

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

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF RIGHT-OF-WAY TO CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC., LOCATED ON NAVAJO NATION TRUST LANDS IN BAAHAALI CHAPTER, NAVAJO NATION TRUST LANDS IN BAAHAALI CHAPTER, NAVAJO NATION (MCKINLEY COUNTY, NEW MEXICO)

BE IT ENACTED:

SECTION ONE. AUTHORITY

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

SECTION TWO. FINDINGS

A. Continental Divide Electric Cooperative, Inc., has submitted a right-of-way (ROW) application for a single phase 14.4 kV power line extension to the home of Christine Tsosie, on, over and across Navajo Nation Trust Lands in Baahaali Chapter vicinity, McKinley County, New Mexico. The application requests is attached hereto and incorporated as **Exhibit A.**"

B. The proposed right-of-way is 9,201.92 feet long, 20 feet wide, consisting of 4.22 acres, more or less, and located in Sections 11 & 14, T13N, R18W, McKinley County, New Mexico. A map is attached hereto and incorporated herein as **Exhibit "B."**

C. The Project Review Section with the Navajo Land Department identified one land user. The Project Review Section memorandum dated July 15, 2016 and the user consent are attached hereto as **Exhibit "C."**

D. A waiver of consideration is requested. The right-of-way project would serve a public purpose because the project will benefit Navajo residents.

E. The environmental and archaeological studies has been completed and attached hereto and made a part hereof.

SECTION THREE. APPROVAL

A. The Resources and Development Committee of the Navajo Nation Council hereby approves the Grant of Right-of-Way to Continental Divide Electric Cooperative, Inc., on, over and across Navajo Nation Trust Lands to Baahaali Chapter vicinity, McKinley County, New Mexico. The location is more particularly described on the survey map attached hereto as **Exhibit "B."**

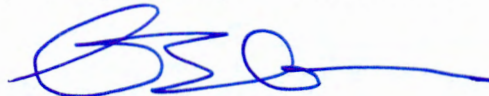
B. The Resources and Development Committee of the Navajo Nation Council hereby waives consideration for the right-of-way because the project will benefit Navajo residents.

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

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

CERTIFICATION

I, hereby, certify that the 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 Administrative Complex, (Navajo Nation) Tse Bonito, New Mexico, at which quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, 1 abstained this 27th day of December, 2016.



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

Motion: Honorable Davis Filfred
Second: Honorable Benjamin Bennett

Document No. 006737Date Issued: 09/14/2016**EXECUTIVE OFFICIAL REVIEW**Title of Document: CDEC ROW Powerline Ext C.Tsosie Contact Name: DRAPER, HOWARDProgram/Division: DIVISION OF NATURAL RESOURCESEmail: howarddraper@frontiernet.net Phone Number: 928/871-6447☐ **Business Site Lease** Sufficient Insufficient

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

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

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

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

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

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

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

☐ **Lease Purchase Agreements**

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

☐ **Grant Applications**

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

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

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

☐ **Relinquishment of Navajo Membership**

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

☐ **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)**

mo
1. NLD _____ Date: 9/14/16 ☒ ☐
2. F&W _____ Date: 11/17/16 ☐ ☐
3. HPD _____ Date: 11/18/16 ☒ ☐
4. Minerals _____ Date: 11/18/16 ☒ ☐
5. NNEPA _____ Date: 11/18/16 ☒ ☐
6. DNR _____ Date: 11/18/16 ☒ ☐
7. DOJ (ic) _____ Date: 11/22/16 ☒ ☐
8. OPVP _____ Date: 12-3-16 ☒ ☐
msc

☐ **OTHER:**

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



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



DOJ	
11-18-16	332pm
DATE / TIME	
<input type="checkbox"/> 7 Day Deadline	
DOC #:	006737
SAS #:	
UNIT:	Nm

☐ RESUBMITTAL

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

CLIENT TO COMPLETE

DATE OF REQUEST: 11-8-16 ENTITY/DIVISION: Natural Resources
 CONTACT NAME: Kayla Bia DEPARTMENT: Navajo Land Dept.
 PHONE NUMBER: X6447 E-MAIL: klbia@navajo.org
 TITLE OF DOCUMENT: CDEC ROW Powerline Extension for Christine Tsosie

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 11-18-16 REVIEWING ATTORNEY/ADVOCATE: Juvin Chee
4:10p 12.1.16
 DATE/TIME OUT OF UNIT: 11-23-16 @ 8:40am By: [Signature]

DOJ ATTORNEY / ADVOCATE COMMENTS

Replaced Terms & Conditions w/ Standard Terms & Conditions. Doc is now legally sufficient.

REVIEWED BY: (PRINT)	DATE / TIME	SURNAMED BY: (PRINT)	DATE / TIME
<u>Imme</u>	<u>11-21-16</u>	<u>UBJ</u>	<u>11/22/16 4:20pm</u>

DOJ Secretary Called: Kayla Bia for Document Pick Up on 11-22-16 at 4pm By: [Signature]

PICKED UP BY: (PRINT) DATE / TIME:

COMPLETED




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: October 4, 2016

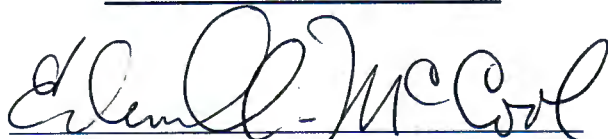
SUBJECT: **STANDING DELEGATION OF AUTHORITY**

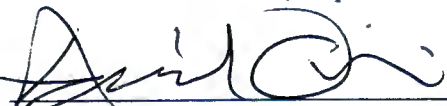
Please be advised the personnel listed below, in order of succession, will be delegated, authority to act in the capacity of the Acting Assistant Attorney General, Natural Resources Unit during my absence from the office. Also, please be advised the personnel listed below, in order of succession, will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

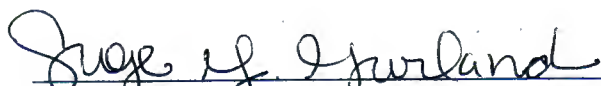
The authorized delegation will include all routine duties of the Assistant Attorney General, Natural Resources Unit. Any matters regarding personnel issues will be held for my review/decision upon my return. This Standing Delegation of Authority supersedes all delegations.

Thank you for your cooperation.

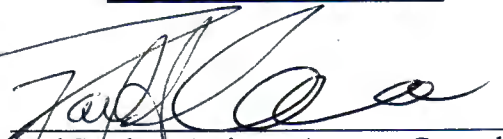
ADMINISTRATIVE REVIEW


Edward McCool, Attorney
Natural Resources Unit, Department of Justice



April Quinn, Attorney
Natural Resources Unit, Department of Justice


Sage Garland, 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 B. Johnson, Acting Asst. Attorney General
Economic/Community Development Unit, DOJ




THE NAVAJO NATION

RUSSELL BEGAYE
JONATHAN NEZ

MEMORANDUM

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

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

DATE : November 17, 2016

SUBJECT : DELEGATION OF AUTHORITY

I will be on leave and I am hereby delegating you to act in the capacity of the Director, Department of Fish and Wildlife, effective 8:00 am on Thursday, November 17, 2016. This delegation shall end at 5:00 p.m. on Thursday, November 17, 2016.

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

ACKNOWLEDGEMENT:


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

xc: Bidtah Becker, Executive Director, DNR

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

RIGHT-OF-WAY APPLICATION

NAVAJO TRIBAL TRUST LAND DESCRIPTION: Section 11 & 14, T13N, R18W, NMPM McKinley Cty. NM

COMES NOW THE APPLICANT Continental Divide Electric Cooperative, Inc. of this 25 day of APRIL, 2016, 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. 17; 25 USC 323-328), and Departmental Regulations 25 CFR 169, an application of a 50 (term of years) right-of-way for the following purposes and reasons:

Construction, Operation, and Maintenance of 14.4 kv Electrical Distribution Line for Christine Tsosie, Work Order #84296

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

Section 11 & 14, T13N, R18W, NMPM McKinley County New Mexico

Said right-of-way across Navajo Tribal Trust Land to be approximately 9,201.92' in length, 20' in width, and 4.22 in acres, as shown on attached map 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 is 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:

