Supervisor
Project Review Section, NLD

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

DATE : January 19, 2016

SUBJECT: JMEC Gleason Bridge Power Line Extension Project

Jemez Mountain Electric Cooperative, Inc., Post Office Box 128, Espanola, New Mexico 87532, submitted a right of way application to construct, operate and maintain a single phase power line extension across Navajo Trust lands to serve Navajo families near White Rock and Huerfano Chapters.

The power line will be 4,529.15 in length, 20 feet wide, 2.109 acres, in Section 29, T. 23 N., R. 13 W., San Juan County, NMPM..

The proposed project is within District 19, Bisti Range Unit 17, permitted to Ernest Peshlakai for grazing. I informed the affected grazing permittee on the proposed request and he had no objection. I obtained the land users consent along with the concurrence of the District 19 Land Board member, Jerry Castiano.

Field clearance complete, land users 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: **Gleason (Gleeson) Bridge 14.4 kV Single Phase Power Line**

Purpose: To serve Navajo families in the area

Surface: Navajo Tribal Trust /Public Land Order/Allotted

Tribal Location: ~~SW/4 Section 20, T. 23 N., R. 13 W.; all NMPM~~
~~SW/4 Section 28, T. 23 N., R. 13 W.; all NMPM~~
Section 29, T. 23 N., R. 13 W.; all NMPM

San Juan County, NM

Line Length: ~~10,273.67 feet~~ 4529.15

Right-of-Way Width: 20 feet

Total acreage ~~4.807 acres~~ 2.109

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

CONSENT 3

(Waiver of compensation for damages)

CONSENT TO USE
NAVAJO TRIBAL LANDS

TO WHOM IT MAY CONCERN:

I, Ernest Peshlakai, hereby grant consent to the Navajo Tribe and the Bureau of Indian Affairs to permit Jemez Mountain Electric Cooperative, Inc., Post Office Box 128, Espanola, New Mexico 87532, to use a portion of my land use area for the following purpose(s): Right of way to construct, operate and maintain approximately 4,529.15 feet Gleason Bridge single phase power line extension to serve Navajo families in Section 29, T23N, R13W, NMPM, San Juan County, New Mexico, as shown on the map showing the location of the proposed project on the back of this consent form.

I hereby waive any rights I may have to compensation for the diminish-
ment in value of my land use rights as a result of the above-referenced
project as proposed.

REMARKS:

1/14/16 x Ernest Peshlakai Bisti RU.17
Date Land User Signature (or Thumbprint) Census No. Permit No.

WITNESS: _____

1/14/16 Jerry Costello #19
Date Grazing Committee or Land Board Member District No.

Acknowledgement of Field Agent

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

Ernest Peshlakai
Field Agent Signature



EXHIBIT "E"

NAVAJO NATION TERMS AND CONDITIONS
For Right-of-Way (ROW)

Jemez Mountain Electric Cooperative, Inc (GRANTEE)
(Gleason Bridge at Huerfano and White Rock Chapters, New Mexico)

1. The term of the right-of-way shall be for twenty (20) years, beginning on the date the right-of-way (ROW) is granted by the Secretary of Interior. 1 *69,220.80 for the 20 year ROW term.*
2. Consideration for the right-of-way is assessed at \$ unpaid. The Navajo Nation contributes this amount to the project because the project will benefit Navajo residents. Commercial use of the right-of-way shall require the approval of the Navajo Nation and the consideration shall be paid.
3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of constructing, operating and maintaining electrical distribution power line. The Grantee may not develop, use or occupy the right-of-way for any other purpose without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation. The Grantee may not develop, use or occupy the right-of-way for any unlawful purpose.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
 - a. Title 25, Code of Federal Regulations, Part 169;
 - b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to 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 Preference Law, 5 N.N.C. §§ 201 et seq.; and
 - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq.. Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.

6. The Grantee shall clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uprooted or otherwise accumulated during any surface disturbance activities.
7. The Grantee shall reclaim all surface lands disturbed related to the right-of-way, as outlined in a restoration and revegetation plan, which shall be approved by 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 a phase 1 environmental site 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.

UNITED STATES DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

RIGHT-OF-WAY APPLICATION

COMES NOW THE APPLICANT JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC. of P.O. Box 128, ESPANOLA, NM 87532 this 19th day of October, 2015, who hereby petition(s) the Bureau of Indian Affairs and respectfully files under the terms and provisions of the Act of February 5, 1948 (62 Stat. L 17-25 USC 323) and Departmental Regulations 25 CFR 169, an application of a 20 (twenty) years right-of-way for the following purposes and reasons:

Construction, operation, and maintenance of a 14.4 KV electrical distribution power line. (Project #412085, Gleason Bridge)

Across the following described **Navajo Tribal Trust Lands** (easement description):

Section 29, T. 23 N., R. 13 W; all NMPM, San Juan County, NM

Said right-of-way across Tribal Trust Lands to be 4,529.15 feet in length, 20 feet in width, and 2.109 acres in size, as shown on attached map and plats of definite location, attached hereto, and made a part hereof.

SAID APPLICANT UNDERSTANDS AND EXPRESSLY AGREES TO THE FOLLOWING STIPULATIONS:

1. To construct and maintain the right-of-way in a workmanlike manner.
2. To pay all damages and compensation, in addition to the deposit made pursuant to 169.4, determined by the Secretary to be due the landowners and authorized users and occupants of the land due to the survey, granting, construction and maintenance of the right-of-way.
3. To indemnify the landowners and authorized users and occupants against any liability for loss of life, personal injury and property damage arising from the construction, maintenance, occupancy or use of the lands by the applicant, his employees, contractors and their employees, or subcontractors and their employees.
4. To restore the lands as nearly as may be possible to their original condition upon the completion of construction, to the extent compatible with the purpose for which the right-of-way was granted.
5. To clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way; and dispose of all vegetative and other material cut, uprooted or otherwise accumulated during construction and maintenance of the project.
6. To take soil and resources conservation protection measures, including weed control, on the land covered by the right-of-way.
7. To do everything reasonable within its power to prevent and suppress fires on or near the lands to be occupied under the right-of-way.
8. To build and repair such roads, fences and trails as may be destroyed or injured by construction work and to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the right-of-way.
9. That upon revocation or termination of the right-of-way, the applicant shall, so far as in reasonably possible, restore the land to its original condition. The determination of "reasonably possible" is subject to Secretary's approval.

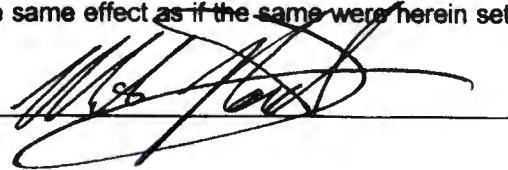
10. To at all times keep the Secretary informed of its address, and in case of corporations, of the address of its principal place of business and the names and addresses of its principal officers.
11. That the applicant will not interfere with the use of the lands by or under the authority of the landowners for any purpose not inconsistent with the primary purpose for which the right-of-way is granted.
12. During the term of this Grant of Easement, if any previously unidentified cultural resources are discovered within the easement area, work should be halted immediately and the BIA and/or Tribal Contractor should be contacted immediately.

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.

DATE: October 19, 2015

APPLICANT



REQUIRED SUPPORTING DOCUMENTS:

1. () Written consent of landowner (ROW Form 94-7).
2. () Map (plats) of definite location (2 original mylars & 2 copies, See 25 CFR 169.6, 169.7, 169.8, 169.9, 169.10 and 169.11).
3. () Deposit of estimated damages or compensation (See 169.4 and 169.14).
4. () Evidence of Authority of Officers to Execute Papers (ROW Form 94-4)-submitted with application of same date entitled "Franciscan Lake Power line project".

PERMITS WEST, INC.

PROVIDING PERMITS for LAND USERS

37 Verano Loop, Santa Fe, NM 87508 (505) 466-8120

June 2, 2014

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 Gleason (Gleeson) Bridge power line in San Juan County, NM. The project is marked on the attached quad map. The legal descriptions of the project are:

SW/4 Section 20, T. 23 N., R. 13 W.; all NMPM
Section 29, T. 23 N., R. 13 W., all NMPM
SW/4 Section 28, T. 23 N., R. 13 W.; all NMPM

The proposed right-of-way for the power line is 20 feet in width, 10,273.67 feet in length, and 4.807 acres in size.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mike Deutsch', with a long horizontal line extending to the right.

Mike Deutsch
Project Manager



United States Department of the Interior
Bureau of Indian Affairs
Eastern Navajo Agency
P. O. Box 328
Crownpoint, New Mexico 87313



In Reply, Refer to:

4N420 - Real Estate Services
Rights of Way

SEP 08 2015

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jeanette Reisenburg, Consultant
Permits West, Inc.
37 Verano Loop
Santa Fe, New Mexico 87508

Dear Ms. Reisenburg:

A review was conducted on the proposed Right of Way for the entitled Gleason Bridge Power Line, Project No. 412085, which was received on June 23, 2015. The following has been determined:

- The Approved Tribal Consent dated July 18, 2015, was issued for Section 20, Township 23 North, Range 13 West and Section 28, Township 23 North, Range 13 West for 2.698 acres.

The Tribal Consent excluded Section 29, Township 23 North, Range 13 West with a total acreage of 4.807, which would include the entire Tribal Trust Right of Way requested through this application.

It is recommended that the issue cited above be addressed prior to resubmittal of the Right of Way application. If you have any questions or comments pertaining to this matter do not hesitate to contact Lenora L. Bates, Realty Specialist at (505) 786-6002.

Sincerely,


Agency Realty Officer

Enclosures



THE NAVAJO NATION

RUSSELL BEGAYE
JONATHAN NEZ VICE PRESIDENT

JUN 18 2015

COMPLETED

Mrs. Sharon Pinto, Regional Director
Bureau of Indian Affairs
Navajo Region
Post Office Box 1060
Gallup, New Mexico 87305

RE: Application for Right-of-Way to Jemez Mountain Electric Cooperative, Inc., to Construct, Operate and Maintain the Gleason Bridge 14.4kV Electrical Distribution Power Line Extension
Project to Service Navajo Families in Huerfano on Navajo Nation Trust Lands in White Rock Chapter Vicinity (San Juan County, NM)

Dear Mrs. Pinto:

The Jemez Mountain Electric Cooperative, Inc., P.O. Box 128, Espanola, New Mexico 87532 has filed a right-of-way (ROW) application attached hereto as "EXHIBIT A" to construct Electrical Distribution Power Line Extension in Huerfano on Navajo Nation Trust Lands in White Rock Chapter Vicinity, San Juan County, New Mexico.

The requested ROW consists of 2.698 acres, more or less, of Navajo Nation Trust Lands located in SW/4 Section 20, T. 23 N., R. 13 W; NMPM and SW/4 Section 28 T. 23 N., R. 13 W; NMPM, San Juan County, New Mexico, the location is more particularly shown on "EXHIBIT B", attached hereto and made a part hereof.

The Project Review Section with the Navajo Land Department has obtained the consent of the affected land users (i.e. grazing permittees) attached hereto as "EXHIBIT C". All environmental and archaeological studies have been completed.

The Navajo Nation consent is hereby granted to Jemez Mountain Electric Cooperative, Inc., subject to, but not limited to the following terms and conditions attached hereto and incorporated herein as "EXHIBIT D".

Sincerely

THE NAVAJO NATION

Russell Begaye
President

RDCJN-27-15

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
OF THE 23RD NAVAJO NATION COUNCIL – FIRST YEAR, 2015

AN ACTION

RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE, APPROVING
THE GRANT OF RIGHT-OF-WAY TO JEMEZ MOUNTAIN ELECTRIC COOPERATIVE,
INC. TO CONSTRUCT, OPERATE AND MAINTAIN THE GLEASON BRIDGE 14.4kV
ELECTRICAL DISTIRBUTION POWERLINE EXTENSION PROJECT TO SERVICE
NAVAJO FAMILIES IN HUERFANO ON NAVAJO NATION TRUST LANDS IN WHITE
ROCK CHAPTER VICINITY (SAN JUAN COUNTY, NEW MEXICO)

I certify that this is a true and exact copy of the
Original document on file with the Navajo Nation
Legislative Branch, Office of the Legislative Services.


Navajo Land Department
Project Review Section

04/12/2015
Date

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

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF RIGHT-OF-WAY TO JEMEZ MOUNTAIN ELECTRIC COOPERATIVE, INC. TO CONSTRUCT, OPERATE AND MAINTAIN THE GLEASON BRIDGE 14.4kV ELECTRICAL DISTRIBUTION POWERLINE EXTENSION PROJECT TO SERVICE NAVAJO FAMILIES IN HUERFANO ON NAVAJO NATION TRUST LANDS IN WHITE ROCK CHAPTER VICINITY (SAN JUAN COUNTY, NEW MEXICO)

BE IT ENACTED:

Section One. Findings

- A. Pursuant to 2 N.N.C. § 500, the Resources and Development Committee is hereby established as a standing committee of the Navajo Nation Council; and
- B. Pursuant to 2 N.N.C. § 501(B)(2), the Resources and Development Committee of the Navajo Nation Council has authority to give final approval of all land withdrawals, non-mineral leases, permits, licenses, rights-of-way, surface easement and bonding requirements on Navajo Nation Lands and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfer, renewals, and terminations; and
- C. The Jemez Mountain Electric Cooperative, Inc., P.O. Box 10, Cuba, New Mexico 87013, has submitted a Right-of-Way (ROW) application to construct, operate and maintain the Gleason Bridge 14.4 kV electrical distribution power line extension project to service Navajo families in Huerfano on, over and across Navajo Nation Trust Lands in White Rock Chapter vicinity (San Juan County, New Mexico), described in documents attached hereto and made a part hereof as Exhibit "A": and
- D. The proposed right-of-way is 5,744.52 feet long, 20 feet wide, consisting of 2.698 acres, more or less, located in the Southwest Quarter (SW $\frac{1}{4}$) of Section 28, Township 23

North, Range 13 West, NMPM, San Juan County, New Mexico, and more particularly described on the survey map attached hereto and made a part hereof as Exhibit "B"; and

- E. The Project Review Section with the Navajo Land Department has obtained the necessary consents from the affected land users, attached hereto as Exhibit "C"; and
- F. All environmental and archaeological studies and clearances were completed and attached hereto by this reference.

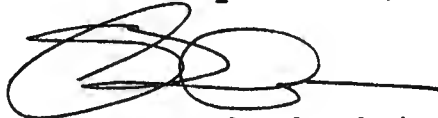
Section Two. Approval

- A. The Navajo Nation hereby approves the Grant of Right-of-Way and to Jemez Mountain Electric Cooperative, Inc., to construct, operate and maintain the Gleason Bridge 14.4 kV electrical distribution power line extension project to service Navajo families in Huerfano on, over and across Navajo Nation Trust Lands in White Rock Chapter vicinity (San Juan County, New Mexico). The location is more particularly described on the map attached hereto as Exhibit "B."
- B. The Navajo Nation hereby approves the Right-of-Way subject to, but not limited to, the following terms and conditions attached hereto and incorporated herein as Exhibits "D."
- C. The Navajo Nation hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to affect the intent and purpose of this resolution.

RDCJN-27-15

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at Navajo Nation Council Chambers, Window Rock, Navajo Nation (Arizona), at which quorum was present and that same was passed by a vote of 3 in favor, 0 opposed, 0 abstain this 9th day of June, 2015.

A handwritten signature in black ink, appearing to read 'Alton Joe Shepherd', with a long horizontal line extending to the right.

