

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
Of the 23rd Navajo Nation Council---Third Year 2017

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A RENEWAL FOR THE GRANT OF RIGHT-OF-WAY TO CCI SAN JUAN, LLC, FOR THE CONTINUED OPERATION AND MAINTENANCE OF A 6-5/8" O.D. WELDED STEEL NATURAL GAS PIPELINE (MONTEZUMA CREEK NORTH PIPELINE) LOCATED ON NAVAJO NATION TRUST LANDS IN SAN JUAN COUNTY, UTAH

BE IT ENACTED:

SECTION ONE. AUTHORITY

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

SECTION TWO. FINDINGS

A. The CCI SAN JUAN, LLC, 811 Main Street, Suite 3500, Houston, TX, has submitted a right-of-way (ROW) application for the continued operation and maintenance of 6-5/8" O.D. Welded Steel Natural Gas Pipeline (Montezuma Creek North Pipeline) on, over and across Navajo Nation Trust Lands in Red Mesa Chapter vicinity, Navajo Nation (San Juan County, Utah). The application request is attached hereto and incorporated herein as **Exhibit "A."**

B. The proposed renewal for the grant of right-of-way is attached as survey maps, attached hereto and incorporated herein as **Exhibit "B."**

C. The Navajo Nation Council Resources Committee approved the renewal of the rights-of-way to the Western Gas Resources, Inc. through Resolution RCJN-91-06, attached hereto as **Exhibit "C."**

D. The environmental and archaeological studies has been completed and attached hereto and made a part hereof as **Exhibit "D."**

SECTION THREE. APPROVAL

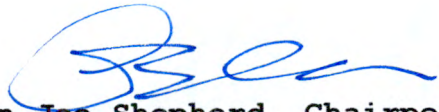
A. The Resources and Development Committee of the Navajo Nation Council hereby approves the Renewal Grant of Right-of-Way to CCI San Juan, LLC to continue operation and maintenance of 6-5/8" O.D. Welded Steel Natural Gas Pipeline (Montezuma Creek North Pipeline) on, over and across Navajo Nation Trust Lands in Red Mesa Chapter vicinity, Navajo Nation (San Juan County, Utah). 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 approves the renewal for grant right-of-way subject to, but not limited to, the following terms and conditions incorporated herein and attached as **Exhibit "E"**.

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

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at Navajo Department of Transportation, (Navajo Nation) Tse Bonito, New Mexico, at which quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, 1 abstained this 31st day of January, 2017.


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

**Motion: Honorable Jonathan Perry
Second: Honorable Leonard Pete**

NAVAJO LAND DEPARTMENT PROJECT REVIEW SECTION

Executive Official Review Release Form

Document No. 6783

- **Title of Document:** Approving a Renewal for Grant of Right-of-Way to CCI Paradox Midstream to continued operation and maintenance of 6 5/8 inch, O.D. welded steel natural gas pipeline (Montezuma Creek North Pipeline)

CERTIFICATION:

The original packet was released to _____
(Please Print)

on this _____ day of _____, 2016.

Shanmide

Sponsor: Benjamin Bennett

Document No. 006783Date Issued: 09/21/2016**EXECUTIVE OFFICIAL REVIEW**Title of Document: CCI ROWRenewal 6 5/8' naturalgas pipelin Contact Name: DRAPER, HOWARDProgram/Division: DIVISION OF NATURAL RESOURCESEmail: howarddraper@frontiernet.net Phone Number: 928/871-6447

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

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

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

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

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

☒ **Rights of Way**

1. NLD	_____	Date: 21 Sept. 16	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. F&W	see Lnd 11/23/15	Date: 11/23/16	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. HPD	_____	Date: 11/10/16	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Minerals	_____	Date: 11/15/16	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. NNEPA	_____	Date: 11-15-16	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Office of the Attorney General: (ic)	_____	Date: 11-29-16	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. OPVP	_____	Date: 12-3-16	<input type="checkbox"/>	<input type="checkbox"/>