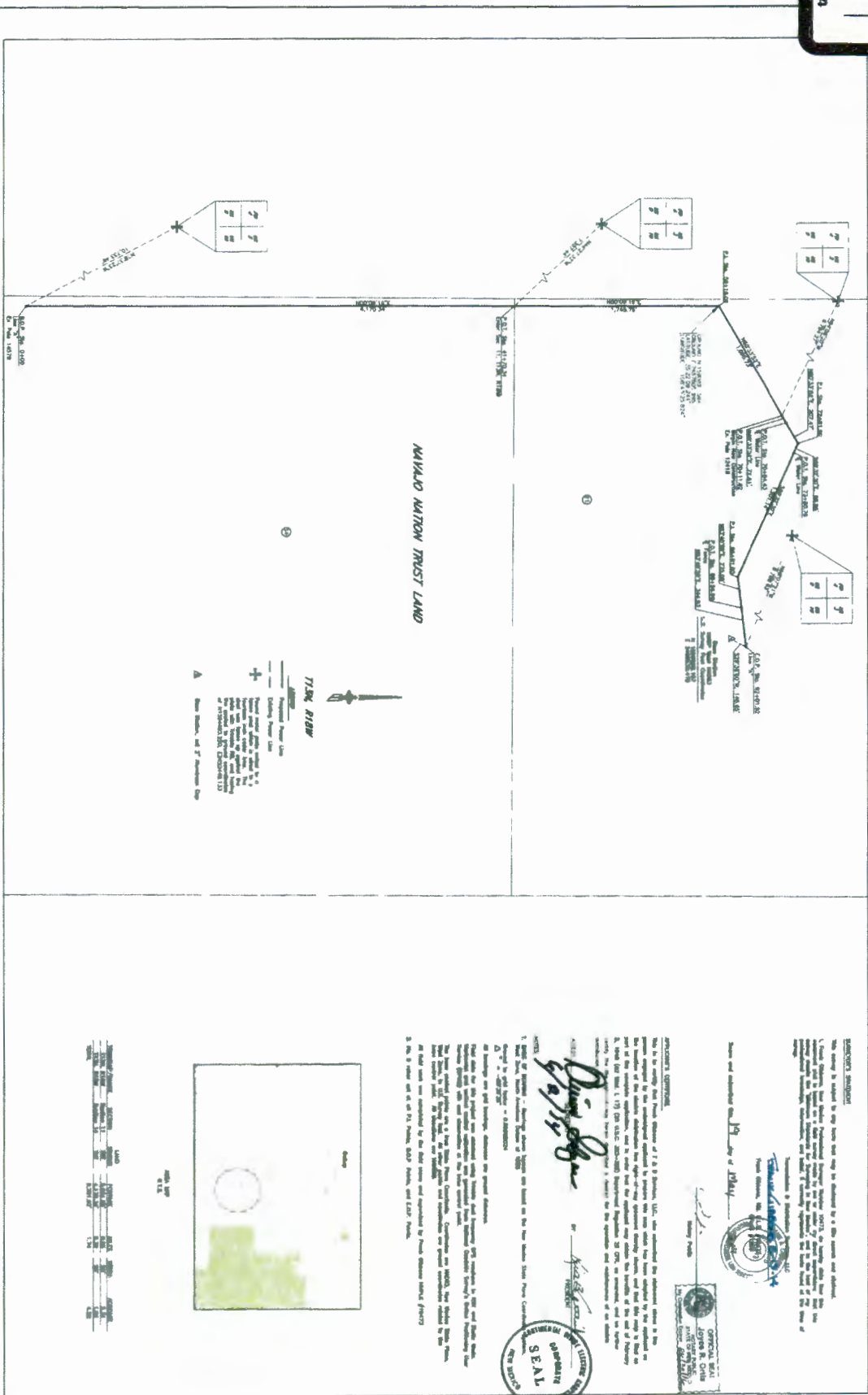
To conform and to abide by all applicable requirements with respect to the right-of-way herein applied for. The applicant agrees to conform to and abide by the rules, regulations, and requirements contained in the *Code of Federal Regulations*, Title 25 Indians, Part 169, as amended, and by reference 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 April 25, 2016

APPLICANT Continental Divide Electric Cooperative, Inc.
Debbie Olivar 

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)
5. () For corporation or business, requirements of 25 CFR 169.4 and 169.5 (unless previously filed):
 - () a. State certified copy of corporate charter or articles of Incorporation.
 - () b. Certified copy of corporate resolution, by-laws, articles of partnership or association authorizing signatory to file the application.



APPROXIMATE 1000 7.5 AC. CROWN PRODUCTION, INC.
 1000 7.5 AC. CROWN PRODUCTION, INC.
 1000 7.5 AC. CROWN PRODUCTION, INC.

SCALE:
 1 INCH = 400 FEET



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

GRANTS, NM

DATE: 5/15/14

PROJECT: NEW MEXICO 22 MCKINLEY

WORK ORDER NUMBER: 54205

CHRISTINE TSOSIE
 POWER LINE EXTENSION
 PERMIT MAP 1 OF 1

STATE: NM

COUNTY: DEWAL

MCKINLEY

THIS MAP IS SUBJECT TO ANY AND ALL CHANGES THAT MAY BE MADE BY THE SURVEYOR AND THE ENGINEER.
 THE SURVEYOR AND THE ENGINEER ARE NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS MAP.
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THE NAVAJO NATION

Navajo Land Department

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



MEMORANDUM

TO : Elerina Yazzie, Supervisor
Project Review Section, NLD

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

DATE : July 15, 2016

SUBJECT: CDEC CTsosie Power Line Extension Project

Continental Divide Electric Cooperative, Inc., of Post Office Box 1087, Grants, New Mexico 87020, submitted an application for right of way to construct, operate and maintain a single phase distribution line to serve Christine Tsosie residence on Navajo Trust Lands near the vicinity of Baahaali Chapter.

The right of way will be 9,201.92 feet in length, 20 feet in width, 4.22 acres, in Sections 11 & 14, T13N, R18W, NMPM, McKinley County, New Mexico.

The proposed project is District 16, Red Rock Range Unit 24, permitted to Christine Tsosie for grazing. I informed the affected grazing permittee on the proposed project and she had no objection. I obtained the grazing permittees consent along with the concurrence of the District 16 Land Board member, Emery Chee.

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

cc: Project file

CONSENT 3
(Waiver of compensation for damages)

CONSENT TO USE
NAVAJO TRIBAL LANDS

TO WHOM IT MAY CONCERN:

I, Christine Tsosie, hereby grant consent to the Navajo Tribe and the Bureau of Indian Affairs to permit Continental Divide Electric Cooperative, Inc., Post Office Box 1087, Grants, New Mexico 87020, to use a portion of my land use area for the following purpose Right of way to construct, operate and maintain approximately 9,201.91 feet 14.4kV electrical distribution line to serve Christine Tsosie residence on Navajo Trust lands in Section 11 & 14, T13N, R18W, NMPM, McKinley 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:

7/8/16 X Christine Tsosie _____ Red Rock
Date Land User Signature (or Thumbprint) Census No. Permit No.

WITNESS: _____

7.11.16 Emery Q 16
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)

E. P. Kee
Field Agent Signature



EXHIBIT "D"

NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS Continental Divide Electric Cooperative, Inc. (GRANTEE) (Single phase 14.4 kV power line extension to the home of Christine Tsosie)

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 the Interior.
2. Consideration for the right-of-way is assessed at \$60,839.14, and shall be paid in full to the Controller of the Navajo Nation, in lawful money of the United States, and a copy of the receipt for such payment provide to the Navajo Nation Minerals Department, or its successor, within ____ days of approval of and consent to the grant of the right-of-way by the Navajo Nation.

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

3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of constructing and maintaining single phase 14.4 kV power line extension to the home of Christine Tsosie. The Grantee may not develop, use or occupy the right-of-way for any other purpose, now 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.

EXHIBIT "D"

NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS:

Continental Divide Electric Cooperative, Inc. (GRANTEE)

(Single phase 14.4 kV power line extension to the home of Christine Tsosie)

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 the Interior.
2. Consideration for the use of land covered by this right-of-way is assessed at \$60,839.14, which shall be the Navajo Nation's contribution to the project, since it will benefit Navajo resident(s) by providing them with the much-needed utilities across the Navajo Nation.

If the right-of-way consideration is waived by the Resources and Development Committee of the Navajo Nation Council and any portion of the right-of-way is used for commercial operation(s), the Navajo Nation's consideration shall be assessed and paid by the Grantee for that portion of the line which is used for commercial operation(s).

3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of constructing and maintaining [Overhead and Underground Electric, Water, Sewer, Natural Gas Distribution Lines, Service Taps, Transmission Lines, Substation Tracts, Office Tracts, Well/Storage Tanks/Watering Point Tracts, Communication Tracts, and Fiber Optic Cable]. 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.

If the right-of-way is for a power line, then the maximum capacity of the power line shall be 14.4 kilovolts (kV). Once constructed, the capacity of the power line, whether expressed in terms of watts, volts, amperes, and ohms or otherwise, shall not be increased without the prior written consent of the Navajo Nation. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation.

4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all 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 operation 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 Law, 5 N.N.C. §§ 201 et seq.; and
 - d. The Navajo Nation Water Code, 22 N.N.C. §§ 1101 et seq. Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
- 5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.
 - 6. The Grantee shall clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during any surface disturbance activities.
 - 7. The Grantee shall reclaim all surface lands disturbed related to the right-of-way, as outlined in a restoration and revegetation plan, which shall be approved by NNEPA prior to any surface disturbance. The Grantee shall comply with all provisions of such restoration and revegetation plan and shall notify the Director of the NNEPA immediately upon completion of the surface disturbance activities so that a site inspection 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, land users and occupants, against any liability for loss of life, personal injury and property damage arising from the development, use or occupancy or use of the right-of-way by the Grantee.
 - 12. The Grantee shall not sublet, assign, convey or transfer, in any manner whatsoever, the right-of-way or any interest therein, or in or to any of the improvements on the land subject to the right-of-way, 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 in part by the Navajo Nation for any of the following causes:
 - a. Failure to comply with any terms or conditions of the grant or of applicable laws or regulations;

- b. A non-use of the right-of-way for the purpose for which it is granted for a consecutive two year period;
 - c. An abandonment of the right-of-way;
 - d. The use of land subject to the right-of-way for any purpose inconsistent with the purpose for which the right-of-way is granted.
- 14. At the termination of this right-of-way, the Grantee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. Upon the written request of the Navajo Nation, the Grantee shall provide the Navajo Nation, at the Grantee's sole cost and expense, with an environmental audit assessment of the premises at least sixty (60) days prior to delivery of the 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 hereon.
 - 16. The Navajo Nation and the Secretary shall have the right, at any reasonable time during the term of the right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any improvements located thereon.
 - 17. By acceptance of the grant of the 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 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 of the Navajo people) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision shall be construed to negate or impair federal responsibilities with respect to the land subject to the right-of-way or to the Navajo Nation.
 - 19. Any action or claim brought against the Navajo Nation arising out of injury to person or property (tort) shall only be heard in the Courts of the Navajo Nation and not in any state court.
 - 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 remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.
24. The Grantee shall construct the power line in accordance with "Suggested Practices for Raptor Protection on Power Lines: State of the Art in 2006".