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

Motion: Honorable Leonard Tsosie
Second: Honorable Leonard Pete
Vote: 3-0 (Chair not voting)

Document No. 002927Date Issued: 10/21/2014**EXECUTIVE OFFICIAL REVIEW**Title of Document: JemezMtns.GleasonBridge powerline ext.Contact Name: DRAPER, HOWARDProgram/Division: DIVISION OF NATURAL RESOURCESEmail: howarddraper@frontiernet.netPhone Number: 928 871-6447

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

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

1. Division:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

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

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

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

1. NNEPA:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☐ **Lease Purchase Agreements**

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

☐ **Grant Applications**

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

☐ **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: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☐ **Relinquishment of Navajo Membership**

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

☐ Land Withdrawal or Relinquishment for Commercial Purposes

Sufficient Insufficient

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

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

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

☐ Rights of Way

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

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

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

☐ Assignment of Mineral Lease

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

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

1. NLD *see Ltr of 01/29/14* _____ Date: *04 Nov 14* ☒ ☐
2. F&W _____ Date: *12/08/14* ☒ ☐
3. HPD _____ Date: *11-4-11* ☒ ☐
4. Minerals _____ Date: *12-15-2015* ☒ ☐
5. NNEPA _____ Date: *12-03-2014* ☒ ☐
6. DNR _____ Date: *12/16/2014* ☒ ☐
7. DOJ *(ic)* _____ Date: *1/15/2015* ☒ ☐
8. OPVP _____ Date: *1/10/16* ☒ ☐

☐ OTHER:

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



THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT



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: April 26, 2016

SUBJECT: 164 EOR 005808 JMEC Amend ROW Res No. RDCJN-27-15

The Bureau of Indian Affairs (BIA), Eastern Navajo Agency, PO Box 328, Crownpoint, New Mexico, 87313, and Jemez Mountain Electric Cooperative Inc. (JMEC) submitted letters requesting the right-of-way (ROW) amendment to the Jemez Mountain Electric Gleason Bridge 14.4 kV electrical distribution power line across Navajo Nation Trust Lands in White Rock Chapter vicinity, San Juan County, New Mexico. The length of the power line increased from 5,744.52 feet to 10,273.67 feet. The Navajo Nation Environmental Protection Agency (NNEPA) reviewed¹ and recommends **approval** for the proposed ROW amendment for the additional 4,529.15 feet long, 20 feet wide into Huerfano Chapter and Lake Valley Chapter, San Juan County, New Mexico.

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:

¹ Permits West Inc. Environmental Assessment for Jemez Mountains Electric Cooperatives Inc Gleason Bridge Power Line Project (Revised). June 2014.

- 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 7.494 acres of surface land. Best Management Practices is highly recommended to be implemented to control sediment runoff.
2. ***Navajo Nation Safe Drinking Water Act:***
 - a. Make sure there are no existing drinking waterlines and/or domestic waste waterlines located within the premises of the proposed site to avoid significant impacts to the White Rock, Huerfano and Lake Valley chapter vicinities and surrounding communities' safe drinking water resources before trenching and/or digging.
3. ***Navajo Nation Air Pollution Prevention and Control Act:***
 - a. Suppress dust to lessen air impacts to community members and public located in or near the proposed action.
4. ***Navajo Nation Pesticide Act:***
 - a. JEMEZ MOUNTAIN ELECTRIC COOPERATIVE INC., is required to monitor and prevent invasive and noxious weeds either by manual or chemical control.
 - b. Before applying any chemicals, contact the NNEPA Pesticide Program at 928/871-7815 to ensure the product is in compliance and appropriately applied by a certified and licensed applicator.
 - c. Pesticide staff will also may need to be onsite to monitor during pesticide/herbicide application.
5. ***Navajo Nation Solid Waste Act:***
 - a. Solid waste generated from the construction and operation activities will be collected and transported by JEMEZ MOUNTAIN ELECTRIC COOPERATIVE INC., to a designated trash bins to minimize significant impacts to human and wildlife resources.
 - b. If a sub-contractor will be hired to transport waste, ensure the contractors are certified and licensed with the Navajo Nation Business Regulatory Office.
 - c. The contractor must submit a copy of the landfill receipt/ticket to guarantee the construction waste has been properly disposed.
 - d. Do not allow public to take construction and operation waste. Cumulatively NNEPA gets complaints and reports on illegal trash dumpings on rural areas and in the waters of the US and Navajo Nation.
 - e. All illegal waste currently on the proposed site is the responsibility of the lease/permit applicant.
6. ***Navajo Nation Comprehensive Environmental Response, Compensation and Liability Act (NNCERCLA)***
 - a. Approved by the Navajo Nation Council, CF-07-08, February 26, 2008, the NN CERCLA includes petroleum (including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas or synthetic gas usable for fuel (or mixtures of natural gas and synthetic gas)) unlike the US CERCLA or the Superfund Law and mandates petroleum, operator and guarantor to report petroleum release \geq 25 gallons at the site and/or during transport immediately to the Navajo Nation Department of Emergency Management within the Navajo Nation Division of Public Safety.
7. ***Navajo Nation Storage Tank Act:***
 - a. Amended and approved by the Navajo Nation Council, CJA-09-12, February 2012, the aboveground tanks are included to be regulated.

- b. No aboveground and/or underground storage tanks are expected to be installed at the proposed site.
8. ***Others:***
- a. JEMEZ MOUNTAIN ELECTRIC COOPERATIVE INC., will comply with the vegetative reclamation per Navajo Agriculture Department's recommended seed mix within the disturbed areas of the ROW corridors. Ms. Judy Willetto is the contact person for the vegetation seeding reclamation activities. She can be reached at 928/871-6592/6593.
 - b. NNEPA recommends JEMEZ MOUNTAIN ELECTRIC COOPERATIVE INC., to backfill and re-contour the soil material as naturally as possible to lessen the impact to the natural drainages (i.e. redirecting the natural direction of the watershed, creating standing water, creating flooding to the existing roads, etc.) of the land.
 - c. Avoid unnecessary ground disturbance and removal of vegetation within and adjacent to the ROW corridors.

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

Cc: JEMEZ MOUNTAIN ELECTRIC COOPERATIVE INC., PO Box 128, Espanola, New Mexico,
87532
NNEPA Water Quality; Operating Permit Program; STP; Administration chrono file
Contact Person: Permits West Inc., Jeanette Reisenburg, 505-466-8120

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.: Gleason Bridge Power Line Extension

DESCRIPTION: JMEC proposes to construct, operate, and maintain a 14.4kV single-phase power line 15,863.54 ft. in length within a 20-ft. wide right-of-way. Total disturbance for the proposed project would be 7.494 acres.

LOCATION: 35 miles S of Farmington, Sections 20, 28, 29, & 33, T23N, R13W, San Juan County, New Mexico

REPRESENTATIVE: Kitty Wood, Permits West, Inc.

ACTION AGENCY: Jemez Mountains Electric Cooperative, Inc. (JMEC)

B.R. REPORT TITLE / DATE / PREPARER: Gleason Bridge Power Line, Appx. 3 & 4/27 NOV 2013/Permits West, Inc.

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3. The project is within an RSA. ASSA is present in 4 locations.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: [1] *Buteo regalis* (Ferruginous Hawk), G3, MBTA; [2] *Asclepias sanjuanensis* (San Juan Milkweed), G4.

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: [1] The NNDFW does not concur with the migratory bird breeding season in Section 7.0, Appx. 3. The NNDFW recommends that power line construction avoids the migratory bird breeding season of 01 MAR-15 AUG for both ground and burrow-nesting birds. Before ROW approval, the NNDFW recommends that Permits West amends the EA with a breeding season of 01 MAR-15 AUG.

CONDITIONS OF COMPLIANCE*: [1] The proposed power line is located within a Raptor Sensitive Area (RSA). The power line shall be constructed with a raptor-safe power pole design per Raptor Electrocution Prevention Regulations (REPR). All guy wires shall be marked with highly visual daytime markers to prevent collisions within the RSA; [2] Power line construction activity shall avoid the Migratory Bird breeding season of 01 MAR -15 AUG or surveys shall precede construction activity; [3] Mitigation measures in Section 3.11.2.2 shall be followed during construction and maintenance of the power line.

FORM PREPARED BY / DATE: Pamela A. Kyselka/29 JAN 2014

COPIES TO: (add categories as necessary)

☒ BIA

☐ _____

2 NTC § 164 Recommendation:

Signature

Date

☐ Approval

☒ Conditional Approval (with memo)

☐ Disapproval (with memo)

☐ Categorical Exclusion (with request letter)

☐ None (with memo)

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

01/29/14

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

Representative's signature

[Signature]

Date

2/6/14



**PRESIDENT
BEN SHELLY
VICE PRESIDENT
REX LEE JIM**

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

29 January 2014

12PERM-23

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

Dear Mrs. Wood,

The Navajo Nation Department of Fish and Wildlife (NNDFW) reviewed the Environmental Assessment for Jemez Mountain Electric Cooperative, Inc's proposed **Gleason Bridge** power line project located approximately 35 miles south of Farmington, New Mexico. The purpose of this letter is to inform you that we are granting the proposed project a Conditional Approval. The project is approved with the following conditions:

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

[2] Power line construction activity shall avoid the Migratory Bird breeding season of 01 MAR - 15 AUG or surveys shall precede construction activity.

[3] Mitigation measures in Section 3.11.2.2 shall be followed during construction and maintenance of the power line.

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

Sincerely,

Pamela A. Kyselka, Wildlife Biologist
Navajo Natural Heritage Program
Department of Fish and Wildlife

CONCURRENCE

Gloria Tom, Director
Department of Fish and Wildlife

01/29/14

Date

xc: CONS-100-14
BIA



THE NAVAJO NATION
HISTORIC PRESERVATION DEPARTMENT

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

ROUTE COPIES TO:



CASA

NNHPD NO. **HPD-13-396 - REVISED**

OTHER PROJECT NO.: CASA 13-23

PROJECT TITLE: Cultural Resource Inventory, Jemez Mountains Electrical Cooperative, Inc.'s Gleason Bridge 1 Phase Powerline, White Rock Chapter, San Juan County, New Mexico

LEAD AGENCY: BIA/NR

SPONSOR: Brian Woods, Permits West, 37 Verano Loop, Santa Fe, New Mexico 87508

PROJECT DESCRIPTION: The proposed undertaking will involve the construction of 15,863.54-ft/3.0-Miles of powerline to serve homes in White Rock Chapter community. 10,273.67-ft of powerline will be on Tribal Trust land; 5,589.87-ft on Allotted Land. A 150-ft wide ROW corridor was surveyed for the 20-ft wide ROW with additional ROW required for guy wire anchors, and surface disturbance. The area of effect is 7.494-acres. Ground disturbance will be intensive and extensive with the use of heavy equipment.

LAND STATUS: Navajo Tribal Trust, Allotments 539, 800 & 802

CHAPTER: White Rock

LOCATION: T.23N, R.13W - Sec.: 20, 28, 29 & 33; Tanner Lake & Hunter Wash Quadrangles, San Juan County, New Mexico NMPM

PROJECT ARCHAEOLOGIST: Mary Errickson

NAVAJO ANTIQUITIES PERMIT NO.: 813251

DATE INSPECTED: 05/10/13 - 05/14/13

DATE OF REPORT: 05/17/13

TOTAL ACREAGE INSPECTED: 54.729 - ac.

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: June 18, 2014 - **Revised #2**

Notification to

Proceed Recommended:

Yes ☒ No ☐

Conditions:

Yes ☐ No ☒



Navajo Nation
Tribal Historic Preservation Office

Date

06/18/14

Navajo Region Approval:

Yes ☒ No ☐



BIA-Regional Director

Date

7/6/14

TLH 7.9.14



COMPLETE ARCHAEOLOGICAL SERVICE ASSOCIATES

P.O. Box 1777 • Cortez, Colorado 81321 • (970) 565-9229

June 5, 2014

Tamara Billie
CRCS, NNHPD
P.O. Box 4950
Window Rock, AZ 86515

RE: HPD 13-396 Revised -CASA 13-23, CRI, Jemez Mountains Electric Cooperative's Gleason Bridge 1 Phase Power Line, White Rock Chapter, San Juan County, New Mexico

Dear Tamara,

Enclosed are two copies of revised CASA 13-23. The following revisions have been incorporated into the report as a result of amended land status changes by the surveyors: There is no PLO 2198 land for the project. The PLO 2198 land is actually Tribal Trust.

Page 1. Land Status - PLO 2198 has been deleted

Page 1. Description of Undertaking: Tribal Trust footage has been revised to 10,273.67 feet and PLO 2198 footage has been deleted

There is no change to area of effect or area surveyed. Please send a revised CRCF to Permits West.

Please give me a call if you have any questions. I sincerely apologize for this inconvenience.

Sincerely,

Mary Errickson
CASA

enc: 2 copies of revised report

ARCHAEOLOGICAL INVENTORY REPORT DOCUMENTATION PAGE (HPD JAN/91)

1. HPD REPORT NO.	2. (FOR HPD USE ONLY)	3. RECIPIENTS ACCESSION NO.
4. TITLE OF REPORT: Cultural Resource Inventory, Jemez Mountains Electrical Cooperative, Inc.'s Gleason Bridge 1 Phase Powerline, White Rock Chapter, San Juan County, New Mexico Author(s): Mary Errickson		5. FIELDWORK DATES 05/10/13 - 05/14/13
7. CONSULTANT NAME AND ADDRESS: Gen'l Charge: Mary Errickson Org. Name: Complete Archaeological Service Associates Org. Address: P.O. Box 1777, Cortez CO 81321 Phone: (970) 565-9229		6. REPORT DATE 05/17/13 8. PERMIT NO. B13251 9. CONSULTANT REPORT NO. CASA 13-23
10. SPONSOR NAME AND ADDRESS: Ind. Responsible: Brian Woods, Permitting Agent for Jemez Mountains Electrical Cooperative Org. Name: Permits West Org. Address: 37 Verano Loop, Santa Fe, NM 87508 Phone: 505-466-8120		11. SPONSOR PROJECT NO. Work Order #412085 12. AREA OF EFFECT: 7.494 ac AREA SURVEYED: 54.729 ac
13. LOCATION (MAP ATTACHED): a. Chapter: White Rock b. Agency: Eastern c. County: San Juan d. State: New Mexico e. Land Status: Tribal Trust, Allotments 539, 800, and 802 f. UTM: see Table 1 g. Area: T 23N, R 13W, Sec. 20, 28, 29, and 33, NMPM&B portions of the NW1/4 and SW 1/4, Sec. 20; portions of the NE1/4 and the NE, NE, SE1/4, Sec. 29; portions of the SW 1/4, Sec. 28; NE of NW1/4 and portions of the NE1/4, Sec. 33 h. 7.5' Map Name(s): Tanner Lake, NM and Hunter Wash, NM i. Lead Agency: BIA		
14. REPORT /X/ OR SUMMARY (REPORT ATTACHED) // OR PRELIMINARY REPORT // a. Description of Undertaking: Jemez Mountains Electrical Cooperative, Inc. proposes to construct 15,863.54 feet of 1 Phase powerlines to serve homes in the White Rock Chapter (Figures 1 and 2). The 3.0 miles of powerlines will be constructed on Tribal Trust (10,273.67 feet) and Allotted (5589.87 feet) lands. A 150 foot-wide corridor (54.729 ac) was surveyed for a 20 foot-wide ROW (7.284 ac) with additional ROW (0.210 ac) required for guy wire anchors. Total Area of Effect is 7.494 ac. Expected ground disturbance includes minimal surface blading, drilling at designated pole locations and anchors, and surface disturbance from rubber-tired vehicles used in stringing power cables. Disturbance, both surface and subsurface, with heavy equipment will be intensive and extensive. b. Existing Data Review: 05/09/13 at the CRCS and TCP Offices at NNHPD in Window Rock. No previously recorded sites within 100 m of project areas. No TCPs are located within three miles of project area. c. Area Environmental & Cultural Setting: See continuation sheet. d. Field Methods: A Class III inventory was conducted by Mary Errickson walking transects spaced no more than 15 m apart. A 150 foot-wide corridor was surveyed for the 20 foot-wide ROW and guy anchors.		
15. CULTURAL RESOURCE FINDINGS: a. Location/Identification of Each Resource: none b. Evaluation of Significance of Each Resource (above): n/a		
16. MANAGEMENT SUMMARY (RECOMMENDATIONS): A determination of "no historic properties affected" is recommended with no stipulations for Jemez Mountains Electrical Cooperative, Inc.'s Gleason Bridge 1 Phase Powerline at the locations described in this report.		
17. CERTIFICATION: SIGNATURE: <u>Mary Errickson</u> DATE: 05/17/13 General Charge Name: <u>Mary Errickson</u> SIGNATURE: <u>Mary Errickson</u> DATE: 05/17/13 Direct Charge Name: <u>Mary Errickson</u>		