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

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

☐ **Assignment of Mineral Lease**

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

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

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

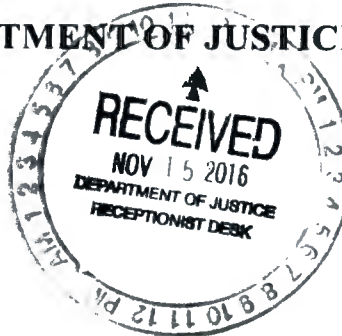
☐ **OTHER:**

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



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



☐ RESUBMITTAL

DOJ
11-15-16 1127a
DATE / TIME
<input type="checkbox"/> 7 Day Deadline
DOC #: 006783
SAS #:
UNIT: N.M.

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

CLIENT TO COMPLETE

DATE OF REQUEST: 11/15/16 ENTITY/DIVISION: DNE
CONTACT NAME: Kayla Bora DEPARTMENT: NID-GIDP
PHONE NUMBER: 46447 E-MAIL: kbora@nntiv.com
TITLE OF DOCUMENT: NCI Row Renewal @ 5/8" Natural Gas Pipeline

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 11-15-16 1:45pm REVIEWING ATTORNEY/ADVOCATE: K. Bora
DATE/TIME OUT OF UNIT: 11-29-16 @ 3pm

DOJ ATTORNEY / ADVOCATE COMMENTS

- Document is legally sufficient.

REVIEWED BY: (PRINT)	DATE / TIME	SURNAMED BY: (PRINT)	DATE / TIME
Timothy H. H.	11-28-16	Veronica Blackhat	11-29-16 11:51 AM

DOJ Secretary Called: Kayla Bora for Document Pick Up on 11-29-16 at 1:45 PM By: R. C.

PICKED UP BY: (PRINT) DATE / TIME:

COMPLETED

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

Document Information	
Document Name:	CCI Paradox, ROW Renewal for 6 5/8 Natural Gas Pipeline
Revision:	
Version:	1
Document Desc:	
Document Author:	Kayla Bia NLD (Navajo Land Title Data System - Windowrock AZ)
Document Status:	Insufficient
DocumentType:	164 Review Process
Effective Date:	Upon Approval
Expires:	
Uploaded from:	Navajo Land Title Data System (NLTDs) Phase 1: Plan for Quality Management System
	Step 894: 005_A002_00006783
	Task 1: Upload and Manage Documents
Size:	8542 KB
Date Uploaded:	22-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. Sufficient.	1.	29-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 waterways that will be crossed will need to be addressed, either way existing or maintenance of the pipeline. Companies seem to be under the impression that because they have a ROW the Navajo Nation and Federal Regulations do not apply. All utility lines that cross waterways still contact the 401 Certification authority as well as the USACOE district the waterway falls in. NNEPA WQ 401 Certification office needs to be contacted regarding this project along with a more efficient map of the pipeline, 1:24,000 TOPO. Thank you.	1.	11-Oct-2016
Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. BRCF attached - 2 conditions for EMTEX (Endangered) and ATCU (MBTA) avoidance on tribal trust land	1.	23-Sep-2016
Pam Maples EPA (Navajo Land Title Data System - Windowrock AZ)	Storage Tanks Program - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. Once again, marking it sufficient because we were told to do so EVEN IF THERE ARE NO COORDINATES AND WE HAVEN'T REALLY SEEN THE LOCATIONS.	1.	14-Oct-2016
Patrick Antonio EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Supervisor	Navajo Nation Environmental Protection Agency	Approved	1. Oil & gas field activities are excluded from the federal Construction General Permit for storm water discharges unless there is discharge of reportable quantity or there is a violation of a water quality standard.	1.	23-Sep-2016
Robert Allan DNR (Navajo Land Title Data System - Windowrock AZ)	Deputy Director DNR	DNR Administration	Approved	1. need to add Navajo Nation terms and conditions form	1.	23-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 will be needed for crossing of waterways.	1.	27-Sep-2016
Steven Prince MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	1. This vote contingent on the inclusion of the Terms & Conditions document which is linked herewith.	1.	23-Sep-2016
Tamara Billie HPD (Navajo Land Title Data System - Windowrock AZ)	HPD Reviewer	Historic Preservation Department	Rejected	1. Sponsor will need to request an updated Archaeological Approval Letter (CRID) from NNHPD. 2. Sponsor will need to request an updated Archaeological Approval Letter (CRID) from NNHPD.	1. 2.	25-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>	10-Oct-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 and the Domestic Wastewater Program oversee and regulate drinking water and wastewater infrastructure projects. We do not oversee gas, fiber optic, or electrical projects. I voted sufficient but maybe we need an alternate button.	1.	23-Sep-2016