ARCHAEOLOGICAL INVENTORY REPORT DOCUMENTATION PAGE (HPD 2010)

1. HPD REPORT NO.:											
2. TITLE OF REPORT: A Cultural Resource Inventory of the Christine Tsosie Powerline Extension, Baahaali Chapter, McKinley County, New Mexico AUTHOR(S): Denise R.E. Copeland	3. FIELDWORK DATE(S): March 13, 2014										
	4. REPORT DATE(S): June 17 and September 8, 2014										
5. CONSULTANT NAME AND ADDRESS: Gen. Charge: Denise R.E. Copeland, Principal Archaeologist Org. Name: Capital Improvement Office Org. Address: P.O. Box 335 Fruitland, New Mexico 87416 Phone: 505 368-1059	6. PERMIT NO.: NTC										
	7. CONSULTANT REPORT NO.: DCD 14-012										
8. SPONSOR NAME AND ADDRESS: Ind. Responsible: Debbie Oliver Org. Name: Continental Divide Electric Cooperative, Inc. Org. Address: P.O. Box 1087 Grants, New Mexico 87020 Phone: 505 (928) 729-4667	9. SPONSOR PROJECT NO.: Work Order Number 84296										
	10. AREA OF EFFECT: Existing 3.21 ac New 1.01 ac AREA SURVEYED: Existing 16.10 ac New 5.03 ac										
11. LOCATION (MAP ATTACHED): <table border="0"> <tr> <td>a. Chapter: <u>Baahaali</u></td> <td>f. UTM Center: <u>NAD 83, Zone 12; 1/US A N 3914569m E 706821m 2: N 3916368m E 706783 m, 3/US-B: N 3916535 m E 707072 m, 4: N 3916583 m E 707147 m,</u></td> </tr> <tr> <td>b. Agency: <u>Eastern</u></td> <td>5: N 3916435 m, E 707513 m, 6/US-C: N 3916463 m, E 707700 m,</td> </tr> <tr> <td>c. County: <u>McKinley</u></td> <td>g. Legal: <u>T 13 N R 18 W Section 11 and 14 NMPM</u></td> </tr> <tr> <td>d. State: <u>New Mexico</u></td> <td>h. 7.5' USGS Map(s): <u>Pinehaven, New Mexico 1970, PR 1982</u></td> </tr> <tr> <td>e. Land Status: <u>Tribal Trust</u></td> <td>i. Lead Agency: <u>BIA/Navajo Region</u></td> </tr> </table>		a. Chapter: <u>Baahaali</u>	f. UTM Center: <u>NAD 83, Zone 12; 1/US A N 3914569m E 706821m 2: N 3916368m E 706783 m, 3/US-B: N 3916535 m E 707072 m, 4: N 3916583 m E 707147 m,</u>	b. Agency: <u>Eastern</u>	5: N 3916435 m, E 707513 m, 6/US-C: N 3916463 m, E 707700 m,	c. County: <u>McKinley</u>	g. Legal: <u>T 13 N R 18 W Section 11 and 14 NMPM</u>	d. State: <u>New Mexico</u>	h. 7.5' USGS Map(s): <u>Pinehaven, New Mexico 1970, PR 1982</u>	e. Land Status: <u>Tribal Trust</u>	i. Lead Agency: <u>BIA/Navajo Region</u>
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e. Land Status: <u>Tribal Trust</u>	i. Lead Agency: <u>BIA/Navajo Region</u>										
12. REPORT ATTACHMENTS: <p>a. Description of Undertaking: The undertaking consists of obtaining a 20 ft/6.1 m R-O-W for an existing service line 7,011.82 ft) and the new construction of 20 ft/6.1 m R-O-W for 2,190.10 ft. of a CDEC single-phase powerline extension for Christine Tsosie. Ground disturbing activities will include 2,190.10 ft. of installation of utilities.</p> <p>b. Existing Data Review: As part of this project, the archival data of the Navajo Nation Historic Preservation Department (NNHPD) in Window Rock were consulted. One completed project (HPD# 80-150, 89-425, 01-073, 02-568, 02-1071, 06-166 and 06-1266) have been conducted within 1 km of the current project. No known recorded sites have been recorded within 1 km of the current project. A TCP record search was conducted on July 22, 2014 and no TCP's were identified.</p> <p>c. Area Environmental and Cultural Setting: The powerline is found and located 1.5 miles west of the Becenti Chapter House. The project crosses two unnamed drainages the northern one drains to the west into Indian Creek; the southern one has no outlet. The vegetation includes grama grass, greasewood, muhly grass, Navajo celery, prickly pear cactus, Russian thistle, sagebrush, and snakeweed.</p> <p>d. Field Methods: Katherine Gallegos, PLS, Transmission and Distribution Services, LLC provided the drawing showing the location of the powerline and Xavier Lopez of CDEC showed the author the project area. The investigation was conducted by (100%) a Class III level pedestrian inventory of a 100 ft corridor by 7,011.82 ft. of existing powerline and a 100 ft corridor by 2,190.10 ft. of new powerline extension. The approximate project was covered by parallel transects spaced 15 m apart. A total of 21.12 ac was inventoried. The author interview Ms. Christine Tsosie and Ms. Gloria Skeet deCruz on July 30, 2014 regarding TCP's and no additional TCP's were identified within or near the area.</p>											
13. CULTURAL RESOURCE FINDINGS: <p>a. Location/identification of Each Resource: Three in-use sites (IUS-A, B and C) and one TCP (sweatlodge) were identified within the proposed project area (see Table 2)</p> <p>b. Evaluation of Significance of Each Resource: IUS-A, B and C do not meet the 50 year guideline for inclusion into the National Register of Historic Places. No historic properties will be affected. The TCP is located along the existing powerline and no additional work is planned near the sweatlodge.</p>											
14. MANGEMENT SUMMARY (RECOMMENDATIONS): Notice to proceed for the undertaking is recommended.											
15. CERTIFICATION: <table border="0"> <tr> <td>SIGNATURE: <u>Denise R.E. Copeland</u></td> <td>September 8, 2014</td> </tr> <tr> <td>Direct Charge Name: Denise R.E. Copeland</td> <td>Date</td> </tr> </table>		SIGNATURE: <u>Denise R.E. Copeland</u>	September 8, 2014	Direct Charge Name: Denise R.E. Copeland	Date						
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Direct Charge Name: Denise R.E. Copeland	Date										

A Cultural Resource Inventory of the Christine Tsosie Powerline Extension, Baahaali Chapter, McKinley County, New Mexico DCD1 14-012

11.

j. Land Status:

Table 1
Land Status
(T18N, R13W)

Location	Land Status	Length (Feet)	Length (Meters)	R-O-W Acreage Area of Effect	Surveyed Acreage
Sec. 11	TNT	5,031.58	1533.63	2.31	11.55
W ½ of Sec. 14	TNT	4,170.34	1271.12	1.91	9.58
Total:		9,201.92	2804.75	4.22	21.13

13.

a. Location/identification of Each Resource:

Table 2
In-Use Sites

Resource	Owner	Description
IUS A	Pinehaven Navajo Church	A frame church, five frame houses, a trailer, a rodeo arena, and stock pens
IUS B	Ambrose/Annabelle Lincoln	Two frame houses (ca. 1975)
IUS C	Christine Tsosie	Frame house (early 1980's)
TCP 1		Sweatlodge



Figure 1: Specific Location of the Christine Tsosie Powerline and IUS-A, B and C. Map is U.S.G.S 7.5' Pinehaven, NM, 1970, Photo Revised 1982. Work Order No. 83296 (DCD 14-012).

**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.: Christine Tsosie Power Line

DESCRIPTION: CDEC proposes to obtain ROW from an existing overhead powerline 7,011.82 ft. in length and 20 ft. in width and to construct, operate, and maintain a single-phase power line 2,190.10 ft. in length with a 20-ft. wide right-of-way to Christine Tsosie's home. Total ROW for the proposed project would be 4.22 acres.

LOCATION: Section 11 & 14, T13N, R18W, Bááháálí Chapter, McKinley County, New Mexico

REPRESENTATIVE: Mike Deutsch, Permits West, Inc. for Continental Divide Electric Cooperative (CDEC)

ACTION AGENCY: Navajo Nation & Bureau of Indian Affairs

B.R. REPORT TITLE / DATE / PREPARER: EA-Christine Tsosie Power Line, Appendices 3 & 4/DEC 2015/Permits West, Inc.

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

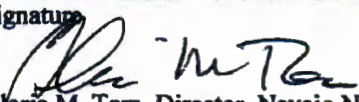
AVOIDANCE / MITIGATION MEASURES: [1] The NNDFW concurs with EA Sect. 3.11.2.2 and highly recommends that the power line is constructed utilizing a raptor-safe, power pole design standard, including the placement of daytime visual markers on guy wires to prevent bird collisions.

CONDITIONS OF COMPLIANCE*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/21 DEC 2015

COPIES TO: (add categories as necessary)

☐ _____ ☐ _____

2 NTC § 164 Recommendation:		Signature	Date
<input checked="" type="checkbox"/> Approval			12/22/15
<input type="checkbox"/> Conditional Approval (with memo)			
<input type="checkbox"/> Disapproval (with memo)			
<input type="checkbox"/> Categorical Exclusion (with request letter)			
<input type="checkbox"/> None (with memo)			
		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

Jim Behnken

Date 1/18/16



THE NAVAJO NATION
HISTORIC PRESERVATION DEPARTMENT

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

CULTURAL RESOURCE COMPLIANCE FORM

ROUTE COPIES TO:

☒ DCD1

NNHPD NO.: **HPD-14-694**

OTHER PROJECT NO.: **DCD1 14-012**

PROJECT TITLE: A Cultural Resource Inventory of the Christine Tsosie Powerline Extension, Baahaali Chapter, McKinley County, New Mexico

LEAD AGENCY: BIA/NR

SPONSOR: Debbie Oliver, Continental Divide Electric Cooperative, Inc. PO Box 1087, Grants, New Mexico 87020

PROJECT DESCRIPTION: The undertaking consists of obtaining a 20 ft/6.1 R-O-W for an existing service line for 7,011.82-ft and the new construction of 20 ft/6.1 R-O-W for 2,190.10 ft. of a CDEC single-phase powerline extension for Christine Tsosie. The area of effect is 4.22-acres. Ground disturbing activities will be intensive and extensive with the use of heavy equipment.

LAND STATUS: Navajo Tribal Trust

CHAPTER: Baahaali

LOCATIONS: T. 13 N, R. 18 W – Sec. 11 & 14; Pinehaven Quadrangle, McKinley County, New Mexico NMPM

PROJECT ARCHAEOLOGIST: Denise R. E. Copeland

NAVAJO ANTIQUITIES PERMIT NO.: NTC

DATE INSPECTED: 03/13/14

DATE OF REPORT: 09/08/14

TOTAL ACREAGE INSPECTED: 21.13 ac. Total (Tribal Trust)

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

LIST OF CULTURAL RESOURCES FOUND: (3) In-Use Sites (IUS A, B & C); (1) Traditional Cultural Property (TCP-1)

LIST OF ELIGIBLE PROPERTIES: None

LIST OF NON-ELIGIBLE PROPERTIES: (3) IUS; (1) TCP

LIST OF ARCHAEOLOGICAL RESOURCES: None

EFFECT/CONDITIONS OF COMPLIANCE: No historic properties affected.