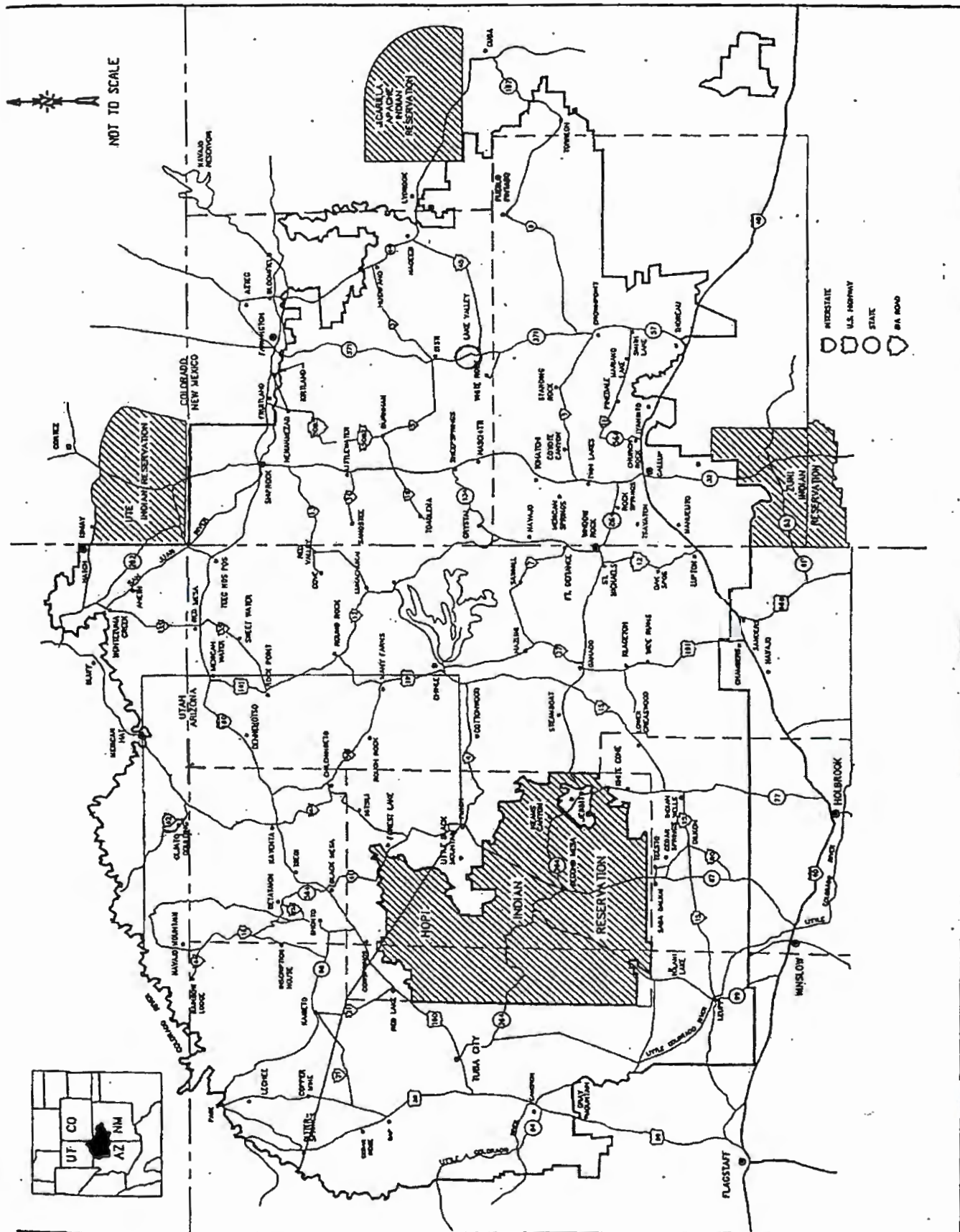


Figure 1. Location map, general project area in northwestern New Mexico.

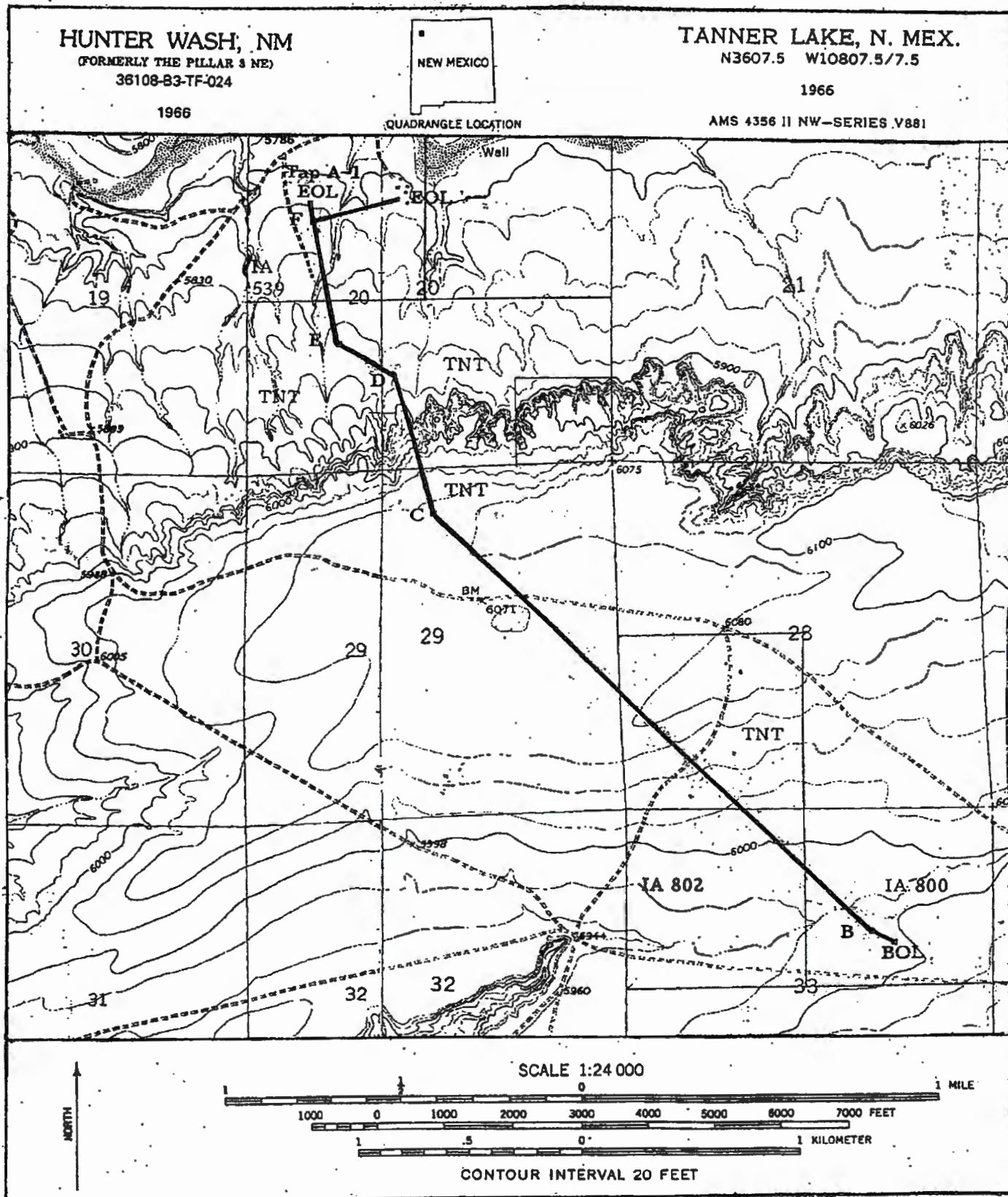


Figure 2. Location map, JMEC's proposed Gleason Bridge powerline.

Table 1. Locational information, powerline, T 23N, R 13W, San Juan County, New Mexico.

Project Feature*	New Mexico Quad Map	Easting 12:	Northing	1/4s	Section
BOL Sta. 0+00	Tanner Lake	749485	4008190	SE, SW, NE	33
PT B Sta. 3+50.05	Tanner Lake	749389	4008239	NE, SW, NE	33
PT C Sta. 92+85.65	Tanner Lake	747415	4010118	-, NW, NE	29
PT D Sta. 114+65.66	Tanner Lake	747215	4010752	SE, NE, SW	20
PT E Sta. 123+93.13	Hunter Wash	746958	4010875	SE, NW, SW	20
PT F Sta. 142+50.15	Hunter Wash	746827	4011425	NE, SW, NW	20
BOP Tap A-1					
EOP Sta. 155+70.31	Hunter Wash	747211	4011545	SE, NE, NW	20
EOP Tap A-1 Sta. 293.23	Tanner Lake	747807	4011512	SE, NW, NW	20

* See Figure 2

14c. Area environmental and cultural setting. The project area is situated in the high desert plateau region of northwestern New Mexico within the Navajo section of the Colorado Plateau Province. It lies in the northeastern part of the San Juan Basin. The San Juan Basin is a roughly circular depression approximately 160 km. in diameter. The basin is bounded on the east by the Nacimiento Uplift and the Archuleta Arch and on the north by the San Juan Dome. The Hogback Monocline and the Four Corners Platform comprise its western boundary. The Chaco Slope defines the southern limit of the basin.

The San Juan Basin is characterized by a semiarid, upland plateau environment. The general area is underlain by a sequence of sedimentary beds deposited during the Late Cretaceous. Pleistocene gravelly-sand deposits capped by Holocene eolian deposits overlie the late Cretaceous bedrock. Major plant communities include grassland and sagebrush-grassland habitats, with pinyon-juniper found on mesa tops. A desert wash community crosscuts the major zones along medium and large drainages. Discussions of the natural environment of the San Juan Basin can be found in Dulaney and Dosh (1981), Binford and Amsden (1992), and Wait and Nelson (1983).

The project area lies along both sides of NM 371, approximately 35 miles north of Crownpoint and 50 miles south of Farmington, New Mexico. The project area lies between two major washes, the Chaco River to the south and a large tributary, De-na-zin Wash, to the north. The powerline commences at an existing powerline and proceeds generally northwestward across a low, sandy mesa top. The powerline then descends the northern sandstone and clay escarpment of the mesa into the De-na-zin valley to serve homes located along NM 371. The area is characterized by outcroppings of Cretaceous-age deposits, specifically the Kirtland Shale Formation and the Menefee Formation of the Mesa Verde Group. Soils vary from shallow-deep aeolian sands and colluvial silts on the mesa top to alluvial and colluvial silts, aeolian sands, residual clays, and decomposing sandstone in the valley. Elevation of the project area varies between approximately 5800 feet at the EOL and 6080 feet on the mesa top.

The project area lies within the Upper Sonoran vegetative zone. An almost treeless shrubland association dominates the mesa top landscape while a salt-flats community is dominant within the valley along De-na-zin Wash. Shrubs include broom and threadleaf snakeweed, rabbitbrush, saltbush, shadscale, greasewood, and prickly pear. Grasses and forbes include sacaton, sand dropseed, sandhill muhly, grama grasses, ricegrass, tansymustard, evening primrose, and sand verbena.

Cultural resource overviews for the San Juan Basin include Stuart and Gauthier (1981) and more recently, Amsden (1992) for the Transwestern Pipeline Expansion Project. Very few sites have been recorded in the vicinity of the project area. The first surveys and excavations in the White Rock area were carried out in the early 1950s for the Wingate Products Gas Line as part of the first pipeline salvage project (Wendorf and Lehmer 1956). The most recent large scale inventory was carried out for White Rock Road, Navajo Route 9652.

Numerous sites are recorded along Indian Creek and Rock Point Valleys, which are tributaries to the Chaco River. Chacoan Great Houses, such as Indian Creek and Lake Valley, and ancillary sites are clustered within these valleys near their junction with the Chaco River.

In addition to discussions held at the White Rock Chapter House with available officials, local residents Ella Peshlakai and Nelson Simpson were interviewed during fieldwork concerning TCP and graves. None were identified during the interviews.

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ENVIRONMENTAL ASSESSMENT
FOR



Electric Cooperative Inc

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GLEASON BRIDGE POWER LINE PROJECT

March 6, 2014
(Revised June 2, 2014)

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1. Introduction

Jemez Mountains Electric Cooperative, Inc. (JMEC) proposes to construct a 14.4 kV single-phase distribution power line, approximately 35 miles south of the town of Farmington in San Juan County, NM (Proposed Action). The Proposed Action is located in the Tanner Lake and Hunter Wash 7.5-Minute Quadrangles in Sections 20, 28, 29, and 33 in T. 23 N., R. 13 W., San Juan County, NM on Navajo Allotment and Tribal Trust Lands. The proposed power line is 15,863.54 feet in length and runs northwest from existing power pole #060507. From here it forms a "Y", continuing northwest to one residence and branching northeast to a group of residences. All of the residences are located on Navajo Indian Allotment (NIA) #539. The layout of the power line and a topographic map of the location are attached as Appendix 1. This Environmental Assessment (EA) will address the Proposed Action with regards to potential impacts to the surrounding environment.

1.1 Purpose and Need

The purpose of the Proposed Action is to construct a 14.4 kV single-phase distribution power line to serve residences on NIA #539.

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 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.

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

Additionally, 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 from an existing power pole to several residences located in Sections 20, 28, 29, and 33 in T. 23 N., R. 13 W., in San Juan County, NM on Navajo Allotment and Tribal Trust Lands. The power line route is "Y" shaped, starting from existing power pole #060507 on NIA #800, and runs northwest. It then crosses Tribal Trust Lands and US Highway 371. Here it branches, continuing northwest to one residence and branches northeast to several other residences. All residences are located on NIA #539, as indicated on the topographic and centerline survey maps shown in Appendix 1. The proposed structures will include a number of wooden poles, 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 is 15,863.54 feet and the width is 20

feet, for a total disturbed area of 7.494 acres (including guys and anchors). Soil and vegetation will be minimally disturbed at the location of poles and guys. The estimated duration from start of construction is approximately one month.

Table 2.1: Land Ownership Summary

<i>Land Ownership</i>	<i>Location</i>	<i>Power Line Length (feet)</i>	<i>Power Line Length (miles)</i>	<i>Total Area including guys (acres)</i>
Navajo Indian Allotment #800	NE¼ Section 33, T23N, R13W	1,604.10	0.30	0.767
Navajo Indian Allotment #802	NW¼ Section 33, T23N, R13W	1,307.26	0.25	0.600
Navajo Tribal Trust	SW¼ Section 28, T23N, R13W	2,561.14	0.48	1.176
Navajo Tribal Trust	NW¼, E½ Section 29, T23N, R13W	4,529.15	0.86	2.109
Navajo Tribal Trust	SW¼ Section 20, T23N, R13W	3,183.38	0.60	1.522
Navajo Indian Allotment #539	NW¼ Section 20, T23N, R13W	2,678.51	1.05	1.32
TOTAL	n/a	15,863.54	3.00	7.494

Most of the route crosses gently rolling grassland. Construction will entail driving a truck-mounted auger cross-country to the location of each structure and digging a hole. Then a truck-mounted crane will raise 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 with the contour, harrowing, applying a native seed mix as prescribed by the BIA or Navajo Nation, and mulching. Noxious weeds would 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 from a power line. A typical battery can store a maximum of 72 hours of electricity, and many would be needed to power the electrical needs of these homes. 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 these private residences 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 residences. Burying the entire length by trenching would disturb far more land and increase the amount of erosion and subsequent possibility of noxious weeds becoming established than burying only 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 Surveys; and the
- review of NNDFW species of concern known to occur or with the potential to occur in the 7.5-Minute Tanner Lake and Hunter Wash, NM Quadrangles.

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

3. Description of Affected Environment

This section describes the environment that would be affected by implementation of the 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 San Juan County, NM on Navajo Nation Tribal Trust and Allotments Lands. The US Environmental Protection Agency (USEPA), Region IX, and the Navajo Nation Environmental Protection Agency Air Quality Control program are responsible for administering air quality regulations on Navajo Allotment Lands in New Mexico. The Navajo Nation Air Quality Control Program (NNAQCP) is responsible for the implementation and enforcement of the Navajo Air Pollution Prevention and Control Act (NAPPCA) (Navajo Nation Council 2004). In addition, the project area lies within the USEPA's designated Four Corners Interstate Air Quality Control Region (USEPA 1971).

Air resources include air quality and climate. The USEPA has the primary responsibility for regulating air quality, including seven nationally regulated ambient air pollutants. Air quality is determined by atmospheric pollutants and chemistry, dispersion meteorology, and terrain; and also includes applications of noise, smoke management, and visibility. Greenhouse gas (GHG) emissions, such as carbon dioxide (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 burning of fossil carbon sources have caused GHG concentrations to increase measurably, and may contribute to overall climatic changes, typically referred to as global warming (USEPA Sep 2013). 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 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 July 2013).