Document Actions				
Date	Actions	User	Old Value	New Value
11/2/2016 11:10	User Removed From Approval Process	Kayla Bia NLD		Bitdah N. Becker was removed from the approval request/voting process
10/14/2016 14:15	Viewed	Pam Maples EPA		
10/14/2016 14:08	Viewed	Pam Maples EPA		

10/14/2016 9:46	Document Approver Nudged	Kayla Bia NLD	Pam Maples EPA was nudged about a pending approval request.	
10/14/2016 9:46	User Removed From Approval Process	Kayla Bia NLD	Justina George EPA was removed from the approval request/voting process	
10/14/2016 9:46	Document Approver Nudged	Kayla Bia NLD	Frederick Sherman EPA was nudged about a pending approval request.	
10/14/2016 9:45	User Removed From Approval Process	Kayla Bia NLD	Darlene Jenkins EPA was removed from the approval request/voting process	
10/14/2016 9:45	Document Approver Nudged	Kayla Bia NLD	Bidtah N. Becker was nudged about a pending approval request.	
10/14/2016 9:45	User Removed From Approval Process	Kayla Bia NLD	Michael Vazzie NFD was removed from the approval request/voting process	
10/14/2016 9:45	Document Approver Nudged	Kayla Bia NLD	Pam Maples EPA was nudged about a pending approval request.	
10/13/2016 16:10	Viewed	Eugenia Quintana EPA		
10/11/2016 17:16	Viewed	Lee Anna Martinez		
10/11/2016 17:16	Viewed	Lee Anna Martinez		
10/11/2016 15:27	Viewed	Darlene Jenkins EPA		
10/10/2016 15:11	Viewed	Tennille Begay EPA		
10/5/2016 14:45	Viewed	Bidtah N. Becker		
10/5/2016 14:41	Viewed	Steven Prince MIN		
10/5/2016 14:40	Viewed	Steven Prince MIN		
10/5/2016 14:39	Viewed	Steven Prince MIN		
10/5/2016 14:35	Viewed	Steven Prince MIN		
10/5/2016 14:34	Viewed	Steven Prince MIN		
10/5/2016 14:32	Viewed	Steven Prince MIN		
10/5/2016 13:06	Viewed	Patrick Antonio EPA		
9/29/2016 18:26	Viewed	Frederick Sherman EPA		
9/29/2016 16:27	Viewed	Glenna Lee EPA		
9/29/2016 16:27	Viewed	Glenna Lee EPA		
9/29/2016 12:11	Viewed	Eugenia Quintana EPA		
9/29/2016 12:11	Viewed	Eugenia Quintana EPA		
9/27/2016 17:08	Viewed	Ronnie Ben EPA		
9/27/2016 17:08	Viewed	Ronnie Ben EPA		
9/26/2016 14:20	Viewed	Everytt Begay NLD		
9/26/2016 14:20	Viewed	Everytt Begay NLD		
9/26/2016 14:18	Viewed	Everytt Begay NLD		
9/26/2016 10:22	Viewed	Kayla Bia NLD		
9/25/2016 20:05	Document Status modified	Tamara Billie HPD	Pending	Rejected
9/25/2016 20:05	Document Status modified	Tamara Billie HPD	Pending	Rejected
9/25/2016 19:59	Viewed	Tamara Billie HPD		
9/25/2016 19:55	Viewed	Tamara Billie HPD		
9/23/2016 16:10	Viewed	Pam Kyselka F&W		
9/23/2016 16:05	Viewed	Pam Kyselka F&W		
9/23/2016 11:42	Viewed	Eugenia Quintana EPA		
9/23/2016 11:41	Viewed	Eugenia Quintana EPA		
9/23/2016 11:11	Viewed	Robert Allan DNR		
9/23/2016 11:05	Viewed	Steven Prince MIN		
9/23/2016 11:00	Viewed	Patrick Antonio EPA		
9/23/2016 9:50	Viewed	Yolanda Barney EPA		
9/22/2016 17:39	Document Status modified	Kayla Bia NLD	New	Pending
9/22/2016 17:38	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