TCP is located near the existing powerline. There will be no effect since there will be no work planned.

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: November 19, 2014

Notification to Proceed

Recommended

Conditions:

☒ Yes ☐ No

☐ Yes ☒ No

 11-14-20
The Navajo Nation
Historic Preservation Office
Date

Navajo Region Approval

☒ Yes ☐ No

 12/19/14
BIA – Navajo Regional Office
Date

TLN 12.12.14



United States Department of the Interior

Navajo Region

P.O. Box 1060

Gallup, NM 87305

MAR 14 2016



MC:620/Branch of Environmental Quality Act Review & Compliance

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

Re: Finding of No New Significant Impact – Continental Divide Christine Tsosie Power Line Project, Red Rock Chapter, McKinley County, New Mexico
EA-16-12136

The Branch of Environmental Quality Act Review and Compliance reviewed the environmental assessment, *Christine Tsosie Power Line Project (December 2015)*, prepared by the Permits West, Incorporated. Continental Divide Electric Cooperative, Inc. (CDEC) is seeking a grant of right-of-way (ROW) for an existing 7,011.82 foot overhead power line and to construct a 2,190.10 foot single phase extension from the existing power line to the client's existing home. The proposed power line is located approximately 15 miles south of Gallup, McKinley County, New Mexico, on Navajo Tribal Trust lands. The project sponsor is Continental Divide Electric Cooperative, Inc., 200 East High Street, Grants, New Mexico, 87020.

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

Should you have any questions, please contact Ms. Harrilene Yazzie, Supervisory Environmental Protection Specialist, at (505) 863-8287.

Sincerely,

Regional Director, Navajo

**FINDING OF NO SIGNIFICANT IMPACT
ENVIRONMENTAL ASSESSMENT, EA-16-12136
CHRISTINE TSOSIE POWER LINE PROJECT
CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INCORPORATED
RED ROCK CHAPTER, MCKINLEY COUNTY, NEW MEXICO**

**Location: Section 11 & 14, T13N, R18W NMPM
Pinehaven Quadrangle, McKinley County, New Mexico (NMPM)**

The Continental Divide Electric Cooperative, Inc. (CDEC) proposes to obtain a grant of right-of-way (ROW) from the Bureau of Indian Affairs, Navajo Region, for an existing 7,011.82 foot overhead 14.4 kV power line and to construct a 2,190.10 foot single phase extension from the existing power line to the Christine Tsosie home. The proposed new power line would be 2,290.20 feet long while the existing service tie-in is 7,011.82 foot long. The existing power line runs south to north; the proposed new segment to the Christine Tsosie home runs west to east. The ROW width for the entire length (9,201.92 feet) is 20 feet which will result in 4.22 acres of impact to Navajo Tribal Trust lands in Red Rock Chapter, McKinley County, New Mexico. The project sponsor is Continental Divide Electric Cooperative, Inc., 200 East High Street, Grants, New Mexico, 87020

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

The following issues that were addressed in the EA have been taken into consideration in BIA's deliberation whether a Finding of No New Significant Impact is appropriate, or an environmental impact statement should be prepared.

1. Beneficial and adverse environmental impacts. The EA demonstrates that there will be no significant adverse or beneficial impacts on the quality of the human environment including: air, cultural, environmental justice, geology, land use, vegetation (invasive/non-natives species), water (floodplains, wetlands), biological, soils, socioeconomics, visual, noise, and public health. Impacts to physical and biological resources will be localized and relatively low. Generation of hazardous waste is not expected. If hazardous waste is inadvertently generated, the proper authorities would be consulted regarding the disposal of such waste. The proposed activity is consistent with standard construction for power line, as well as continued operation and maintenance.
2. Public health and safety. Public health will not be affected by the project. There will be no disproportionately high and adverse human health effects on populations defined in Executive Order 12898 (Environmental Justice) or the general public. The Proposed Action will result in a positive direct effect by providing electricity for the resident.

3. Unique characteristics of the geographic area. The project area is not unique within its geographical setting and is similar to many other areas of tribal land in the region. There are no prime farmlands, wild and scenic rivers, wilderness areas, refuges, park lands, unique ecological areas, or other unique or rare characteristics of the land and aquatic environs that will be significantly affected.
4. Degree to which the effects on the quality of the human environment are likely to be highly controversial. There are no known scientific controversies over the effects of the proposed project on the human environment.
5. Degree to which the effects are highly uncertain or involve unique or unknown risks. There are no known effects on the human environment that are highly uncertain or involve unique or unknown risks.
6. Degree to which this action will establish a precedent for future action with significant effects. This project does not set a precedent for similar projects that may be implemented by the BIA or other agencies.
7. Relationship to other actions with cumulatively significant impacts. There are no known incremental effects of the action that become significant when added to other past, present, or reasonably foreseeable future actions that have affected, or will affect, the project area. Reasonably foreseeable future development may include additional power lines and communications structures installed in the vicinity of the Proposed Action due to the presence of other residences that presently do not have electricity.
8. Degree to which the action may affect districts, sites, objects, or structures listed on, or eligible for, the National Register of Historic Places, or may cause loss of significant cultural resources. Denise S. Copeland, Navajo Nation Historic Preservation Department Capital Improvement Office, performed a Class III Cultural Resources Inventory of the project area. The survey results indicated that there are no historic properties or Traditional Cultural Properties would be impacted or affected by the installation of a new power line and the renewal of the existing power line ROW. Navajo Nation Historic Preservation Department issued a Cultural Resource Compliance Form (NNHPD No. HPD-14-694) with no conditions.
In the event of a discovery of a previously unidentified or incorrectly identified cultural resource(s), all operations in the immediate vicinity of the discovery must cease, and the NNHPD must be notified at (928) 871-7198.
9. Degree to which the action may affect threatened, endangered, or sensitive species or their habitat. Navajo Nation Department of Fish and Wildlife (NNDFW) issued a Biological Resources Compliance Form (NNDFW Review No. 15perm103) with no conditions of compliance.
10. Whether the action violates Federal or local laws or requirements imposed for the protection of the environment. The proposed project will not violate any Federal or tribal environmental laws or requirements. There will be minor, short-term increase (approximately one week) in local combustible emissions from operating vehicles and earth moving equipment. No quantifiable impacts to the climate are anticipated as a result of the Proposed Action.
11. Indian Trust Assets. The Proposed Action will result in 4.22 acres of Navajo Tribal Trust lands impacted; however, mitigation includes reseeded to replace vegetation removed or damaged during construction. Successful reclamation is expected to take two to three years.

CONCLUSION

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

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



Regional NEPA Coordinator

3/12/2016

Date

**RIGHT OF WAY FOR
CDEC'S CHRISTINE TSOSIE
POWER LINE EXTENSION PROJECT
LINE "A"
MCKINLEY COUNTY, NEW MEXICO
CDEC'S WORK ORDER NUMBER 84296**

SURVEYOR'S DESCRIPTION of a right-of-way for the Continental Divide Electric Cooperative, Inc.'s Christine Tsosie Power Line Extension Project, Line "A", located within sections 11 and 14, Township 13 North, Range 18 West, New Mexico Principal Meridian, on Navajo Nation Trust Lands, Bread Springs, McKinley County, State of New Mexico, and being more particularly described as follows:

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

BEGINNING at B.O.P. Station 0+00, existing pole number 14578, in section 14, T13N, R18W, NMPM, and from which point a found metal plate nailed to a fence post which is wired to a fourteen inch cedar tree fence corner, established in good faith the northwest corner of section 10, T13N, R18W, NMPM bears N28°37'23"W a distance of 10,733.46 feet,

Thence N00°09'19"E, along an existing power line, a distance of 4,170.34 feet to P.O.T. Station 41+70.34, at which point the centerline of the power line enters section 11, T13N, R18W, NMPM, and from which point a found metal plate nailed to a fence post which is wired to a fourteen inch cedar tree fence corner, established in good faith as the northwest corner of section 10, T13N, R18W, NMPM bears N44°27'32"W a distance of 7,357.44 feet.

Thence continuing N00°09'19"E a distance of 1,745.75 feet to P.I. Station 59+16.09,

Thence N60°33'52"E a distance of 1,095.73 feet to P.O.T. Station 70+11.82, the beginning of new construction, and from which point a found metal plate nailed to a fence post which is wired to a fourteen inch cedar tree fence corner, established in good faith as the northwest corner of section 10, T13N, R18W, NMPM bears N64°06'20"W a distance of 6,794.27 feet,

Thence N60°33'52"E, a distance of 72.61 feet to P.O.T. Station 70+84.43, at which point the centerline of the power line crosses the centerline of a water line,

Thence continuing N60°33'52"E a distance of 207.47 feet to P.I. Station 72+91.90,

Thence S66°32'30"E a distance of 88.86 feet to P.O.T. Station 73+80.76, at which point the centerline of the power line crosses the centerline of a water line,

Thence continuing S66°32'30"E a distance of 1,201.14 feet to P.I. Station 85+81.90,

Thence N83°40'58"E a distance of 275.09 feet to P.O.T. Station 88+56.99, at which point the centerline of the power line crosses the centerline of a fence,

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Thence continuing N83°40'58"E a distance of 344.93 feet to E.O.P. Station 92+01.92, the terminus for the above described centerline for Line "A", and from which point a found metal plate nailed to a fence post which is wired to a fourteen inch cedar tree fence corner, established in good faith as the northwest corner of section 10, T13N, R18W, NMPM bears N68°07'21"W a distance of 8,788.63 feet, and from which point the base station having the True New Mexico State Plane West NAD83, U.S. Survey Feet Coordinates of N1590999.167, E2460530.410, bears S29°36'00"W a distance of 148.65 feet.

The above described right-of-way contains 4.22 acres, more or less, in area. The right-of-way is 1.74 miles in length.