The USEPA's Inventory of US Greenhouse Gas Emissions and Sinks found that total U.S. GHG emissions were over 6.7 billion metric tons and that total U.S. GHG emissions have increased by 8.4% from 1990 to 2011. Emissions decreased from 2010 to 2011 by 1.6% (108.0 million metric tons CO₂ Eq.). The decrease was due to a decrease in carbon intensity of fuels consumed to generate electricity (due to a substitution of coal use by natural gas and an increase in hydropower use), and relatively mild winter conditions. (USEPA Apr. 2013)

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

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

Climate

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

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

A report on climate change by the U.S. Government Accountability Office (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). It is not, however, possible to predict with any certainty regional or site-specific effects on climate relative to the Proposed Action and subsequent actions.

3.1.1 No Action Alternative

3.1.1.1 Direct and Indirect Effects

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

Complete Archeological Services Associates 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 San Juan County (USDI BLM 2003).

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 private residences on Navajo Allotment Lands. Private residences located on Navajo Allotment Lands are likely considered minority and could potentially represent low income populations. A positive direct effect will be access to electricity for these residents. 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 just south of, but not in, the 100-year floodplain near De-na-zin Wash (USDHS FEMA 2010). The landscape in the project area is mostly gently rolling grassland. The southern end of the power line is situated on top of a mesa. Going northward, the line drops off of the northern edge of the mesa through clay badlands cut by several small and medium drainages, then continues through additional rolling grassland.

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 35 miles south of Farmington, NM. Topography at the southern end of the power line near the existing power pole is gently rolling grassland situated on a mesa top crossed by occasional low, semi-stabilized sand dunes. At the northern end of the power line, the project area drops off of the northern edge of the mesa and goes through clay badlands cut by several small and medium drainages. It then continues through additional rolling grassland. Elevation ranges from 5,802 to 6,085 feet. There are no significant outcroppings or geologic formations in the area.

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 locations to reduce the area 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). One of these species, halogeton (*Halogeton glomeratus*), was observed in the project area, in four concentrated areas. Halogeton is a Priority B species, indicating that it is a new

noxious weed known to have invaded isolated locales on the reservation. Emphasis is placed on immediate control, prevention of seed spread, and eradication. Education, awareness, identification, control, and monitoring are the priorities. The full Plant Survey Report is attached as Appendix 4.

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 EPA Pesticides Program for a list of approved herbicides and applicators.

3.7 Land Use

The Proposed Action is located on Navajo Allotment and Tribal Trust Lands. Current land uses include the existing power line; paved, dirt, and two-track roads; nearby structures; and grazing by horses. 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 7.494 acres of Navajo Allotment and 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 residences gaining power as part of this project, only a couple of residences are located near the north and south ends of the 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 only residents in the project area are those that will be gaining power from the proposed power line. Only a couple of residences are located near the north and south ends of the power line. JMEC employees are the most likely persons to be in the 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 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

The Proposed Action crosses four different soil units: the Sheppard-Huerfano-Notal complex, the Badland Unit, the Doak-Sheppard-Shiprock association, and the Huerfano-Muff-Uffens complex. These are shown on Figure 1, below. (SoilWeb Earth 2013).

The Sheppard-Huerfano-Notal (SC) complex consists of soil types Sheppard loamy fine sand, Huefano sandy clay loam, and Notal clay loam. The soils in this unit are susceptible to moderate erosion due to water, and high to severe erosion due to wind, including the hazard of severe soil blowing. (SoilWeb Earth 2013)

The Badland (BA) unit consists mainly of non-stony, barren, shale uplands that are dissected by deep intermittent drainage ways and gullies. This association consists of shallow Farb soils over shale with very slow permeability. The main limitation of this soil type is the hazard of large amounts of water runoff after a normal rain, and flash flooding during heavier rains. (SoilWeb Earth 2013)

The Doak-Sheppard-Shiprock (DS) association consists of 40% Doak loam, 30% Sheppard loamy fine sand, and 20% Shiprock fine sandy loam. The remaining 10% consists of small areas of Avalon and Mayqueen soils on mesas and plateaus; Monierco soils on knolls, mesas, and plateaus; and Uffens soils on fans, valley bottoms, mesas, and plateaus. Doak soil has moderately slow permeability with a moderate water erosion hazard and a moderate soil blowing hazard. The Sheppard soil has rapid permeability with a slight hazard of water erosion and a severe hazard of soil blowing. Shiprock soil permeability is moderately rapid with a slight hazard of water erosion and a severe hazard of soil blowing. (SoilWeb Earth 2013)

The Huerfano-Muff-Uffens (HU) complex, gently sloping consist of 40% Huerfano soils, 30% Muff soils, and 20% Uffens soils. Huerfano soils are alluvium derived from sandstone over residuum weathered from shale. Water erosion is high. Muff soils consist of alluvium derived from shale and its water erosion is also high. Uffens soil is alluvium derived from shale, and its water erosion is medium. (SoilWeb Earth 2013)

The underlying bedrock is in the Kirtland Fruitland Formation (NMBGMR 2003).



Figure 1.1: Soil Map Units

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

On September 23, 2013, and on December 17, 2012, wildlife biologists conducted pedestrian wildlife surveys of the project area to inspect for the potential presence of threatened, endangered, or special status species.

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

Although not observed during the surveys, the project area provides suitable habitat for the pronghorn (*Antilocapra americana*), although they are considered very uncommon. The project area also provides suitable foraging habitat for the golden eagle (*Aquila chrysaetos*). Ferruginous hawks (*Buteo regalis*) are known to nest in formations in northwestern NM. While a nest was identified in 2004, it is not currently active, however, Ferruginous hawks may nest in the area in the future. The kit fox (*Vulpes macrotis*) may also occasionally occur in the project area. These are all Navajo Nation Endangered Species, and the golden eagle and Ferruginous hawk are also protected by the Migratory Bird Treaty Act (MBTA). The full Threatened, Endangered, and Special Status Wildlife Species Reports are attached as Appendix 3.

Seven special status bird species that are protected under the MBTA were observed during the wildlife surveys. These include the American kestrel (*Falco sparverius*), common raven (*Corvus corax*), horned lark (*Eremophila alpestris*), mourning dove (*Zenaida macroura*), Say's phoebe (*Sayornis saya*), Western meadowlark (*Sturnella neglecta*), and red-tailed hawk (*Buteo jamaicensis*). 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.

One species of concern to the Navajo Natural Heritage Program (NNHP) was observed in the project area: San Juan Milkweed (*Asclepias sanjuanensis*). It was identified in four concentrated areas. San Juan milkweed is in Group 4 on the Navajo Endangered Species List, which means that NNHP doesn't have sufficient information to support the species as being endangered, but has reason to consider it (NNDFW NNHP 2008). No other species of

concern to the NNHP 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 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.
2. 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. A concentration of San Juan milkweed identified as Area 2 lies between the proposed location of power poles 11 and 12 and could be disturbed by construction.

3.11.2.2 Mitigation

1. Construction should not take place during Ferruginous hawk nesting season, which is March 1 – July 31. 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 Navajo Nation's Raptor Electrocution Prevention Regulations (NNDFW NNHP Sep. 2008).
3. The power line corridor should be fenced on both sides from pole 12 southeast for 250 feet through the population of San Juan milkweed, placing the fence from within the corridor.
4. A biological/botanical monitor should be present during ground-disturbing activities in the fenced area near pole 12.

3.12 Vegetation, Forestry

The dominant plants in the grassland are Indian ricegrass (*Achnatherum hymenoides*), galleta (*Pleuraphis jamesii*), alkali sacaton (*Sporobolus airoides*), blue grama (*Bouteloua gracilis*), and broom snakeweed (*Gutierrezia sarothrae*); with scattered Greene's rabbitbrush (*Chrysothamnus Greenei*) and four-wing saltbush (*Atriplex canescens*). The dunal areas include sandhill muhly (*Muhlenbergia pungens*), Greene's rabbitbrush, and sand wild-buckwheat (*Eriogonum leptocladon*). The badland areas include matted saltbush (*Atriplex corrugata*), shadscale (*Atriplex confertifolia*), and alkali sacaton. Russian thistle (*Salsola tragus*) is present, and sometimes dominant, in all communities. 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 7.494 acres of Navajo Allotment and 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 2003).

The Proposed Action is in an area that the BLM designates as VRM Class III. Projects constructed in Class III areas must partially retain the existing character of the landscape. The level of change to the characteristic landscape should be moderate. Management activities may attract attention, but should not dominate the view of the casual observer. Any changes should repeat the basic elements found in the predominant natural features of the characteristic landscape. (USDI BLM 2003).

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 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 recharges near the Zuni Uplift in the Chuska Mountains and flows toward the Chaco and San Juan Rivers to discharge (Robson 1995). The project area receives approximately 8.78 inches of annual precipitation (WRCC 2013).

The hydrologic setting of the immediate project area is characterized mostly 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 unnamed ephemeral washes north to De-na-zin Wash. De-na-zin Wash flows southwest into the Chaco River. Ephemeral flows in these drainages are limited to snow melt and rainfall

The groundwater zones present beneath the project area include the Mesa Verde Aquifer, Dakota-Glen Canyon Aquifer System, and Coconino-De Chelly Aquifer. The Mesa Verde Aquifer is the shallowest and the Coconino-De Chelly Aquifer is the deepest of the aquifers underlying the project area. 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 Dakota-Glen Canyon, but less concentrated. (Allen 2011).

The plant survey report indicated no wetlands or riparian zones in 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 will be used, and no Resources Conservation and Recovery Act-defined hazardous wastes will be generated during construction or operation, construction equipment could experience a spill of on-board fluids and/or materials that could potentially get into the surface or groundwater system.

3.15.2.2 Mitigation

1. BMPs in Section 2.2 will be implemented to prevent erosion and off-site migration of soils and other materials, and to reduce impacts to watershed and hydrology.
2. Any spilled contaminants will be cleaned up as soon as possible to prevent run-off of contaminants into surface 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 occurring in the area is typical of open sagebrush flats of the Great Basin desert. This includes passerines such as sage sparrows (*Amphispiza belli*) as well as jackrabbits (*Lepus spp.*), and sagebrush lizards (*Sceloporus graciosus*). A complete inventory of observed species is included in Appendix 3.

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) (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 7,494 acres on Navajo Allotment and Tribal Trust Lands. Reasonably foreseeable future development may include additional power lines and communications structures installed in the vicinity of the Proposed Action due to additional residences without electricity. 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
Liz Berdugo	Consultant/Author	Permits West, Inc.	no	n/a
Mike Deutsch	Project Coordinator	Permits West, Inc.	yes	May 2012
Charles Black	Wildlife Biologist	Permits West, Inc.	yes	9/23/13
Geoff Carpenter	Wildlife Biologist	Permits West, Inc.	yes	12/17/12
Marian J. Rohman, Trudi Webster	Botanists	Permits West, Inc.	yes	2/19/13, 6/17-18/13
Mary Errikson	Archaeologist	Complete Archeological Services Associates, Inc.	yes	5/10-14/13

5. Contact Information

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

Sonya Binion
Jemez Mountains Electric Cooperative, Inc.
#71 Hwy. 126
Cuba, NM 87013
575-289-3241
Fax: 575-289-0103

6. References

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Proposed Gleason Bridge Line

Work Order # 412085

USGS Quads: Tanner Lake & The Pillar 3 NE

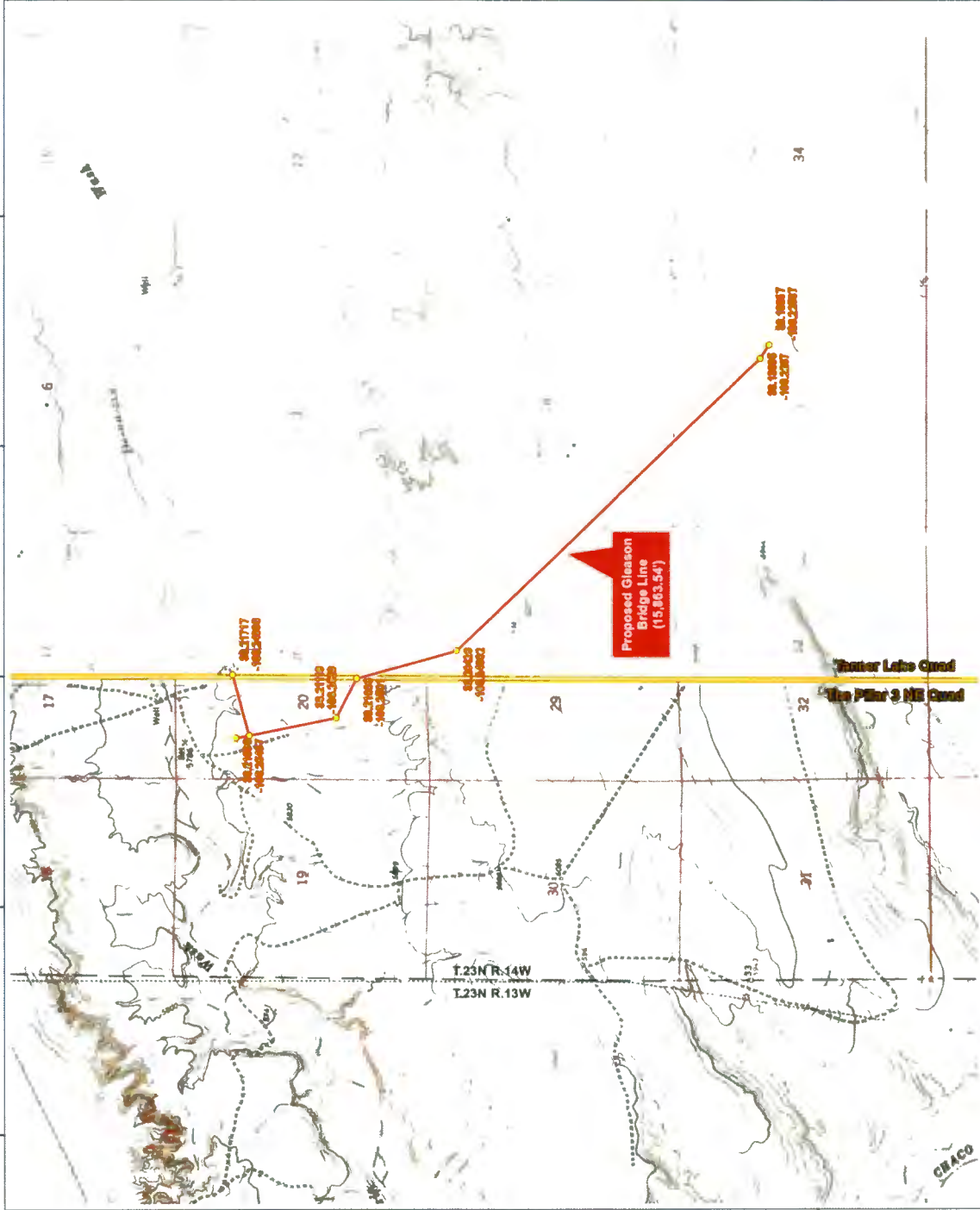
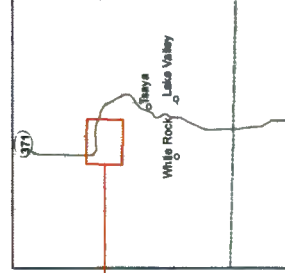
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San Juan County, New Mexico

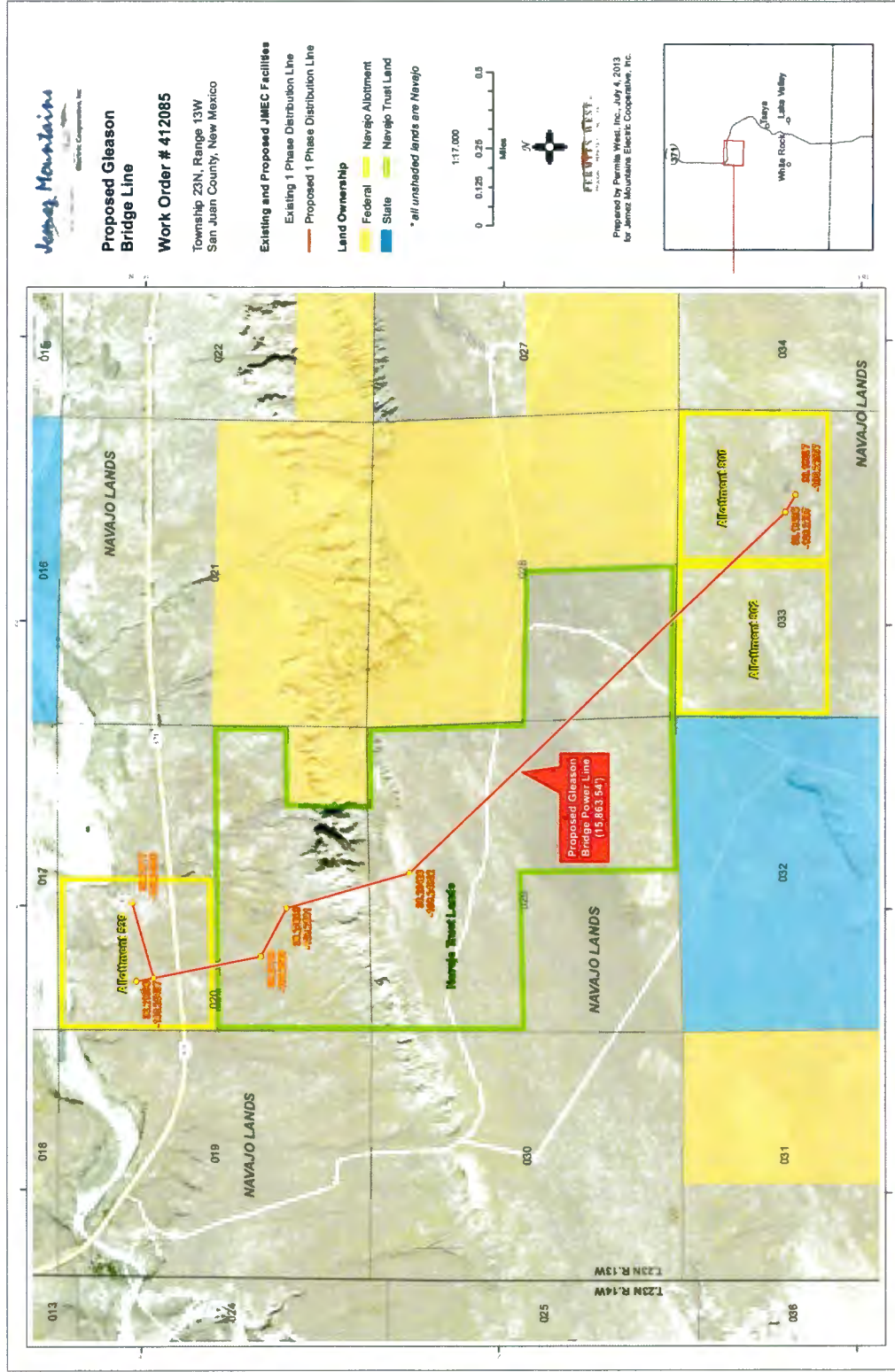
Existing and Proposed JMEC Facilities
Existing 1 Phase Distribution Line
Proposed 1 Phase Distribution Line



PERMITS WEST

Prepared by Permils West, Inc., July 4, 2013
for Jemez Mountains Electric Cooperative, Inc.





Appendix 1-2



NAVAJO NATION
Department of Fish & Wildlife
Navajo Natural Heritage Program
P.O. Box 3480
Window Rock, AZ 86555



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

19 June 2012

File#12PERM 23

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

NAVAJO ENDANGERED SPECIES LIST (NESL) INFORMATION FOR:

PROJECT: JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC. GLEASON BRIDGE POWER LINE
LOCATED IN LEGAL DESCRIPTION T23N, R13W, SECTIONS 20, 28, 29 & 33
UTM COORDINATES 747288E, 4011424N, 746894E, 4010984N, 7495518E, 4008026N
SAN JUAN COUNTY, NM

Mr. Wood,

The following information on species of concern is provided in response to your 18 May 2012 request concerning the subject project, which consists of Jemez Mountains Electric Cooperative, Inc. Gleason Bridge power line project located in legal description T23N, R13W, Sections 20, 28, 29 & 33, UTM Coordinates 747288E, 4011424N, 746894E, 4010984N, 7495518E, 4008026N, San Juan County, NM.

Each 7.5 minute quadrangle containing project boundaries is addressed separately below. For potentially occurring species these species lists are quadrangle-specific rather than project-specific. Potential for species has been determined primarily on quadrangle wide coarse habitat characteristics and species range information. Your project biologist should determine habitat suitability at the project site(s).

A total of nine (09) species both known and/or potential are included in this response. They are:

1. *Antilocapra americana* (Pronghorn); NESL Group 3
2. *Aquila chrysaetos* (Golden Eagle); NESL Group 3; MBTA
3. *Buteo regalis* (Ferruginous Hawk); NESL Group 3; MBTA
4. *Charadrius montanus* (Mountain Plover); NESL Group 4, ESA proposed Threatened, MBTA.

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

5. Empidonax traillii extimus (Southwestern Willow Flycatcher); NESL Group 2. ESA Endangered; MBTA.
6. Mustela nigripes (Black-footed Ferret); NESL Group 2; ESA Endangered.
7. Vulpes macrotis (Kit Fox); NESL Group 4.
8. Asclepias sanjuanensis (San Juan Milkweed); NESL Group 4.
9. Sclerocactus mesae-verdae (Mesa Verde Cactus); NESL Group 2; ESA Threatened.

HUNTER WASH, NM 7.5-MINUTE QUADRANGLE

Project Location: Jemez Mountains Electric Cooperative, Inc., Gleason Bridge Power Line

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

1. Butco regalis

All or parts of this project currently are within areas protected by the Raptor Electrocution Prevention Regulations consult with the DF zoologist or EA Reviewer for more information and recommendations Be sure to examine Navajo Nation's "Raptor Electrocution Prevention Regulations" available at <http://nnhp.navajofishandwildlife.org/docs/rep.htm>

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

1. Antilocapra americana
2. Aquila chrysaetos
3. Charadrius montanus
4. Empidonax traillii extimus
5. Mustela nigripes
6. Vulpes macrotis
7. Asclepias sanjuanensis
8. Sclerocactus mesae-verdae

AREA 3: LOW SENSITIVITY WILDLIFE RESOURCES

TANNER LAKE, NM 7.5-MINUTE QUADRANGLE

Project Location: Jemez Mountains Electric Cooperative, Inc., Gleason Bridge Power Line

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

1. Buteo regalis

All or parts of this project currently are within areas protected by the Raptor Electrocution Prevention Regulations consult with the NDFW zoologist or E Reviewer for more information and recommendations Be sure to examine ajo Nation Raptor Electrocution Prevention Regulations available at http://nnhp.navajofishandwildlife.org/doc/_rep.htm

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

1. Antilocapra americana
2. Aquila chrysaetos
3. Charadrius montanus
4. Empidonax traillii extimus
5. Mustela nigripes
6. Vulpes macrotis

7. *Asclepias sanjuanensis*

AREA 3 LOW SENSITIVITY WILDLIFE RESOURCES

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

Potential for *Puccinellia parishii* should be evaluated if wetland conditions exists that contain white alkaline crusts

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

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

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

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

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

An invoice for this information is attached

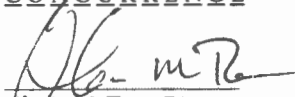
*Available free of charge on our website at <http://nhp.navajofishandwildlife.org>

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



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

CONCURRENCE



Gloria M. Tom, Director
Department of Fish & Wildlife
Division of Natural Resources

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THREATENED, ENDANGERED, AND SPECIAL STATUS
WILDLIFE SPECIES REPORT
FOR JEMEZ MOUNTAINS ELECTRICAL COOPERATIVE INC.'S PROPOSED
GLEASON BRIDGE POWER LINE PROJECT
SAN JUAN COUNTY, NEW MEXICO

1.0 Introduction

Threatened, endangered, and special status wildlife species surveys were conducted at the proposed Gleason Bridge Power Line project. The project area is located along US Highway 371, approximately 1.2 miles east of Gleason Bridge, San Juan County, New Mexico. The project area is located in Sections 20, 28, 29 and 33, T. 23 N., R. 13 W. The project is on Navajo Nation Allotment and Tribal Trust Lands.

2.0 Methods

Prior to the survey, a data request to the Navajo Natural Heritage Program was made for Navajo Nation endangered species known to occur, or with the potential to occur on the 7.5-minute Hunter Wash and Tanner Lake Quadrangles. The request reply was issued on June 19, 2012.

On September 23, 2013, Wildlife Biologist Charles Black conducted pedestrian surveys of the project area to inspect for the potential presence of threatened, endangered, or special status species. Weather during surveys was clear and breezy with daytime highs near 65° F. The area of survey consisted of the power line route and a 25-foot buffer on either side of the power line route. Habitat and existing conditions were evaluated. A half-mile radius around the project area was surveyed for raptor nests. An additional one-mile line-of-site survey was conducted from the project area for raptor nests. The surveyor used 10 X 40 binoculars and a 15X-60X spotting scope.

3.0 Description of Existing Habitat

The proposed power line is 15,863.54 feet in length and runs northwestward from an existing power pole, crossing Highway 371 just east of the residences to be served. The total proposed disturbance is 7.494 acres.

Topography in the project area is variable. The southern two-thirds of the line is in gently rolling terrain that slopes gradually southward. At this point, the proposed power line down descends a steep mesa side/cliff line, and drops approximately 120 feet. The route continues northward on through gradual terrain, which slopes westward towards De-Na-Zin wash. Elevation along the route ranges from 5760 feet to 6080 feet in elevation.

The mesa/cliff line traversed by the proposed power line is characterized by tall, steep shale formations that form structures known as "hoodoos". These structures provide suitable features

for medium to large raptor nesting. Ferruginous hawks (*Buteo regalis*) in particular, are known to nest on these structures in northwestern New Mexico.

Vegetation throughout the project area is dominated by arid grassland with small shrubs. Grassland areas on top of the mesa, south of the cliff line show signs of moderate over grazing, but are generally healthy. Grassland areas north of the cliff line are heavily over-grazed, and moderate erosion is present along the alluvium, which drains northward off the mesa edge. There are no perennial streams or wetlands in the project area.

Wildlife occurring in the area is typical of arid grasslands of the Great Basin desert. This includes passerines such as horned larks (*Eremophila alpestris*), brewer's sparrows (*Spizella brewerii*), as well as jackrabbits (*Lepus spp.*), kangaroo rats (*Dipodomys spp.*) and whiptail lizards (*Cnemidophorus spp.*).

4.0 Threatened, Endangered, and Special Status Wildlife Species

According to the June 19, 2012 correspondence from the Navajo Natural Heritage Program, the following species have the potential to occur on the land covered by the Hunter Wash and Tanner Lake, 7.5-minute quadrangles.

Species	Status	Habitat	Habitat Suitability in the Project Area
Pronghorn (<i>Antilocapra Americana</i>)	NESL Group 3	Grasslands, brushlands, bunch-grass and sagebrush areas of open plains and deserts	See discussion below
Golden eagle (<i>Aquila chrysaetos</i>)	NESL Group 3, MBTA, EPA	A wide variety of open habitats; typically nests in steep cliffs > 30 m. in height	See discussion below
Ferruginous hawk (<i>Buteo regalis</i>)	NESL Group 3, MBTA	Open grasslands and deserts; typically nests atop rocky pinnacles, small buttes, and cliffs	See discussion below
Mountain plover (<i>Charadrius montanus</i>)	NESL Group 4, MBTA	Open grasslands with a high percentage of bare ground in completely flat terrain	NP
Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>)	NESL Group 2, MBTA, ESA - E	Cottonwood-willow habitats within perennial riparian areas	NP
Black-footed ferret (<i>Mustela nigripes</i>)	NESL Group 2, ESA - E	Grassland or shrubby habitats where large, densely populated prairie dog towns are present	NP
Kit fox (<i>Vulpes macrotis</i>)	NESL Group 4	Lowland deserts and open habitats	See discussion below

Status

E Endangered T Threatened C Candidate SC Species of Concern NESL Navajo Endangered Species List
EPA (federal) Endangered Species Act MBTA Migratory Bird Treaty Act EPA Bald and Golden Eagle Protection Act

Habitat Suitability in the Project Area

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.

5.0 Results

No federally- or Navajo-listed threatened, endangered, or special status species were observed during the 9/23/13 wildlife survey.

Pronghorn

The project area is suitable habitat for pronghorn antelope, although they are generally considered to be very uncommon in the area (Mikesic, D. G., personal communication, March 2008). Pronghorns may occasionally pass through the project area. Given the relatively small scale of the proposed disturbance, this species should not be adversely impacted by the proposed project.

Golden eagle

The project area is suitable foraging habitat for golden eagles. Some potential eagle nest sites are present along the mesa side/cliff line crossed by the proposed power line. These structures are fairly small and not generally sturdy enough for eagle nesting. These areas were carefully inspected during surveys, and no evidence of any raptor nesting was observed within a half-mile radius of the proposed line. The mesa edge/cliff line gets taller and steeper as it goes eastward. Given the relatively small scale of the proposed disturbance, this species should not be adversely impacted by the proposed project.

Ferruginous hawk

Ferruginous hawks are known to nest in “hoodoo” formations in northwest New Mexico. Based on information provided in the June 19, 2012 Navajo Natural Heritage Program request reply, Charles Black consulted with Navajo Nation Zoologist, Chad Smith, on September 18, 2013.

During this consultation, it was revealed that a Ferruginous hawk was found in 2004 by former Navajo Nation Zoologist David Mikesic approximately 550 meters east of the proposed Gleason Bridge power line (September 18, 2013). Under guidelines provided in The Navajo Nation Ferruginous Hawk Management Plan, no permanent structure can be constructed within a one-kilometer buffer of an active Ferruginous hawk nest.

Because this was a historic nest, and not known to have been active since 2004, the area of this nest was examined for recent activity to determine if it was active during the breeding season of 2013. The area was carefully searched and photographed on September 23, 2013. No evidence of any recent activity was found.

On October 24, 2013, additional consultation with Navajo Nation Zoologist, Chad Smith, occurred. At this time it was determined that the historic nest in question was no longer active, and no longer required a hawk nesting buffer.

Ferruginous hawks may nest in the area in future years. As long as the proposed power line is constructed outside of the hawk’s nesting season, and if raptor safe methods are used, this species should not be adversely impacted by the proposed project.

Kit fox

Kit foxes may occasionally occur in the project area, although no tracks, scat, or burrows were observed in the project area. Given the relatively small scale of the proposed disturbance, this species should not be adversely impacted by the proposed project.

Migratory Birds

Migratory birds are protected under the Migratory Bird Treaty Act. 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.

Six bird species observed during the wildlife surveys are protected under the Migratory Bird Treaty Act (see the species list in Section 6.0 below). 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.

6.0 Species Observed During the Survey**Avian species observed:**

American kestrel (*Falco sparverius*)
Mourning dove (*Zenaida macroura*)
Horned lark (*Eremophila alpestris*)
Say's phoebe (*Sayornis saya*)
Common raven (*Corvus corax*)
Western meadowlark (*Sturnella neglecta*)

Mammalian species observed:

Desert cottontail (*Sylvilagus audubonii*)
Black-tailed jackrabbit (*Lepus californicus*)
Coyote (*Canis latrans*)

7.0 Recommendations

It is recommended that all proposed construction be conducted outside of the Ferruginous hawk nesting season, March 1-July 31. It is also recommended that raptor safe guidelines be followed during project construction.

8.0 References

Mikesic, D. G. and J. R. Nystedt. 2001. Species Accounts for *Buteo regalis*.
Updated 15 February 2005. Navajo Natural Heritage Program. Window Rock, AZ.

THREATENED, ENDANGERED, AND SPECIAL STATUS
WILDLIFE SPECIES REPORT
FOR JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.,
GLEASON BRIDGE POWER LINE PROJECT,
SAN JUAN COUNTY, NEW MEXICO

1.0 Introduction

Threatened, endangered, and special status wildlife species surveys were conducted at the proposed JMEC Gleason Bridge Power Line (Sections 20, 28, 29, and 33, T. 23 N., R. 13 W.), San Juan County, NM. The project site is located on Navajo Allotment and Tribal Trust Lands.