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**FOOTAGES BY SECTION
CDEC'S CHRISTINE TSOSIE
POWER LINE EXTENSION PROJECT**

<u>TOWNSHIP,</u>				
<u>RANGE,</u>				
<u>SECTION</u>	<u>LENGTH</u>	<u>WIDTH</u>	<u>MILEAGE</u>	<u>ACREAGE</u>
T13N, R18W				
Section 11	5,031.58'	20'	0.95	2.31
Section 14	<u>4,170.34'</u>	20'	<u>0.79</u>	<u>1.91</u>
TOTAL	9,201.92'		1.74	4.22

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ENVIRONMENTAL ASSESSMENT

FOR



**CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.
200 EAST HIGH STREET
GRANTS, NM 87020
(505) 285-6656**

CHRISTINE TSOSIE POWER LINE PROJECT

June 2015

PREPARED BY:



TOGETHER WITH



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

1. Introduction

Continental Divide Electric Cooperative, Inc. (CDEC) proposes to obtain a Right-of-Way (ROW) for an existing 7,011.82 foot overhead power line and to construct a 2,190.10 foot single phase extension from the existing power line to the Christine Tsosie home (Proposed Action). The proposed power line project is located approximately 15 miles south of Gallup, McKinley County, New Mexico on Navajo Tribal Trust lands. The Proposed Action is located in Sections 11 and 13, Township 13N, Range 18W, of the Pinehaven, NM 7.5-Minute Quadrangle. The proposed new power line would be 2,190.10 feet long while the existing service tie-in is 7,011.82 feet long. The existing power line runs south to north; the proposed new segment to the Christine Tsosie home runs west to east. The ROW width for the entire length (9,201.92 feet) is 20 feet, thus predicted land use for the project is 4.22 acres. 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 its potential impacts to the surrounding environment.

1.1 Purpose and Need

The purpose of the Proposed Action is to obtain a ROW for an existing 14.4 kV power line and extend the power line to serve a residence on Navajo Nation Tribal Trust lands.

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 2000). NEPA requires federal agencies to consider the potential environmental consequences of proposed actions and to enhance the environment through well-informed federal decisions. The Council on Environmental Quality (CEQ) was established under NEPA to implement regulations (40 CFR) and to oversee federal policy in this process. The proposed project will not be in conflict with any local, county, or state plans. CDEC 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

The Federal Water Pollution Control Act (Clean Water Act) and its National Pollutant Discharge Elimination System (NPDES) regulate impacts to rivers, wetlands, and streams. Regulated entities must obtain coverage under an NPDES stormwater permit for construction activities one acre or larger and implement stormwater pollution prevention

plans (SWPPPs) or stormwater management programs (both using best management practices [BMPs]) that effectively reduce or prevent the discharge of pollutants into receiving waters. This action applies to all states, federal lands, and Indian country regardless of whether the USEPA or a state is the NPDES permitting authority.

The Endangered Species Act (ESA) of 1973 requires all federal departments and agencies to conserve threatened, endangered, and critical and sensitive species and the habitats on which they depend, and to consult with the U.S. Fish and Wildlife Service (USFWS) on all actions authorized, funded, or carried out by the agency to ensure that the action will not likely jeopardize the continued existence of any threatened and endangered species or adversely modify critical habitat. Consultation with the USFWS, as under Section 7 of the ESA, (50 CFR 402) is required unless the agency determines that a project will have "no effect" on an endangered species or critical habitat because none are located in the project area (BIA 2012).

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 USFWS, State of New Mexico, and 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.

Section 106 consultation (36 CFR 800) with the New Mexico State Historic Preservation Officer (SHPO) and the Navajo Nation Historic Preservation Officer (NNHPO) under the National Historical Preservation Act (NHPA) is required unless the agency determines that the project is the type of activity that has "no potential to cause effects" to an historic property (36CFR 800.3(a) (1)) (BIA 2012).

The Navajo Nation Historic Preservation Department performed a Class III Cultural Resources Inventory of the Proposed Action area. A determination was made that there are no eligible historic sites affected by the Proposed Action. A request for archaeological clearance was also submitted to the Navajo Nation Historic Preservation Department. The Cultural Resources Compliance Form is attached as Appendix 5.

Additionally, CDEC 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 BIA NEPA Guidebook (59 IAM 3-H) states that in EAs the No Action Alternative can either be no change from the current management practices, or a description of what is reasonably foreseeable, if the proposed action does not take place (BIA 2012). For this EA, the No Action Alternative means that the proposed activity will not take place. This alternative would deny approval to obtain the ROW and build the power line and the current land and resource uses would continue to occur in the proposed project area. No mitigation measures would be required.

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

2.2 Alternative B - Proposed Action

Continental Divide Electric Cooperative, Inc. (CDEC) proposes to obtain a ROW for an existing overhead electric power distribution line and extend this power line to serve the Christine Tsosie residence. The Proposed Action location is approximately 15 miles south of Gallup, McKinley County, New Mexico. The legal location is within the Pinehaven, New Mexico 7.5 minute USGS quadrangle in Sections 11 and 14, T. 13 N., R. 18 W on Navajo Tribal Trust Land. The existing power line is 7,011.82 feet long and the new power line would be 2,190.10. The ROW width for the entire length (9,201.92 feet) would be 20 feet. Land disturbance for the new utility line installation would be approximately 1.0 acre and total land use for the entire ROW would be 4.22 acres. The existing power line begins at pole 14578 and runs due north for 5,916.09 feet. It then heads northeast for feet to pole 12418 where new construction will begin. The proposed new line heads generally east for approximately 0.5 miles over a cleared meadow with sagebrush and scattered pinyon juniper to the Christine Tsosie home. The proposed new line to the Christine Tsosie home would be constructed of single-pole wood poles approximately 40 feet in height and buried about six feet below grade. The plats, topographic map, and aerial photo are included as Appendix 1. This Environmental Assessment (EA) will address the potential impacts of the Proposed Action on the surrounding environment.

Access along the existing power line route will be from existing roads and two-tracks within the ROW only. This ROW will only need to be accessed for maintenance. A new ROW of 20 feet will be utilized for the installation of the new portion of the line. The total area of land use for the entire project is 4.22 acres; new disturbance will be approximately 1.0 acre. Attempts will be made to limit soil and vegetation disturbance along the new ROW except

at the locations of poles. The estimated duration from start of construction is approximately one to two weeks.

Table 2.1 summarizes the project land use specifications.

Table 2.1: Land Ownership Summary

Land Ownership	Location	Centerline Length (ft)	ROW width (ft)	Total Area (Acres)
Navajo Tribal Trust	Sec. 11, T. 13N. R. 18W	5,031.58	20	2.31
Navajo Tribal Trust	Sec. 14, T. 13N. R. 18W	4,170.34	20	1.91
TOTAL		9,201.92		4.22

The existing power line crosses a dense pinyon juniper forest with several deeply incised channels that drain west and southwest. The ROW is fairly overgrown and indistinct. The new portion of the proposed line begins at the top of a small valley and crosses a cleared pasture of sagebrush (*Artemisia* sp.) and scattered pinyon (*Pinus edulis*) and juniper (*Juniperus* sp.) trees. Scattered Ponderosa pine (*Pinus ponderosa*) trees are present along this section of the proposed line. Construction will involve driving a truck-mounted auger on existing roads and two-tracks to the location of each new pole. A six foot hole will be augered and a truck-mounted crane will raise and place the pole into the hole. The hole will then be backfilled and tamped. The conductors 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.

Use of Best Management Practices (BMPs) will include performing construction only 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. BIA and Navajo Nation reclamation measures will be followed and may 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 will be controlled in accordance with Navajo Nation

Environmental Protection Agency (EPA) requirements; at a minimum, this will include cleaning of construction equipment by CDEC and its contractors prior to entering the area.

2.4 Alternatives Considered But Not Analyzed In Detail

One alternative that was considered is the use of local energy sources as an alternative to a power line. The use of on-site diesel or gas engines to provide power to the Christine Tsosie home is an alternative to providing electricity via a power line. However, a power line is quieter, less expensive, produces no local air emissions 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. Additionally, poor road conditions accessing the Christine Tsosie home may limit the ability to obtain fuel during inclement weather.

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 this home. The need for multiple batteries would be costly and potentially unreliable during long stretches of inclement weather.

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

Another alternative initially considered was to bury the entire length of the line rather than use an overhead span from the existing power line to the Christine Tsosie residence. Burying the entire length by trenching would disturb far more land and increase the amount of erosion and the subsequent possibility of noxious weeds becoming established than burying only power poles to support an overhead line. It also was ruled out due to the historic sites and the greater potential impact that trenching for an underground line could cause.

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

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

- on-site inspections;
- Cultural Resources Inventory (no impacts are anticipated);
- Threatened, Endangered, and Special Status Species Surveys; and the

-
- Special Status Species and NNDFW species of concern survey of known to occur or with the potential to occur in the 7.5-Minute Gallup East, 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 McKinley County, NM on Navajo Nation Tribal Trust lands. The US Environmental Protection Agency (USEPA), Region 9, and the Navajo Nation Environmental Protection Agency Air Quality Control program are responsible for administering air quality regulations on Navajo 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 1972).

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 2014).

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 measurably increase, and may contribute to overall climatic changes, typically referred to as global warming (USEPA 2014). GHG emissions are not regulated by the USEPA, but climate is considered because it has the potential to influence renewable and non-renewable resource management.

Air Quality

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 as caused by a substitution of natural gas for coal use and an increase in hydropower use, and relatively mild winter conditions (USEPA 2013).

Since 1990, U.S. GHG emissions have increased at an average annual rate of 0.4 percent (USEPA 2013). It is likely that levels of these GHGs worldwide will continue to increase.

The primary sources of air pollution in the local area are smoke from wood stove fires, dust from blowing wind on disturbed or exposed soil and from traffic on dirt roads, and exhaust emissions from motorized equipment.

The NMED Air Quality Bureau monitors and enforces ambient air quality throughout New Mexico and has permanent sites throughout the state. The closest permanent station to the project area is the Bloomfield Substation, located near Bloomfield, NM. Air quality at the substation was rated as good (Index = 24) as of December 12, 2013. Thus, the general project area is classified as in attainment with NAAQS (NMED 2013).