2.0 Methods

Prior to the survey, a data request was made to the Navajo Natural Heritage Program (NNHP) for Navajo Nation endangered species known to occur, or with the potential to occur, on the 7.5-Minute Hunter Wash and Tanner Lake, NM Quadrangles. The request reply was received on June 19, 2013.

On December 17, 2012, Wildlife Biologist, Geoff Carpenter, conducted a pedestrian survey of the project area to inspect for the potential presence of threatened, endangered, or special status species. Weather during the survey was cold and breezy with high temperatures in the mid 30°s F. The surveyed area consisted of the proposed power line and a 50-foot buffer on either side of the proposed route. Habitat and existing conditions were evaluated. A half-mile radius around the project area was surveyed for raptor nests. An additional one-mile line-of-sight survey was conducted from the project area for raptor nests. The surveyor used 8 X 50 binoculars.

3.0 Description of Existing Habitat

The project scope includes the proposed 15,863.54-foot JMEC Gleason Bridge Power Line area. The power line will tie into existing power pole #060507 on Navajo Indian Allotment (NIA) #800 at its southeastern terminus and will feed several residences on NIA #539 at its northwestern end. The proposed power line is at approximately 5,850 feet in elevation.

Topography in the area consists of slight rolling hills, braided by drainages, with an escarpment near the terminus of the line, near the boundary of Sections 20 and 29.

Vegetation throughout the project area is dominated by sparse grasses and forbs and shows evidence of disturbance and degradation.

Wildlife occurring in the area is typical of open sagebrush flats of the Great Basin desert. This includes passerines such as sage sparrows (*Amphispiza belli*), as well as jackrabbits (*Lepus spp.*), and sagebrush lizards (*Sceloporus graciosus*).

4.0 Threatened, Endangered, and Special Status Wildlife Species

The following table lists Navajo Nation Endangered Species that are known, or have the potential, to occur in the Gleason Bridge area.

For the species listed below, the following tribal and federal statuses are indicated: the Navajo Endangered Species List (NESL), the federal Endangered Species Act (ESA), the Migratory Bird Treaty Act (MBTA), and the Eagle Protection Act (EPA).

Species	Status	Habitat	Habitat Suitability in the Project Area
Golden eagle (<i>Aquila chrysaetos</i>)	NESL Group 3, MBTA, EPA	A wide variety of open habitats; typically nests in steep cliffs > 30 m. high	See discussion below
Ferruginous hawk (<i>Buteo regalis</i>)	NESL Group 3, MBTA	Open grasslands and deserts; typically nests atop rocky pinnacles, small buttes, and cliffs	See discussion below
Mountain plover (<i>Charadrius montanus</i>)	NESL Group 4, MBTA, ESA-SC	Open grasslands with a high percentage of bare ground in flat terrain	NP
Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>)	NESL Group 2, MBTA, ESA-E	Cottonwood-willow habitats within perennial riparian areas	NP
Pronghorn (<i>Antilocapra americana</i>)	NESL Group 3	Open grasslands	See discussion below
Black-footed ferret (<i>Mustela nigripes</i>)	NESL Group 2, ESA-E	Grassland or shrubby habitats where large, densely populated prairie dog towns are present	NP
Kit fox (<i>Vulpes macrotis</i>)	NESL Group 4	Open, arid lowland habitats	See discussion below

Status

E Endangered T Threatened C Candidate NESL Navajo Endangered Species List SC Species of Concern

Habitat Suitability in the Project Area

K Known, documented observation in project area.

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

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

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

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

5.0 Results

No threatened, endangered, or special status wildlife species were observed in or adjacent to the project area during the December 17, 2012 wildlife survey.

Federal and State Sensitive Bat Species

No bats were observed during wildlife surveys at the proposed site. There is no open water at or near the site. Given the relatively small scale of the proposed disturbance, no bat species listed as state or federally sensitive should be adversely impacted by the proposed project.

Golden eagle

The project area is suitable foraging habitat for golden eagles. No suitable eagle nest structures are present in the vicinity of the project area. Eagles may occasionally pass through the project area. Given the relatively small scale of the proposed disturbance, this species should not be adversely impacted by the proposed project.

Ferruginous hawk

Ferruginous hawks are known to nest in “hoodoo” formations in badland formations and on power lines in San Juan County. No suitable nest structures for this raptor are located in the vicinity of the project area. All power lines within a one-mile radius of the site were surveyed for breeding raptors. Survey results were negative. Ferruginous hawks also are known to occur in migration and winter in the project area. Hawks may occasionally pass through the project area. Given the relatively small scale of the proposed disturbance, this species should not be adversely impacted by the proposed project.

Pronghorn

Some of the project area may be suitable foraging habitat for pronghorn. No fences in the direct area would preclude pronghorn, but the habitat is incredibly disturbed. Seasonal water sources may be available within a few miles of the project site. Given the relatively small scale of the proposed disturbance, and the low likelihood of pronghorn using or migrating through this area, this species should not be adversely impacted by the proposed project.

Kit Fox

Kit foxes may occasionally occur in the project area. However, no tracks, scat, or burrows were observed in the project area during pedestrian surveys. Given the relatively small scale of the proposed disturbance area, this species will not be adversely affected by the proposed project.

Migratory Birds

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

Three bird species observed during the wildlife surveys are protected under the MBTA (see the species list in Section 6.0 below). If measures outlined in the Recommendations section of this report are followed, there will be no take of migratory birds.

6.0 Species Observed During the Survey

Avian species observed:

Horned lark (*Eremophila alpestris*)

Common raven (*Corvus corax*)

Red-Tailed hawk (*Buteo jamaicensis*)

Mammalian species observed (from tracks, scat and other sign):

Horse (*Equus caballus*)

Bovine (*Bos taurus*)

Domestic Dog (*Canis familiaris*)

Coyote (*Canis latrans*)

Kangaroo rat (*Dipodomys spp.*)

7.0 Recommendations

It is recommended that any removal of vegetation associated with the proposed action be conducted outside of the breeding season of migratory birds (April 1-August 15).

It is recommended that construction and operation of the proposed power line be conducted with minimal adverse impact to wildlife. Suggested mitigation includes:

- 1) Promptly cleaning up any spilled contaminants.
- 2) Use of effective reclamation methods.

8.0 References

Detsoi, Sonja. "Navajo Endangered Species List Information For: JMEC, Inc. Gleason Bridge Power Line Located in Legal Description T23N, R13W, Sections 20, 28, 29 & 33 UTM Coordinates 747288E, 4011424N; 746894E, 4010984N; 7495518E, 4008026N San Juan County, NM". Window Rock, AZ. 19 June 2012.

A handwritten signature in black ink, appearing to be 'J. Detsoi', with a large, stylized flourish at the end.

JEMEZ MTS. ELECTRIC COOPERATIVE, INC.

PROPOSED GLEASON BRIDGE POWER LINE PROJECT

**N/2 Section 33, SW/4 Section 28, E/2 and NW/4 Section 29,
and W/2 Section 20, T. 23 N., R. 13 W.**

San Juan County, New Mexico

PLANT SURVEY REPORT

Prepared for Permits West, Inc., Santa Fe, New Mexico
By Marian J. Rohman July 17, 2013

This report discusses the potential for disturbance to the plant species of concern identified by the Navajo Natural Heritage Program (NNHP) as having the potential to occur on the Hunter Wash, NM and Tanner Lake, NM, 7.5-minute quadrangles, which contain the boundaries of the project area (Detsoi 2012). Mesa Verde cactus (*Sclerocactus mesae-verdae*) is listed for the Hunter Wash, NM, quadrangle and San Juan milkweed (*Asclepias sanjuanensis*) is listed for both quadrangles. Subsequent discussions with Andrea Hazelton, NNHP Botanist, determined that Mesa Verde cactus is listed only for the Menefee Formation in the Hunter Wash, NM, quadrangle, which does not occur in the project area (Hazelton 2013a). Wetland conditions also need to be evaluated for the potential for Parish's alkali grass (*Puccinellia parishii*) (Detsoi 2012). Both San Juan milkweed and Parish's alkali grass are classified on the Navajo Endangered Species List (NESL) as Group 4, indicating that the NNHP does not currently have sufficient information to support the species being listed as endangered, but has reason to consider them (NNHP 2008). In addition, the potential for disturbance to species listed by the United States Fish and Wildlife Service (USFWS) for San Juan County, NM, (NMESFO 2013) will be discussed.

San Juan milkweed is a prostrate to ascending herbaceous perennial, 4-8 cm tall. The leaves are 2-4 cm long, oblong to lanceolate with white tomentulose leaf margins. The inflorescence is a terminal umbel with 4-15 brownish-purple flowers (Heil and Herring 1999b). It is found mostly in sandy or sandy loam soils in piñon-juniper woodlands and Great Basin grassland communities occurring from 5000 – 6200 feet in elevation. On Navajo lands, it flowers from late April through early May (Roth 2001a). Personal observations have placed this species as high as 6420 feet. It is usually found in very open vegetation, usually on or near sand dunes and in association with sandhill muhly (*Muhlenbergia pungens*) and sand wild-buckwheat (*Eriogonum leptoclodon*) (personal observation).

Parish's alkali grass is a short-lived winter or spring annual whose annual growth habit is easily distinguished from its perennial relatives. It grows in alkaline springs, seeps, and seasonally wet areas, from elevations of 5000 to 7200 ft. The species requires continuously damp soils during its late winter to spring growing period (McDonald 1999c). On Navajo lands, it flowers from late April to early June (Roth 2001b). Personal observations have placed this species as low as 4510 ft.

PROJECT DESCRIPTION

The proposed project consists of the construction of a power line measuring 15,570.31 feet with a short spur extending an additional 293.23 feet near the end of the line, for a total of 15,863.54 feet. The proposed lines will be within a 20-foot-wide corridor. The total land use for the proposed project is 7.494 acres. It is located in the N/2 of Section 33, the SW/4 of Section 28, the E/2 and NW/4 of Section 29, and the W/2 of Section 20 in T. 23 N., R. 13 W. in San Juan County, NM, 35.5 to 37.5 miles south of Farmington. The proposed power line begins at an existing power pole in the NE/4 of Section 33 on Navajo Nation Tribal Allotment 800. It heads northwest and crosses into the NW/4 of Section 33 in Allotment 802. It continues northeast and north within Navajo Tribal Trust land, and crosses Highway 371 to end at residences in the NW/4 of Section 20, in Allotment 539.

The landscape at the beginning of the project area is a gently rolling grassland situated on a mesa top crossed by occasional, low, semi-stabilized sand dunes. Near the end of the line, the proposed power line drops off the north edge of the mesa through clay badlands cut by several small and medium drainages, then continues through additional rolling grassland. The dominant plants in the grassland are Indian ricegrass (*Achnatherum hymenoides*), galleta (*Pleuraphis jamesii*), alkali sacaton (*Sporobolus airoides*), blue grama (*Bouteloua gracilis*), and broom snakeweed (*Gutierrezia sarothrae*) with scattered Greene's rabbitbrush (*Chrysothamnus Greenei*) and four-wing saltbush (*Atriplex canescens*). The dunal areas include sandhill muhly (*Muhlenbergia pungens*), Greene's rabbitbrush, and sand wild-buckwheat (*Eriogonum leptocladon*). The badlands areas include matted saltbush (*Atriplex corrugata*), shadscale (*Atriplex confertifolia*), and alkali sacaton. Russian-thistle (*Salsola tragus*) is present, and sometimes dominant, in all communities.

The project area crosses alternating areas of the Doak-Sheppard-Shiprock association, rolling (DS) and the Huerfano-Muff-Uffens complex, gently sloping (HU) soil units on the mesa top. These units consist of alluvium derived from sandstone or shale, possibly over residuum weathered from shale. The soil texture ranges predominantly from fine sandy loam and loamy fine sand to sandy clay loam and clay loam. When the line drops over the north edge of the mesa it crosses into the Badland soil unit. The escarpment consists of shale bedrock, but the lower plain is overlain with sandy clay loam (NRCS 2013). The underlying bedrock is the Kirtland Fruitland Formation (NMBMGR 2003). The elevation in the project area is approximately 5802 to 6085 feet. Disturbances in the project area include the existing power line; paved, dirt, and two-track roads; nearby structures; and grazing by horses.

METHODOLOGY

The project area was initially surveyed on February 19, 2013, by botanist, Marian Rohman. Subsequently, the proposed line was shifted to the west. On June 17 and 18, 2013, botanists Marian Rohman and Trudi Webster surveyed the new line and intensively surveyed areas of potential San Juan milkweed habitat. The survey of the proposed power line was accomplished by walking a zigzag transect along each side of the centerline, covering the 20-foot width of the corridor and a buffer zone of 200 feet on each side. A 50-foot diameter area around each pole location, plus the buffer zone, was also surveyed. The areas of potential San Juan milkweed habitat were surveyed by

walking parallel transects at 15-foot intervals perpendicular to the proposed line through the corridor and buffer. The emphasis of the corridor surveys was to inspect for the identified species of concern; however, all plants were identified in order to provide a more complete description of the environment. A complete list of the plants observed is included at the end of this report.

SURVEY RESULTS

Species of Interest to the NNHP and USFWS: This report discusses the potential for disturbance to the plant species of concern identified by the NNHP as having the potential to occur on the Hunter Wash, NM, and Tanner Lake, NM, 7.5-minute quadrangles, which contain the boundaries of the project area (Detsoi 2012). Mesa Verde cactus (*Sclerocactus mesae-verdae*) is listed as having the potential to occur in the Hunter Wash, NM, quadrangle and San Juan milkweed (*Asclepias sanjuanensis*) is listed as having potential in both quadrangles (Detsoi 2012). Any wetland conditions also need to be evaluated for the potential for Parish's alkali grass (Detsoi 2012). There are seven species of plants listed by the USFWS for San Juan County, NM, where the project occurs (NMESFO 2013). An eighth species, Zuni fleabane (*Erigeron rhizomatus*), is listed by the USFWS as a Species of Concern, but is not listed as being found in San Juan County. However, the New Mexico Rare Plant Technical Council (NMRPTC), does list this species as occurring in San Juan County (NMRPTC 1999). Details of status, habitat, and the potential to occur in the project area for all of these species are listed in the following table.

SPECIES STATUS	HABITAT	POTENTIAL TO OCCUR IN THE PROJECT AREA
<i>Aliciella formosa</i> Beautiful gilia USFWS Species of Concern NESL Group 4	Salt desert scrub communities in soils of the Nacimiento Formation. Elev. 5000-6400 ft. Blooms April and May (Heil and Herring 1999; Roth 2008).	NP: there is no Nacimiento Formation in the project area.
<i>Asclepias sanjuanensis</i> San Juan milkweed NESL Group 4	Sandy loam soils in open piñon-juniper woodlands and Great Basin grassland communities. Usually found in very open vegetation on or near sand dunes, often in association with sandhill muhly and sand wild-buckwheat. Elev. 5000-6420 ft. Blooms from late April thru early May (Heil and Herring 1999b; Roth 2001a; personal observation).	K: Populations of San Juan milkweed are present in four areas.