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 may contribute to a long-term rise in global temperatures. On the current course of GHG increases, climate models forecast each successive decade to be warmer than the previous one (Hansen et al. 2013).

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 unless local fossil generation were utilized to power the home, in which case there would be a long-term impact on local air quality

3.1.2 Proposed Action

3.1.2.1 Direct and Indirect Effects

Air Quality

There will be a short-term (approximately one week) increase in dust and particulate matter during construction of the Proposed Action. This impact would subside as disturbed areas are reclaimed.

There will be a minor, short-term increase (approximately one week) in local combustive emissions from operating vehicles and earth moving equipment.

There will be a minor, infrequent long-term impact to air quality from motorized vehicles performing periodic maintenance of the power line.

There will be minor and infrequent, 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. CDEC 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. CDEC will comply with the NAAQS, USEPA's Clean Air Act, and all applicable Navajo Nation regulations.

3.2 Cultural Resources

Denise R. Copeland of the Navajo Nation Historic Preservation Department Capital Improvement Office performed a Class III Cultural Resources Inventory of the project area. The survey results indicated that no historic properties or Traditional Cultural Properties

would be impacted or affected by the installation of the new power line and the renewal of the existing power line ROW. A request for archaeological clearance was also submitted to the Navajo Nation Historic Preservation Department (NNHPD). The Cultural Resources Compliance Form is attached to this EA 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 new power line and during maintenance of the existing power line.

3.2.2.2 Mitigation

Restrict any vehicle/equipment traffic to existing roads, and proposed and existing ROW corridors. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered during the Proposed Action by CDEC, or any person working on their behalf, will be immediately reported to the NNHPD at (928) 871-7148, and to any other necessary agencies. CDEC 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

In 1994, Executive Order 12898 on Environmental Justice in Minority Populations and Low Income Populations was signed by President Clinton. This Order broadly states that federal activities, programs, and policies should not produce disproportionately high and adverse impacts on minority and low income populations. The Order also indicates that these populations should not be denied the benefits of or excluded from participation in these activities, programs, and policies (Federal Register 1994). RUS and many other agency

guidelines do not require an environmental justice review for relatively minor projects such as the Proposed Action; however, since the No Action Alternative could have an adverse impact, environmental justice was examined in this EA.

The population of McKinley County in 2010 was 71,492 people, comprised of 75.5% American Indian, 4.8% White, 8.5% Hispanic or Latino, 0.8 Asian, 4.9% Other race and 3.1% are two or more races. Further, 33.6% of the population of which a high percentage are minorities live below the poverty level in McKinley County (USCB 2010).

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. This alternative could have indirect impacts to the local minority and possibly low-income population by essentially denying local residents the opportunity to have electric service.

3.3.2 Proposed Action

3.3.2.1 Direct and Indirect Effects

The purpose of the Proposed Action is to provide power to a private residence on Navajo Tribal Trust Lands. Private residences located on Navajo Tribal Trust land 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. 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

If there are any grazing permits in the area, the permittees will be contacted. Regarding an increase in noise disturbance, see Section 3.8 Noise, below.

3.4 Floodplains and Wetlands

According to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map, the Proposed Action is outside of a Zone A floodplain which is "an area subject to a one percent or greater annual chance of flooding in any given year. Because detailed hydraulic analyses have not been performed on these areas, no base flood elevations are shown" (FEMA 2015). The landscape in the project area is represented by densely wooded

slopes, deeply incised drains, and sagebrush draws. There are several significant washes within the project area that are deeply eroded and drain generally to the southwest. Several catchment ponds created for livestock are also located within the project area

The U.S. Fish and Wildlife Service (USFWS) National Wetlands Inventory tool (2014b) does not identify wetlands or riparian zones within the Proposed Action. There are no wild and scenic rivers in or near the project area.

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 approximately 15 miles south of Gallup, New Mexico along the southern edge of the Fort Defiance uplift. Topography in the area is represented by a series of southwest bearing low ridges and interspersed drainages with wooded, moderate slopes. There are few outcroppings in the area and soils consist mostly of gravely clay loams from eolian deposits over slope alluvium (NRCS, 2015). Crevasse Canyon makes up the surface formation (NMBMGR, 2015). Elevations range from 7290 feet at the beginning of the existing utility ROW to 7330 feet at the east end of the new power line.

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

A direct effect to the natural topography will result from accessing and installing new power line poles and driving heavy equipment over soft soils. The indirect effect of disturbance and loss to soil and seed banks will result from installing the power line poles and maintaining the ROW.

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 Best Management Practices (BMPs) are listed in Section 2.2.

3.6 Invasive, Non-native Species

There are seventeen species listed on the BIA Navajo Noxious Weed List (USDI OSM 1999). None of the species were observed in the project area. No noxious weeds identified by the state of New Mexico were identified in the project area (Gonzales 2009). 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

Although not observed during field surveys, some noxious weeds may be present within the proposed project area and may become established in disturbed areas within the Proposed Action area. Weedy plants that are not considered noxious, but are prone to populate and spread invasively

throughout disturbance areas were observed in the project area. Disturbance in the Proposed Action area may displace healthy populations of native plants with these invasive and noxious weeds.

3.6.2.2 Mitigation

1. Any disturbed areas will be seeded with an approved seed mix.
2. CDEC 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, CDEC 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 Tribal Trust lands. Current land uses include the existing power line; dirt and two-track roads and driveways; nearby residences, wood gathering, and grazing by livestock. 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

The Proposed Action will affect 4.22 acres of Navajo Tribal Trust lands. Short-term impacts will come from minimal land clearing for power line pole installation.

3.7.2.2 Mitigation

Reclamation of the Proposed Action as stated in Section 2.3 will replace vegetative cover along the overhead span right-of-way for the new power line. Successful reclamation is expected to take two to three years. If grazing permits are identified in the project area, the permittees will be contacted to gain written permission for CDEC'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. Aside from the residence gaining power as part of this project, only one other residence is located within the area that is proposed for the new power line installation. This residence has recently been unoccupied. The most likely receptors of noise generated from the Proposed Action will be from workers installing the power line and the Tsosie home. Some noise from construction may be audible to a group of houses and a Bible camp located near the beginning of the existing power line.

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

Noise will be generated as part of construction activities associated with the Proposed Action.

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 week. Once construction is complete and operation begins, noise will return to background level.

3.9 Public Health and Safety

There are a number of residences and a Bible camp located at the beginning of the existing power line in Section 14, T. 13 South, R. 18 West. Near the new construction area, two

residences are present. One residence appears to be unoccupied while the other is the Tsosie home. The residents of Tsosie home and CDEC employees or contractors are the most likely persons to be in the vicinity of the new power line and construction activities associated with it. Portions of the ROW of the existing power line may be used by local residents as a 4 wheel drive road or pedestrian route to gather wood, herd livestock, or travel to and from residences.

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 the Toldohn-Vessilla-Rock outcrop complex, 8 to 35% and the Parkelei-Evpark fine sandy loams, 2 to 8 percent slopes. The Toldohn-Vesilla-Rock outcrop complex consists of slope alluvium over residuum weathered from shale. The soil profiles range from gravelly clay loams to clays. Depth to restrictive feature is 5 to 20 inches. These soils are well drained with no frequency of flooding or ponding. Runoff class is very high and the capacity of the most limiting layer to transmit water (Ksat) is very low

to moderately high. These soils are found on hills, breaks, and ridges. The Parkelei-Evpark fine sandy loams, 2 to 8 percent slopes are derived from Eolian deposits over slope alluvium derived from sandstone and shale. These soils range from fine sandy loams to sandy loams with depth to restrictive feature being more than 80 inches. The Parkeliei-Evpark soils are well drained soils and have no frequency of flooding or ponding. Their runoff class is high and the Ksat is moderately high (NRCS 2015).

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

Soils will be structurally reduced and mixed, exposed to the elements of wind and water erosion, and compacted.

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

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.

Use of BMPs as outlined in Section 2.2 will reduce impacts to soils.

3.11 Threatened, Endangered, and Special Status Species

Prior to field surveys, a list of federal and state threatened and endangered and special status species potentially occurring in McKinley County was created with data obtained from the USFWS Information, Planning and Conservation System (USFWS 2015a) website and the Navajo Nation Department of Fish and Wildlife-Navajo Natural Heritage Program (NNDFW-NNHP). 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 Pinehaven, NM Quadrangle. The request reply was received on February 26, 2015 (Detsoi, 2015).

Based on this review of species and their habitat requirements, an evaluation was made of which species have the potential to occur in the project area. The species that were evaluated as potentially being impacted by the project are protected under state or federal laws, and/or interagency agreements, and are either known to occur within the project area, or have habitat requirements consistent with habitat available within or near the project area.

On April 1, 2015, a biologist and a botanist conducted pedestrian surveys of the project area to inspect for the potential presence of threatened, endangered, or special status species. No federal or Navajo listed threatened or endangered species, or their habitats, were observed during these surveys. There is a potential for golden eagles (*Aquila chrysaetos*) to pass through the project area, but no suitable nest habitat for these species are located within 1.0 mile of the project area.

Several migratory bird species protected under the Migratory Bird Treaty Act (MBTA) were observed during the survey including: white-crowned sparrow (*Zonotrichia leucophrys*), mountain chickadee (*Poecile gambeli*), Bewick's wren (*Thyromanes bewickii*), mountain bluebird (*Sialia mexicana*), dark-eyed junco (*Junco hyemalis*), scrub jay (*Aphelocoma californica*), canyon towhee (*Melospiza fusca*), chipping sparrow (*Spizella passerina*), spotted towhee (*Pipilo maculatus*), Say's phoebe (*Sayornis saya*), house finch (*Carpodacus mexicanus*), and northern flicker (*Colaptes auratus*). No nests of migratory birds were observed during the survey.

Because there will be minimal ground disturbance in association with the proposed power line construction, no take of nesting birds is anticipated from the project if Section 3.11.2.2 Mitigation, below, is followed.

No species of concern to the NNHP or the USFWS occur in the Proposed Action area. The full Threatened, Endangered, and Special Status Wildlife and Plant Reports are attached as Appendices 3 & 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

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.

Overhead power lines have a direct effect on raptors. Raptors and other birds are killed every year by electrocution from perching or nesting on power lines.

3.11.2.2 Mitigation

Removal of trees and shrubs will be avoided as much as possible, and only authorized ROW and roads will be used for construction and installation.

Construction and installation of the power line would preferably be completed outside the March 1-September 1 migratory bird nesting season. If construction activities must occur during this period, surveys for potential nests should be conducted within 2 weeks prior to construction.

The new power line should be built according to the guidelines in *Suggested Practices for Protecting Avian Species on Power Lines: State of the Art in 2006*, (APLIC) or the Navajo Nation Raptor Electrocution Prevention Regulations (NNHP-NNDFW, 2008a) in order to protect avian species perching on the power line structures or conductors from electrocution. This is especially important due to the project area being a forested area with tall trees and snags for nesting.

It is also recommended that the existing power line be inspected and evaluated for any poles that may be an electrocution threat to perching birds; those structures could then be retrofitted with devices to discourage perching and minimize any electrocution danger. Following APLIC recommendations for power pole structure and retrofitting techniques should alleviate any problem poles that occur within the power line ROW.

3.12 Vegetation, Forestry

The vegetation in the project area can be characterized as a Pinyon-Juniper Woodland by Brown (1994) and is dominated by an old growth pinyon-juniper woodland containing large pinyon pine (*Pinus edulis*) and mountain juniper (*Juniperus scopulorum*), blue grama (*Bouteloua gracilis*), and sandberg bluegrass (*Poa secunda*). The southern half of the

existing power line corridor is dominated by rabbitbrush (*Ericameria nauseosus*), sagebrush (*Artemesia tridentate*), and pinyon. The corridors of the proposed power line and the northern half of the existing power line are located in a densely wooded piñon-juniper woodland with little or no vegetative understory. 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 4.22 acres of Navajo Tribal Trust lands.

3.12.2.2 Mitigation

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

3.13 Visual Resources

Visual resources are not currently inventoried or managed by the Navajo Nation. However, considering that the Proposed Action will extend a new power line from an existing power pole and line, the project will introduce new vertical elements to the landscape, though most visual resources will be minimally affected.

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

Short-term impacts to visual resources could come from dust, truck traffic, and placement of heavy equipment during construction.

The new power line will become a permanent interruption to 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 week.

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 or equivalent container 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 Navajo Nation.

3.15 Water Resources

The Colorado Plateaus aquifers underlay the northwestern portion of New Mexico. The principal aquifers and aquifer systems are the Uinta-Animas, the Mesaverde, the Coconino-De Chelly, and the Dakota-Glen Canyon. Smaller, more localized aquifers are also defined as part of the Colorado Plateaus aquifers. The San Andres Limestone-Glorieta Sandstone, Dakota-Westwater Sandstones, and the Gallup Sandstone of the Mesaverde Group at and near the project area, form aquifers that produce most of the ground water for the communities of villages south of Gallup (Cooper and West 1967). The quality of water from these aquifers and systems throughout the Four Corners area has been described by the USGS as being highly variable with total dissolved solids generally measuring under 1,000 mg/L, though several areas reported concentrations as high as 35,000 mg/L (Robson and Banta 1995).

The Gallup Sandstone is recharged in its outcrop areas by infiltration of precipitation and runoff. Locally, it is recharged by downward percolation of water from the overlying unconsolidated sediments. Water from the sandstone is discharged naturally through small springs and seeps in the outcrop areas and by vertical or lateral leakage percolation into adjacent unconsolidated deposits.

The project area receives approximately 11.08 inches of annual precipitation (WRCC 2014). However, annual groundwater recharge is limited in the Gallup region as indicated by recent and significant declines in water levels in the area's wells. In the Gallup area, the water table dropped about 200 feet between 1999 and 2009 and is not expected to meet the demands of the population by 2019 (Bushnell 2012). The chemical quality of the water in the aquifers varies widely, probably because of variations in the quality of recharge water and because of the presence locally of coal beds and carbonaceous shale within the formation (Cooper and West 1967).

The hydrologic setting of the project area is characterized by several medium sized, deeply incised ephemeral drainages filled with eolian deposits and alluvium. Surface flows are associated with ephemeral flows from snow melt and summer thunderstorms. Drainages in the project area are categorized as sandy, silty, clayey, or gravelly sediments and deposits on sandstone streambeds. Most discharge to alluvial channels is lost by evapotranspiration. However, some water may move laterally through the underlying sandstones as subsurface flow.

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

A direct effect is the increased sediment loading to the adjacent surface drainages through runoff of disturbed soils.

Natural surficial drainage patterns may be slightly disrupted by construction of the Proposed Action.

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 waters 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 expected to occur in the area may include passerines such as pinyon jay (*Gymnorhinus cyanocephalis*), western scrub jay (*Aphelocoma californica*), and juniper titmouse (*Baeolophus ridgewayii*) as well as common wildlife such as coyote (*Canis latrans*), desert cottontail (*Sylvilagus auduboni*), common raven (*Corvus corax*), black-tailed jackrabbits (*Lepus californicus*), and fence lizards (*Sceloporus undulatus*). 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

The wildlife species that use the site may die or may 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.

The new power line and associated structures may be attractive as a perch or nesting 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 (NNHP 2008a).

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 4.22 acres on Navajo 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 the presence of other residences that presently do not have 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
Robyn Tierney	Botanist	Permits West, Inc.	Yes	April 1, 2015
Celia Cook	Wildlife Biologist/Author	Permits West, Inc.	Yes	April 1, 2015
Denise Copeland	Archaeologist	Navajo Nation Historic Preservation Department	Yes	March 13, 2014
Jim Behnken	Project Coordinator & Editor	JGB Consulting	No	Not Applicable

5. Contact Information

Permits West, Inc.
37 Verano Loop
Santa Fe, NM 87508
(505) 466-8120

JGB Consulting
1605 Monte Largo Dr. NE
Albuquerque, NM 87112
(505) 298-9542

Continental Divide Electric
Cooperative, Inc.
200 East High Street
Grants, NM 87020
(505) 285-6656

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Navajo Land Title Data System (NLTDs)
Navajo Land Title, Navajo Land Title Data System - Windowrock AZ:
Document Information

Document Information	
Document Name:	CDEC ROW Powerline Extension for Christine Tsosie
Revision:	
Version:	1
Document Desc:	
Document Author:	Kayla Bia NLD (Navajo Land Title Data System - Windowrock AZ)
Document Status:	Pending Verification
Document Type:	164 Review Process
Effective Date:	Upon Approval
Expires:	
Uploaded from:	Navajo Land Title Data System (NLTDs) Phase 1: Plan for Quality Management System
	Step 888: 003_B017_00006737
	Task 1: Upload and Manage Documents
Size:	1629 KB
Date Uploaded:	14-Sep-2016
Maintained by:	164 review team

No Document Distribution Locations

Tier 1 Document Voting Results						
User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date
Eugenia Quintana EPA (Navajo Land Title Data System - Windowrock AZ)	Air and Toxics - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. No comments.	1.	14-Sep-2016
Frederick Sherman EPA (Navajo Land Title Data System - Windowrock AZ)	Solid Waste - Reviewer	Navajo Nation Environmental Protection Agency	Approved	<i>no comments</i>	<i>No Reply</i>	14-Oct-2016
Glenna Lee EPA (Navajo Land Title Data System - Windowrock AZ)	Pesticides - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. No comment.	1.	29-Sep-2016
Lee Anna Martinez (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. The EA indicates that two significant washes will be crossed for this upcoming utility line. Our office needs to be contacted regarding these significant washes along with a 1:24,000 Topo Map. A CWA Section 401 Certification may be needed for this project. You may contact NNEPA at 928.871.7690. Thank you.	1.	11-Oct-2016
Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. See attached BRCF - no conditions	1.	23-Sep-2016
Pam Maples EPA (Navajo Land Title Data System - Windowrock AZ)	Storage Tanks Program - Reviewer	Navajo Nation Environmental Protection Agency	Approved	<i>no comments</i>	<i>No Reply</i>	14-Oct-2016
Patrick Antonio EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Supervisor	Navajo Nation Environmental Protection Agency	Approved	1. Project EA states 1.0 acre of land surface will be disturbed. Land surface disturbances of 1.0 acre or greater requires coverage under the federal Construction General Permit for storm water discharges. Project EA mentions this requirement.	1.	15-Sep-2016
Robert Allan DNR (Navajo Land Title Data System - Windowrock AZ)	Deputy Director DNR	DNR Administration	Approved	1. Need to attach cover approval Resolution for RDC and Terms and Conditions Form	1.	15-Sep-2016
Ronnie Ben EPA (Navajo Land Title Data System - Windowrock AZ)	Underground Injection Control - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. A CWA Section 401 Certification may be needed for crossing of waterways.	1.	23-Sep-2016
Steven Prince MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	1. Please refer to the Terms & Conditions linked herewith.	1.	15-Sep-2016
Tamara Billie HPD (Navajo Land Title Data System - Windowrock AZ)	HPD Reviewer	Historic Preservation Department	Approved	1. None	1.	16-Sep-2016
Tennille Begay EPA (Navajo Land Title Data System - Windowrock AZ)	Air and Toxics - Reviewer	Navajo Nation Environmental Protection Agency	Approved	<i>no comments</i>	<i>No Reply</i>	15-Sep-2016
Yolanda Barney EPA (Navajo Land Title Data System - Windowrock AZ)	Public Water System Supervision Program	Navajo Nation Environmental Protection Agency	Approved	1. The Navajo Public Water Systems Supervision Program regulates entities that own and operate drinking water infrastructure. This project is a powerline extension and is not a drinking water project.	1.	22-Sep-2016

Tier 2 Document Voting Results						
User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date
Alexious Becenti NFD (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. The EA indicates that this project is located within the Pinyon-Juniper forest type, however it does not indicate if tree removal will be required. If tree removal will be required, it is recommended that the Project Sponsor obtain a tree cutting permit from the Navajo Forestry Department.	1.	18-Oct-2016
W. Mike Halona (Navajo Land Title Data System - Windowrock AZ)	Manager III Navajo Land Department	NLD Administration	Approved	<i>no comments</i>	<i>No Reply</i>	24-Oct-2016