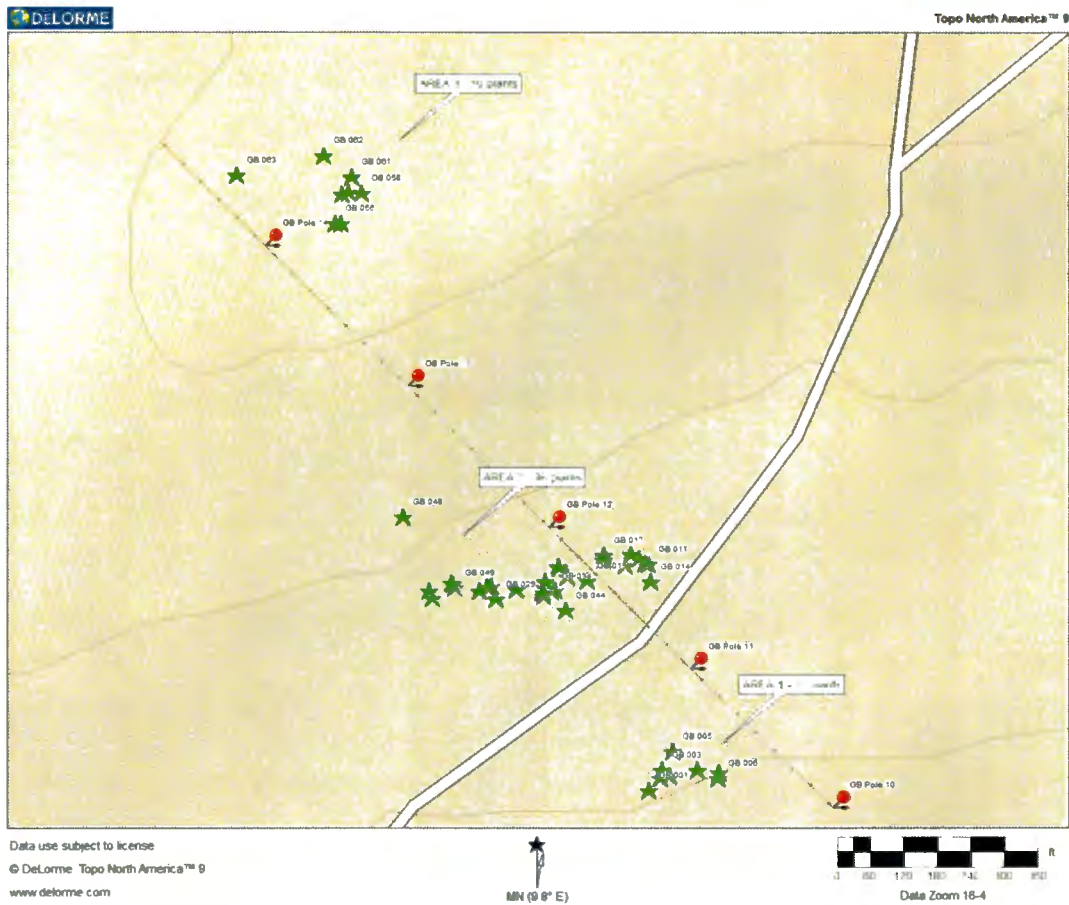
<p><i>Astragalus humillimus</i> Mancos milkvetch</p> <p>USFWS Endangered NESL Group 2</p>	<p>Cracks or eroded depressions on sandstone rimrock ledges and mesa tops in Point Lookout sandstone. Elev. 5000-6000 ft. Blooms late April to early May (McDonald 1999a; Roth 2001a).</p>	<p>NP: there are no sandstone rimrock ledges or mesa tops and no Point Lookout sandstone in the project area.</p>
<p><i>Erigeron bistiensis</i> Bisti fleabane</p> <p>USFWS Species of Concern</p>	<p>Ridge tops and slopes of white- to tan-colored sand derived from the Ojo Alamo Sandstone Formation and Nacimiento Formation in desert shrub-grassland. Blooms May to June (NatureServe 2009). Elev. 6340 ft. (Tonne 1998).</p>	<p>NP: there is no Ojo Alamo Sandstone or Nacimiento Formation in the project area. The project area is well below the known elevation of the species.</p>
<p><i>Erigeron rhizomatus</i> Zuni fleabane</p> <p>USFWS Threatened NESL Group 2</p>	<p>Nearly barren detrital clay hillsides with soils derived from shales of the Chinle or Baca Formations; most often on north- or east-facing slopes in open piñon-juniper woodlands. Elev. 7300-8000 ft. Blooms May and June (McDonald 1999b; Roth 2001b).</p>	<p>NP: there are no barren clay hillsides and no Chinle or Baca Formations in the project area. The project area is well below the elevation range of the species.</p>
<p><i>Pediocactus knowltonii</i> Knowlton cactus</p> <p>USFWS Endangered</p>	<p>On rolling, gravelly hills in a piñon-juniper-sagebrush community. The species is known only from the type locality near the Los Piños River. Elev. 6200-6300 ft. Blooms April and May (McDonald and Ferguson 1999).</p>	<p>NP: there are no rolling gravelly hills or piñon-juniper-sagebrush community in the project area. The project area is below the known elevation range of the species.</p>
<p><i>Puccinellia parishii</i> Parish's alkali grass</p> <p>USFWS Species of Concern NESL Group 4</p>	<p>Alkaline springs, seeps, and seasonally wet areas that occur at the heads of drainages or on gentle slopes. Elev. 5000-7200 ft. on Navajo lands. Blooms May to June (McDonald 1999c; Roth 2001c).</p>	<p>NP: there are no alkaline, seasonally wet areas in the project area.</p>
<p><i>Sclerocactus cloverae</i> ssp. <i>brackii</i> Brack hardwall cactus</p> <p>USFWS Species of Concern NESL Group 4</p>	<p>In desert scrub and scattered juniper communities on sandy clay hills of the Nacimiento Formation at 5000-6000 ft. The community is typically dominated by shadscale. Blooms in May (Roth 2005; Ferguson 1998).</p>	<p>NP: there is no Nacimiento Formation in the project area.</p>

<i>Sclerocactus mesae-verdae</i> Mesa Verde cactus USFWS Threatened NESL Group 2	In sparsely vegetated clay-rich soils derived from the Fruitland and Mancos Shale Formations, frequently on the tops of hills or benches and along slopes. Soil surfaces can have a cover of gravel or cobbles ranging from 0% to 100%. Commonly associated with mat saltbush and Gardner's saltbush. Elev. 4900 to 5500 ft. Blooms late April to May. (McDonald 1999d, Hazelton 2012).	NP: there are no soils from the Fruitland and Mancos Shale Formations. The project area is well above the known elevation range of the species.
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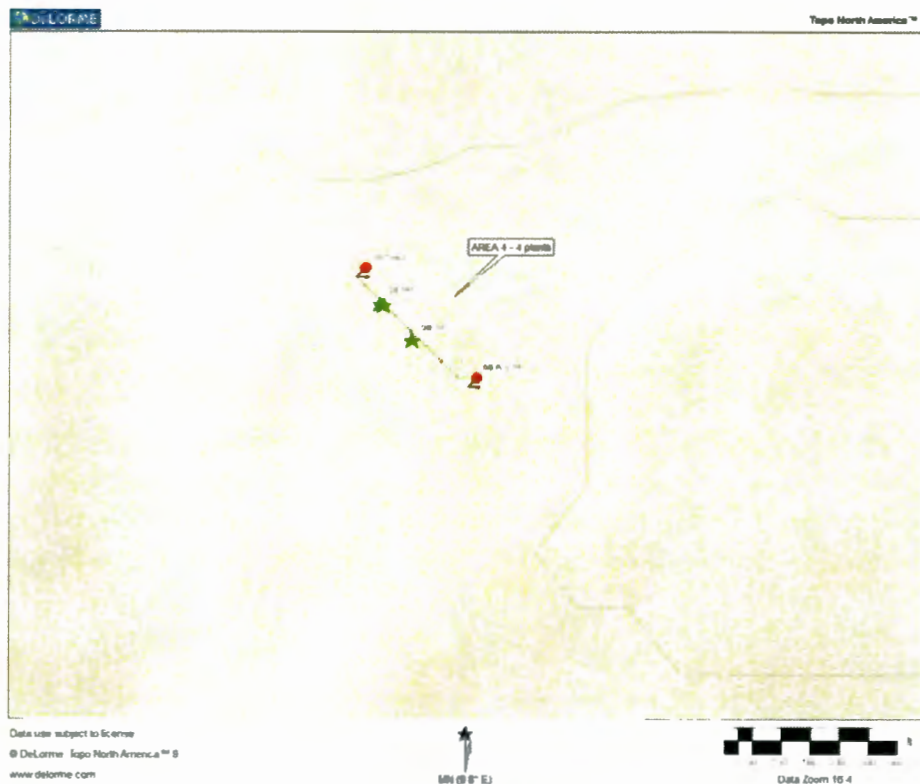
Status	USFWS – United States Fish and Wildlife Service (NMESFO 2013) Endangered - Any species which is in danger of extinction throughout all or a significant portion of its range. Threatened - Any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Species of Concern - Taxa for which further biological research and field study are needed to resolve their conservation status OR are considered sensitive, rare, or declining on lists kept by Natural Heritage Programs, State wildlife agencies, Federal agencies, or professional/academic scientific societies. NESL – Navajo Endangered Species List (NNHP 2008) Group 2 – Endangered: A species or subspecies whose prospects of survival or recruitment are in jeopardy. 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	
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	

There are four areas of San Juan milkweed in the project area. All are on low, semi-stabilized sand dunes on the mesa top.

- Area 1 is located between Poles 10 and 11. Eleven plants were observed 99–210 feet southwest of the centerline. The closest plants to the poles are 214 feet from Pole 10 and 155 feet from Pole 11.
- Area 2 is located approximately 300 feet northwest of Area 1 between Poles 11 and 12. It consists of 96 observed plants ranging from 210 feet southwest to 75 feet northeast of the centerline. There are no plants in the corridor, though several are nearby. Additional plants were observed outside of the buffer to the southwest. The closest plants to the poles are 174 feet from Pole 11, and 80 feet from Pole 12.
- Area 3 is located approximately 540 feet northwest of Area 2, in the area of Pole 14. It consists of ten plants that are 50–200 feet northeast of the centerline. The closest plants to the pole are 130 feet.
- Area 4 is located approximately 4,030 feet northwest of Area 3, near the edge of the mesa. It is between Poles 26 and 27 and consists of four plants 2 – 15 feet southwest of the centerline. Two of the plants are in the corridor. The closest plants to the poles are 78 feet from Pole 27, and 153 feet from Pole 26.



Areas 1, 2, 3 of San Juan Milkweed in the Project Area



Area 4 of San Juan Milkweed in the Project Area

Noxious weeds: The Bureau of Indian Affairs lists three species of noxious weeds as potential invaders and fourteen species as new invaders on the Navajo Reservation (OSM 1999). One of these species, halogeton (*Halogeton glomeratus*), was observed in the project area. Halogeton is a Priority B species, indicating that it is a new noxious weed known to have invaded isolated locales on the reservation. Emphasis is placed on immediate control, prevention of seed spread, and eradication. Education, awareness, identification, control, and monitoring are the priorities. There are four concentrations of this noxious weed: at N36.187424 W108.227390 near the beginning of the line; at N36.205853 W108.248672 near the edge of the mesa; at N36.208712 W108.249681 at the base of the mesa; and at N36.210018 W108.249961 below the mesa.

DISCUSSION AND RECOMMENDATIONS

Four areas of San Juan milkweed were found in the project area. San Juan milkweed is in Group 4 on the Navajo Endangered Species List, indicating that the NNHP does not currently have sufficient information to support the species being listed as endangered, but has reason to consider it (NNHP 2008).

The proposed project consists of placing power poles and stringing line between them. The only actual ground disturbance will be at the poles. The 20-foot-wide corridor will be used for travel and pulling the lines.

- Area 1 is located between Poles 10 and 11. Eleven plants were observed 99 – 210 feet southwest of the centerline. The closest that the plants occur to the poles is 214 feet from Pole 10 and 155 feet from Pole 11. **It is recommended that no action be taken.** The plants should be far enough away from the disturbance that no damage should occur to the population.
- Area 2 is located approximately 300 feet northwest of Area 1 between Poles 11 and 12. It consists of 96 observed plants ranging from 210 feet southwest of the corridor to 75 feet northeast of the centerline. There are no plants in the corridor, though several are nearby. Additional plants were observed outside the buffer to the southwest. The closest that the plants occur to the poles is 174 feet from Pole 11 and 80 feet from Pole 12. **It is recommended that the corridor be fenced on both sides, from Pole 12 southeast for 250 feet through the population, being sure that fence placement is done from within the corridor. It is also recommended that a monitor should be present during any ground-disturbing activities in this area.** This will protect the plants on both sides of the corridor from accidental disturbance. No plants will be lost.
- Area 3 is located approximately 540 feet northwest of Area 2 in the area of Pole 14. It consists of ten plants that are 50 – 200 feet northeast of the centerline. The closest that a plant occurs to the pole is 130 feet. **It is recommended that no action be taken.** The plants should be far enough from corridor traffic and pole placement to avoid disturbance. No plants will be lost.
- Area 4 is located approximately 4,030 feet northwest of Area 3 near the edge of the mesa. It is between Poles 26 and 27, and consists of four plants 2–15 feet southwest of the centerline. Two of the plants are in the corridor. The closest that the plants occur to the poles is 78 feet from Pole 27 and 153 feet from Pole 26. **It is recommended that no action be taken.** Two plants may be lost.

To summarize, the only recommended actions are that fencing be placed on both sides of the corridor, from Pole 12 to the southeast for 250 feet, and that a monitor be present during ground-disturbing activities to protect San Juan milkweed in Area 2. Andrea Hazelton, Botanist with the NNHP, has been consulted and agrees with these recommendations (Hazelton 2013b).

No other plant species of concern to the NNHP or the USFWS will be impacted by the proposed project.

Signature of Author:


Marian J. Rohman

July 17, 2013

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PLANTS OF THE PROPOSED GLEASON BRIDGE POWER LINE PROJECT

Scientific and common names according to Allred, 2007

Identifications based on Ivey 2008 and Weber and Wittman 2012.

Shrubs

<i>Artemisia bigelovii</i>	Bigelow's sagebrush
<i>Artemisia filifolia</i>	Sand sage
<i>Atriplex canescens</i>	Four-wing saltbush
<i>Atriplex confertifolia</i>	Shadscale
<i>Atriplex corrugata</i>	Matted saltbush
<i>Atriplex gardneri</i> var. <i>cuneata</i>	Valley saltbush
<i>Chrysothamnus Greenei</i>	Greene's rabbitbrush
<i>Ephedra cutleri</i>	Cutler's ephedra
<i>Ephedra torreyana</i> var. <i>torreyana</i>	Torrey's ephedra
<i>Ericameria nauseosa</i> var. unknown	Rubber rabbitbrush
<i>Ericameria nauseosa</i> var. <i>bigelovii</i>	Bigelow's rabbitbrush
<i>Eriogonum leptocladon</i>	Sand wild-buckwheat
<i>Eriogonum leptophyllum</i>	Slender-leaf wild-buckwheat
<i>Gutierrezia sarothrae</i>	Broom snakeweed
<i>Isocoma tenuisecta</i>	Burroweed
<i>Krascheninnikovia lanata</i>	Winterfat
<i>Lycium pallidum</i>	Pale wolfberry
<i>Sarcobatus vermiculatus</i>	Greasewood
<i>Suaeda nigra</i>	Shrubby seepweed
<i>Yucca</i> sp.	Narrow-leaf yucca

Cacti

<i>Cylindropuntia whipplei</i>	Whipple's cholla
<i>Opuntia polyacantha</i>	Starvation prickly-pear
<i>Sclerocactus parviflorus</i> ssp. <i>intermedius</i>	Small-flower fish-hook cactus

Grasses

<i>Achnatherum hymenoides</i>	Indian ricegrass
<i>Aristida purpurea</i> var. <i>longiseta</i>	Red threeawn
<i>Aristida purpurea</i> var. <i>purpurea</i>	Purple threeawn
<i>Bouteloua gracilis</i>	Blue grama
<i>Bromus tectorum</i>	Cheatgrass
<i>Elymus elymoides</i>	Bottlebrush squirreltail
<i>Muhlenbergia pungens</i>	Sandhill muhly
<i>Pleuraphis jamesii</i>	Galleta
<i>Sporobolus airoides</i>	Alkali sacaton
<i>Sporobolus contractus</i>	Spike dropseed
<i>Sporobolus cryptandrus</i>	Sand dropseed

Forbs

<i>Abronia fragrans</i>	Fragrant sand-verbena
<i>Aliciella haydenii</i>	San Juan gilia
<i>Ambrosia</i> sp.	Ragweed
<i>Androstephium brevifolium</i>	Pink funnel-lily
<i>Asclepias sanjuanensis</i>	San Juan milkweed
<i>Astragalus</i> sp.	Milkvetch
<i>Astragalus fucatus</i>	Hopi milkvetch
<i>Atriplex</i> prob. <i>saccaria</i>	Orache
<i>Chaetopappa ericoides</i>	Sand aster
<i>Chamaesyce fendleri</i>	Fendler's spurge
<i>Chenopodium album</i>	Lambs quarter
<i>Chenopodium leptophyllum</i>	Narrowleaf goosefoot
<i>Cryptantha crassiseppala</i> var. <i>crassiseppala</i>	Thick-sepal cat's-eye
<i>Dalea</i> sp.	Prairieclover
<i>Descurainia pinnata</i>	Western tansy-mustard
<i>Dieteria canescens</i>	Sand daisy
<i>Eriogonum divaricatum</i>	Divergent wild-buckwheat
<i>Grindelia squarrosa</i>	Curly-cup gumweede
<i>Halogeton glomeratus</i>	Halogeton
<i>Kochia scoparia</i>	Mexican fire-weed
<i>Lupinus pusillus</i>	Rusty lupine
<i>Lygodesmia grandiflora</i>	Rush pink
<i>Melilotus</i> sp.	Sweet-clover
<i>Mentzelia albicaulis</i>	Whitestem blazingstar
<i>Mentzelia multiflora</i>	Adonis blazingstar
<i>Penstemon angustifolius</i> var. <i>caudatus</i>	Narrow-leaf beardtongue
<i>Phacelia crenulata</i>	Notched scorpion-weed
<i>Plantago patagonica</i>	Wooly plantain
<i>Platyschekuhria integrifolia</i> var. <i>oblongifolia</i>	Basin-daisy
<i>Pomaria jamesii</i>	James' hog-potato

Rumex hymenosepalus
Salsola tragus
Sphaeralcea parvifolia
Stanleya pinnata var. *pinnata*
Stephanomeria exigua

Canaigre
Russian-thistle
Small-leaf globemallow
Prince's-plume
Twiggy wire-lettuce

CULTURAL RESOURCES COMPLIANCE FORM

THE NAVAJO NATION
HISTORIC PRESERVATION DEPARTMENT
PO BOX 4950
WINDOW ROCK, ARIZONA 86515

ROUTE COPIES TO:

☒ CASA

NNHPD NO. **HPD-13-396 - REVISED**
OTHER PROJECT NO.: CASA 13-23

PROJECT TITLE: Cultural Resource Inventory, Jemez Mountains Electrical Cooperative, Inc.'s Gleason Bridge 1 Phase Powerline, White Rock Chapter, San Juan County, New Mexico

LEAD AGENCY: BIA/NR

SPONSOR: Brian Woods, Permits West, 37 Verano Loop, Santa Fe, New Mexico 87508

PROJECT DESCRIPTION: The proposed undertaking will involve the construction of 15,863.54-ft of powerline to serve homes in White Rock Chapter community. 5,744.52-ft of powerline will be on Tribal Trust land; 5,589.87-ft on Allotted Land; 4,529.15-ft on PLO 2198 Land. A 150-ft wide ROW corridor was surveyed for the 20-ft wide ROW with additional ROW required for guy wire anchors, and surface disturbance. The area of effect is 7.494-acres. Ground disturbance will be intensive and extensive with the use of heavy equipment.

LAND STATUS: Navajo Tribal Trust, Allotment, PLO 2198

CHAPTER: White Rock

LOCATION: T.23N, R.13W - Sec: 20, 28, 29 & 33; Tanner Lake & Hunter Wash Quadrangles, San Juan County, New Mexico NMPM

PROJECT ARCHAEOLOGIST: Mary Errickson
NAVAJO ANTIQUITIES PERMIT NO.: B13251

DATE INSPECTED: 05/10/13 - 05/14/13

DATE OF REPORT: 05/17/13

TOTAL ACREAGE INSPECTED: 54.729 - ac.

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) 871-7147.

FORM PREPARED BY: Tamara Billie
FINALIZED: September 16, 2013 - Revised

Notification to

Proceed Recommended:

Yes ☒ No ☐

Conditions:

Yes ☐ No ☒



Navajo Nation
Tribal Historic Preservation Officer

Date

9/16/13

Navajo Region Approval:

Yes ☒ No ☐



BIA-Regional Director

Date

9/23/13

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.: Gleason Bridge Power Line Extension

DESCRIPTION: JMEC proposes to construct, operate, and maintain a 14.4kV single-phase power line 15,863.54 ft. in length within a 20-ft. wide right-of-way. Total disturbance for the proposed project would be 7.494 acres.

LOCATION: 35 miles S of Farmington, Sections 20, 28, 29, & 33, T23N, R13W, San Juan County, New Mexico

REPRESENTATIVE: Kitty Wood, Permits West, Inc.

ACTION AGENCY: Jemez Mountains Electric Cooperative, Inc. (JMEC)

B.R. REPORT TITLE / DATE / PREPARER: Gleason Bridge Power Line, Appx. 3 & 4/27 NOV 2013/Permits West, Inc.

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3. The project is within an RSA. ASSA is present in 4 locations.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: [1] *Buteo regalis* (Ferruginous Hawk), G3, MBTA; [2] *Asclepias sanjuanensis* (San Juan Milkweed), G4.

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: [1] The NNDFW does not concur with the migratory bird breeding season in Section 7.0, Appx. 3. The NNDFW recommends that power line construction avoids the migratory bird breeding season of 01 MAR-15 AUG for both ground and burrow-nesting birds. Before ROW approval, the NNDFW recommends that Permits West amends the EA with a breeding season of 01 MAR-15 AUG.

CONDITIONS OF COMPLIANCE*: [1] The proposed power line is located within a Raptor Sensitive Area (RSA). The power line shall be constructed with a raptor-safe power pole design per Raptor Electrocution Prevention Regulations (REPR). All guy wires shall be marked with highly visual daytime markers to prevent collisions within the RSA; [2] Power line construction activity shall avoid the Migratory Bird breeding season of 01 MAR -15 AUG or surveys shall precede construction activity; [3] Mitigation measures in Section 3.11.2.2 shall be followed during construction and maintenance of the power line.

FORM PREPARED BY / DATE: Pamela A. Kyselka/29 JAN 2014

COPIES TO: (add categories as necessary)



BIA



2 NTC § 164 Recommendation:

Signature

Date

☐ Approval

☒ Conditional Approval (with memo)

☐ Disapproval (with memo)

☐ Categorical Exclusion (with request letter)

☐ None (with memo)

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

*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



PRESIDENT
BEN SHELLY
VICE PRESIDENT
REX LEE JIM

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

29 January 2014

12PERM-23

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

Dear Mrs. Wood,

The Navajo Nation Department of Fish and Wildlife (NNDFW) reviewed the Environmental Assessment for Jemez Mountain Electric Cooperative, Inc's proposed **Gleason Bridge** power line project located approximately 35 miles south of Farmington, New Mexico. The purpose of this letter is to inform you that we are granting the proposed project a Conditional Approval. The project is approved with the following conditions:

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

[2] Power line construction activity shall avoid the Migratory Bird breeding season of 01 MAR - 15 AUG or surveys shall precede construction activity.

[3] Mitigation measures in Section 3.11.2.2 shall be followed during construction and maintenance of the power line.

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

Sincerely,

Pamela A. Kyselka, Wildlife Biologist
Navajo Natural Heritage Program
Department of Fish and Wildlife

CONCURRENCE

Gloria Tom, Director
Department of Fish and Wildlife

Date

xc: CONS-100-14
 BIA



PERMITS WEST, INC.

PROVIDING PERMITS for LAND USERS

37 Verano Loop, Santa Fe, NM 87508 (505) 466-8120

June 2, 2014

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

Dear Esther:

On March 19, 2014 I requested a field clearance based on a preliminary plat we obtained from Jemez Mountains Electric's engineering firm. That plat had 4,529.15 acres of land listed as PLO (Public Land Order) land, so I did not include that in the field clearance request. We have since learned this designation was incorrect and these acres are Tribal Trust. Consequently, attached is a revised field clearance request with the new land status and acreage amounts.

According to my GIS mapping of the area, this revised request should not affect the grazing allotments, and therefore the grazing allottees who would be required to give their consent.

Please let me know if you have any questions.

Sincerely,



Mike Deutsch
Project Manager

Document No. 005808Date Issued: 04/15/2016**EXECUTIVE OFFICIAL REVIEW**Title of Document: JMEC, Amend ROW Res No.RDCJN-27-15 Contact Name: DRAPER, HOWARDProgram/Division: DIVISION OF NATURAL RESOURCESEmail: howarddraper@frontiernet.net Phone Number: 928/871-6447

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

☐ Land Withdrawal or Relinquishment for Commercial Purposes

Sufficient Insufficient

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

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

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

☐ Rights of Way

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

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

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

☐ Assignment of Mineral Lease

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

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

1. NLD *see letter 1/29/14* _____ Date: *4-15-16* ☒ ☐
 2. F&W *see letter 1/29/14* _____ Date: *4/15/16* ☒ ☐
 3. HPD *see letter 1/29/14* _____ Date: *4/18/16* ☒ ☐
 4. Minerals *subject to changes in the Navajo Land Department* _____ Date: *4/20/16* ☒ ☐
 5. NNEPA _____ Date: *4-26-2016* ☒ ☐
 6. DNR *(ic)* _____ Date: *4/24/16* ☒ ☐
 7. DOJ *Robert O. Allen* _____ Date: *5/4/16* ☒ ☐
 8. OPVP *see letter* _____ Date: *5-9-16* ☒ ☐

☐ OTHER:

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



NAVAJO NATION DEPARTMENT OF JUSTICE


DOCUMENT REVIEW REQUEST FORM

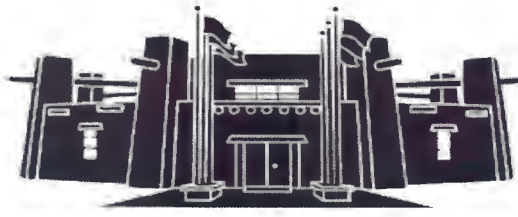


DOJ	
05/03/16 @ 1030a	
DATE / TIME	
<input type="checkbox"/> 7 Day Deadline	
DOC #:	005808
SAS #:	
UNIT:	NRU

☐ RESUBMITTAL

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

CLIENT TO COMPLETE			
DATE OF REQUEST: May 3, 2016		ENTITY/DIVISION: DNR	
CONTACT NAME: Kayla Pina		DEPARTMENT: Navajo Land Dept.	
PHONE NUMBER: X6447		E-MAIL: klpina@navajo-cnm	
TITLE OF DOCUMENT: JMEC, Amend ROW Res. NO. RDCJN-27-15			
DOJ SECRETARY TO COMPLETE			
 DATE/TIME IN UNIT: 5.3.16 10:35 am		REVIEWING ATTORNEY/ADVOCATE: J. H. H. 5.12.16	
DATE/TIME OUT OF UNIT: 5.4.16 5:41 pm			
DOJ ATTORNEY / ADVOCATE COMMENTS			
This is amendment to a ROW since the length of the power line increased. Document is legally sufficient.			
REVIEWED BY: (PRINT)	DATE / TIME	SURNAMED BY: (PRINT)	DATE / TIME
Tamara Hae	5/4/16	Paul Spiller	5/4/16 4:41 PM
DOJ Secretary Called: Kayla Pina		for Document Pick Up on 5.4.16 at 4:41 By: [Signature]	
PICKED UP BY: (PRINT)		DATE / TIME:	



MEMORANDUM

TO: Honorable Jonathan Perry
Becenti, Lake Valley, Nahodishgish, Standing Rock, Whiterock, Huerfano,
Nageezi, Crownpoint Chapters

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

DATE: June 30, 2016

SUBJECT: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION
RELATING TO RESOURCES AND DEVELOPMENT; APPROVING
AMENDMENTS TO THE GRANT OF RIGHT-OF-WAY PREVIOUSLY
APPROVED TO JEMEZ MOUNTAIN ELECTRIC COOPERATIVE, INC. BY
RESOURCES AND DEVELOPMENT COMMITTEE RESOLUTION NO.
RDCJN-27-15 ON NAVAJO NATION TRUST LANDS IN HUERFANO AND
LAKE VALLEY CHAPTERS, NAVAJO NATION (SAN JUAN 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. The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

For your information, Exhibit 5, the Terms and Conditions, have handwritten numbers and it does not have a signature page.. A clean copy of the Terms and Conditions should be made available at the Committee meeting.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0209-16__

SPONSOR: Jonathan Perry

**TITLE: An Action To Resources And Development; Approving Amendments To
The Grant Of Right-Of-Way Previously Approved To Jemez Mountain
Electric Cooperative, Inc. By Resources And Development Committee
Resolution No. RDCJN-27-15 On Navajo Nation Trust Lands In Huerfano
And Lake Valley Chapters, Navajo Nation (San Juan County, New Mexico)**

Date posted: July 5, 2016 at 5:06 PM

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) 871-7586

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

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

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

LEGISLATION NO.: 0209-16

SPONSOR: Honorable Jonathan Perry

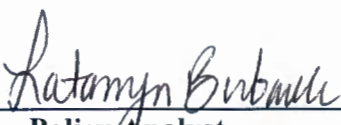
TITLE: An Action Relating To Resources And Development; Approving Amendments To The Grant Of Right-Of-Way Previously Approved To Jemez Mountain Electric Cooperative, Inc. By Resources And Development Committee Resolution No. RDCJN-27-15 On Navajo Nation Trust Lands In Huerfano And Lake Valley Chapters, Navajo Nation (San Juan County, New Mexico).

Posted: July 5, 2016 at 5:06 PM

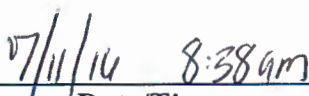
5 DAY Comment Period Ended: July 10, 2016

Digital Comments received:

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



**Policy Analyst
Office of Legislative Services**



Date/Time

**RESOURCES AND DEVELOPMENT COMMITTEE
23rd NAVAJO NATION COUNCIL**

SECOND YEAR 2016

COMMITTEE REPORT

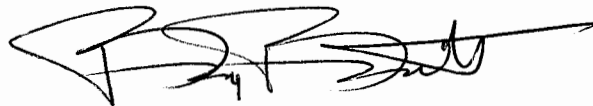
Mr. Speaker,

The **RESOURCES AND DEVELOPMENT COMMITTEE** to whom has been assigned:

Legislation # 0209-16: An Action Relating to Resources and Development; Approving Amendments to the Grant of Right-of-Way Previously Approved to Jemez Mountain Electric Cooperative, Inc., by Resources and Development Committee Resolution No. RDCJN-27-15 on Navajo Nation Trust Lands in Huerfano and Lake Valley Chapters, Navajo Nation (San Juan County, New Mexico) *Sponsor: Honorable Jonathan Perry*

Has had it under consideration and TABLED the matter. Directives to have Agents, DNR-Project Review and Minerals Department to submitted an updated documentation on the lease relative to the minerals assessment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Benjamin Bennett', with a long horizontal flourish extending to the right.

Benjamin Bennett, Vice-Chairperson
Resources and Development Committee
of the 23rd Navajo Nation Council

Date: July 12, 2016
Motion: Honorable Walter Phelps
Second: Honorable Jonathan Perry
Vote: 4-0-1 (CNV)

**RESOURCES AND DEVELOPMENT COMMITTEE
23rd NAVAJO NATION COUNCIL**

SECOND YEAR 2016

COMMITTEE REPORT

Mr. Speaker,

The **RESOURCES AND DEVELOPMENT COMMITTEE** to whom has been assigned:


LEGISLATION # 0209-16: An Action Relating to Resources and Development; Approving Amendments to the Grant of Right of Way Previously Approved to Jemez Mountain Electric Cooperative, Inc., by Resources and Development Committee Resolution No. RDCJN-27-15 on Navajo Nation Trust Lands in Huerfano and Lake Valley Chapters, Navajo Nation (San Juan County, New Mexico). *Sponsor: Honorable Jonathan Perry*

Has had it under consideration and report the same with a recommendation of a DO PASS with the following amendments

Extract Exhibit "5" entitled "Exhibit "E" – Navajo Nation Terms and Conditions for Right-of-Way (ROW) and replaced it with the attached corrected copy of the "Exhibit "E" to be marked as Exhibit "5".

and thereafter approved the legislation.

Respectfully submitted,



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

Date: July 26, 2016

Main Motion: Leonard Pete

Second: Walter Phelps

Vote: 5-0-1 (CNV)

AMENDMENT Motion: Honorable Walter Phelps

Second: Honorable Benjamin Bennett

Vote: 3-0-1 (CNV)

July 12, 2016

Motion to Table: Walter Phelps

Second: Jonathan Perry

Vote: 4-0-1 (CNV)



EXHIBIT "E"

NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS

Jemez Mountain Electric Cooperative, Inc. (GRANTEE)
(Gleason Bridge at Huerfano and White Rock Chapters, New Mexico)

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 \$74,989.20 for the 20 year ROW term. The Navajo Nation contributes this amount to the project because the project will benefit Navajo residents. Commercial use of the right-of-way shall require the written approval of the Navajo Nation and the consideration shall be paid.
3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of constructing, operating and maintaining electrical distribution 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 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.