Document Actions				
Date	Actions	User	Old Value	New Value
11/18/2016 12:07	Document Status modified	Kayla Bia NLD	Pending	Pending Verification
11/18/2016 12:07	User Removed From Approval Process	Kayla Bia NLD		Rita Whitehorse-Larsen was removed from the approval request/voting process
11/18/2016 12:07	User Removed From Approval Process	Kayla Bia NLD		Ora Marek-Martinez was removed from the approval request/voting process

11/18/2016 12:07	User Removed From Approval Process	Kayla Bia NLD			Najamh Tariq was removed from the approval request/voting process
11/18/2016 12:07	User Removed From Approval Process	Kayla Bia NLD			Gloria Tom F&W was removed from the approval request/voting process
11/18/2016 11:32	Viewed	Kayla Bia NLD			
11/18/2016 11:32	Viewed	Kayla Bia NLD			
10/31/2016 16:21	Viewed	Frederick Sherman EPA			
10/24/2016 18:06	Viewed	W. Mike Halona			
10/24/2016 18:06	Viewed	W. Mike Halona			
10/22/2016 9:56	Viewed	W. Mike Halona			
10/22/2016 9:56	Viewed	W. Mike Halona			
10/22/2016 9:55	Viewed	W. Mike Halona			
10/22/2016 9:55	Viewed	W. Mike Halona			
10/22/2016 9:54	Viewed	W. Mike Halona			
10/22/2016 9:54	Viewed	W. Mike Halona			
10/18/2016 12:19	Viewed	Alexious Becenti NFD			
10/18/2016 11:55	Viewed	Alexious Becenti NFD			
10/14/2016 12:51	Viewed	Pam Maples EPA			
10/14/2016 12:29	User Removed From Approval Process	Kayla Bia NLD			Bidtah N. Becker was removed from the approval request/voting process
10/14/2016 9:40	User Removed From Approval Process	Kayla Bia NLD			Justina George EPA was removed from the approval request/voting process
10/14/2016 9:39	User Removed From Approval Process	Kayla Bia NLD			Darlene Jenkins EPA was removed from the approval request/voting process
10/14/2016 9:39	User Removed From Approval Process	Kayla Bia NLD			Michael Yazzie NFD was removed from the approval request/voting process
10/14/2016 9:39	Document Approver Nudged	Kayla Bia NLD			Pam Maples EPA was nudged about a pending approval request.
10/14/2016 9:39	Document Approver Nudged	Kayla Bia NLD			Frederick Sherman EPA was nudged about a pending approval request.
10/14/2016 9:39	Document Approver Nudged	Kayla Bia NLD			Bidtah N. Becker was nudged about a pending approval request.
10/11/2016 17:27	Viewed	Lee Anna Martinez			
9/29/2016 18:17	Viewed	Frederick Sherman EPA			
9/29/2016 16:24	Viewed	Glenna Lee EPA			
9/23/2016 17:50	Viewed	Frederick Sherman EPA			
9/23/2016 17:38	Viewed	Kayla Bia NLD			
9/23/2016 15:54	Viewed	Pam Kyselka F&W			
9/23/2016 15:53	Viewed	Pam Kyselka F&W			
9/23/2016 14:00	Viewed	Ronnie Ben EPA			
9/23/2016 14:00	Viewed	Ronnie Ben EPA			
9/22/2016 17:03	Viewed	Yolanda Barney EPA			
9/16/2016 17:38	Viewed	Tamara Billie HPD			
9/15/2016 15:11	Viewed	Steven Prince MIN			
9/15/2016 15:11	Viewed	Steven Prince MIN			
9/15/2016 14:13	Viewed	Tennille Begay EPA			
9/15/2016 11:45	Viewed	Robert Allan DNR			
9/14/2016 18:06	Viewed	Eugenia Quintana EPA			
9/14/2016 18:03	Viewed	Patrick Antonio EPA			
9/14/2016 17:39	Document Status modified	Kayla Bia NLD	New	Pending	
9/14/2016 17:39	Uploaded	Kayla Bia NLD			



**THE
NAVAJO
NATION**

MINERALS DEPARTMENT

Post Office Box 1910

Window Rock, Arizona 86515

Phone: (928) 871-6587 • Fax: (928) 871-7095


Russell Begaye
President

Jonathan Nez
Vice-President

October 14, 2016

M E M O R A N D U M

TO : ALL CONCERNED

FROM : 
Akhtar Zaman, Director
Minerals Department

SUBJECT : DELEGATION OF AUTHORITY

Ms. Rowena Cheromiah, Minerals Royalty/Audit Manager, is hereby delegated to act in the capacity of the Director of the Minerals Department beginning at 1:00 P.M. on Friday, October 14, 2016 and ending at 5:00 P.M. on Friday, December 2, 2016.

Your cooperation with Ms. Cheromiah will be appreciated.

ACKNOWLEDGMENT



Rowena Cheromiah
Minerals Audit Department

AZ/kjg
DISTRIBUTION



CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.

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

April 25, 2016

The Navajo Land Department
Attn: Mr. Howard Draper
Project Review Office
PO Box 2249
Window Rock, Arizona 86515

Re: Submitting ROW Package for Christine Tsosie

Dear Mr. Draper,

Continental Divide Electric Cooperative, Inc. is requesting right-of-way for the proposed 14.4/24.9 kv line to the home of Christine Tsosie. The power line Right-of-way packet consists of the following documents being submitted for review by the Division of Natural Resources, Project Review Office.

1. \$500.00 Filing Fee, Check #132062
2. NTUA Letter - Approval of waterline crossings
3. Grant of Permission to Survey – Navajo Tribal Trust Land (Copy)
4. Right of way Application – Navajo Tribal Trust Land (Copy)
5. Archaeological Report
6. Biological Resources Compliance Form
7. Cultural Resources Compliance Form
8. Environmental Report
9. FONSI
10. Map (2 Mylars & 2 paper = 4 Maps)
11. Legal

This project traverses over and across Navajo Tribal Trust Land. The distance on Navajo Tribal Trust Land is 9,201.92' feet in length, 20' feet in width, and 4.22 acres and is located in Section 11 & 14, T13N, R18W, NMPM McKinley County New Mexico.

If you have any questions, please contact our office at your earliest convenience.

Sincerely,

Debbie Olivar
Engineering/ROW

Enclosures



NAVAJO TRIBAL UTILITY AUTHORITY

AN ENTERPRISE OF THE NAVAJO NATION

March 27, 2014

Mr. Steve Morales
Continental Divide Electric Cooperative, Inc.
Post Office Box 1087
Grants, NM 87020

Dear Mr. Morales:

Your request to cross the waterlines for Work Order Number has been approved with the following comments;

- Crossing between Poles #1 and #2 at approximately Station 4+00 is approved.
- Crossing between Poles #5 and #6 at approximately Station 17+25.00 is approved.
- The alignment from Pole #5 to Pole #7, we ask that you place the poles 15 feet off the centerline of our waterline right of way so we can perform maintenance within our right of way if it becomes necessary.

Please let us know in at least three business days in advance when construction will commence so we may have our Engineering Technician on site to locate the waterline alignment for you. Any questions may be directed to my attention at 928-729-6140. Thank you.

Sincerely,

Navajo Tribal Utility Authority

Philemon Allison, District Manager
Crownpoint District

C: Shelley Blakaidy, Customer Service Supervisor, NTUA, Crownpoint District
Milford Tahe, Engineering Technician, NTUA, Crownpoint District
Floyd Jimmie, Water Foreman, NTUA, Crownpoint District

Home Office: P.O. BOX 170 FT. DEFANCE, AZ 86504	KAYENTA P.O. BOX 57 KAYENTA, AZ 86033	TUBA CITY P.O. BOX 388 TUBA CITY, AZ 86045	SHIPROCK P.O. BOX 1749 SHIPROCK, NM 87420	CHINLE P.O. BOX 549 CHINLE, AZ 86503	FORT DEFANCE P.O. BOX 587 FT. DEFANCE, AZ 86504	DILCON HC 63 BOX D WINSLOW, AZ 86047	CROWNPOINT P.O. BOX 1825 CROWNPOINT, NM 87313
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CALL 800-528-5011 OR 928-729-5721 FOR ALL OFFICES.



In Reply, Refer to.
4N420 – Real Estate Services
Rights of Way

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



JUL 16 2013

Debbie Olivar, Technical Engineer Services Clerk
Continental Divide Electric Cooperative, Inc.
P.O. Box 1087
Grants, New Mexico 87020

Dear Ms. Olivar:

Reference is made to the receipt of the Tribal Consent dated June 27, 2013, for permission to survey, to conduct a walk-on survey for maps, archaeological, environmental and ethnographic surveys and studies for the proposed electrical power line extension to serve Christine Tsosie, entitled Christine Tsosie Power Line Extension, Right of Way Project No. CDE-13-003.

The Navajo Nation has given its concurrence to the survey for tribal trust lands, as contained in the letter from the Navajo Land Department, received on July 1, 2013. Prior to entry upon or across allotted land, consent from the Indian land owners is required.

Subject to any prior rights or adverse claims and to all applicable regulations of 25 CFR 169, authorization is hereby granted to proceed with the necessary survey subject to the following terms and conditions of the Navajo Nation:

1. The rights of local Navajo people will be respected and protected.
2. Personnel with the Division of Natural Resources (DNR) will retain the right to monitor the field survey.
3. The field survey will be conducted at your own risk. The Navajo Nation will not be held liable for any personal injury or property damage that occurs during the course of field survey.
4. Vehicles will be kept on existing roads and trails. Surface disturbance will be kept to an absolute minimum while conducting the field survey.
5. The Permittee will comply with all applicable Tribal and Federal laws and regulations.
6. Approval of right-of-way, business site lease or any actual construction is not implied.

This authorization is for SURVEY ONLY on Tribal Trust Lands, according to the Tribal Consent dated June 27, 2013.

If you have any question, please contact our Rights-of-Way Section at (505) 786-6002/6149.

Sincerely,


Superintendent, Eastern Navajo Agency