MEMORANDUM

TO : ALL CONCERNED

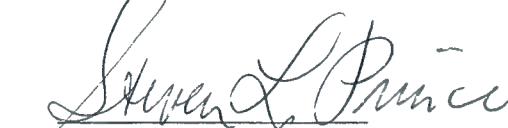
FROM : 
Akhtar Zaman, Director
Minerals Department

SUBJECT : DELEGATION OF AUTHORITY

Mr. Steven L. Prince, Principal Petroleum Engineer, is hereby delegated to act in the capacity of the Director of the Minerals Department beginning at 8:00 A.M. on Thursday, November 10, 2016 and ending at 5:00 P.M. on Tuesday, November 15, 2016.

Your cooperation with Mr. Prince will be appreciated.

ACKNOWLEDGMENT


Steven L. Prince
Principal Petroleum Engineer

AZ/mej
Distribution

PERMITS WEST, INC.
37 VERANO LOOP 505-466-8120
SANTA FE, NM 87508

11251
95-44/1070

10/8 20 15

PAY
TO THE
ORDER OF

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\$ 300⁰⁰

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FIRST NATIONAL BANK

OF SANTA FE
POST OFFICE BOX 609
SANTA FE, NM 87504

FOR

CC1-MONTAZUM CROOK Lowry

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⑆107000440⑆ 1251 17700327⑆

PAYEE ENDORSEMENT GUARANTEED
BY DEPOSITORY BANK

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PERMITS WEST, INC.
PROVIDING PERMITS for LAND USERS
37 Verano Loop, Santa Fe, New Mexico 87508 (505) 466-8120

October 8, 2015

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



Dear Howard:

On behalf of CCI Paradox Midstream LLC, I am submitting a Right-of-Way application for an existing 6 5/8 inch natural gas pipeline on Navajo Nation Tribal Trust land in San Juan County, UT. The application packet includes:

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

Because this is an existing pipeline, I am not requesting a Field Clearance and therefore the application fee check is for \$300. Please let me know if you have any questions.

Sincerely,

Jeanette Reisenburg

Project Fact Sheet

Project: **Montezuma Creek North Pipeline**

Company: CCI Paradox Midstream LLC, 811 Main Street, Suite 3500, Houston, TX 77002

Purpose: To continue operation of a 6 5/8 inch natural gas pipeline from Montezuma Creek Gas Plant to Lisbon Valley

Surface: Tribal Trust

Right of Way Width: 40 feet

Line Length: 75,205.41 **Total Acreage:** 69.06 acres

Tribal Location:

Township 38 South, Range 24 East, SLB&M., San Juan County, UT

Section 31

Township 39 South, Range 23 East, SLB&M., San Juan County, UT

Sections 12, 13, 24, 25, 36

Township 39 South, Range 24 East, SLB&M., San Juan County, UT

Sections 6, 7, 31

Township 40 South, Range 23 East, SLB&M., San Juan County, UT

Section 36

Township 40 South, Range 24 East, SLB&M., San Juan County, UT

Sections 6, 7, 18, 19, 30, 31

Township 41 South, Range 23 East, SLB&M., San Juan County, UT

Section 1

Township 41 South, Range 24 East, SLB&M., San Juan County, UT

Section 6

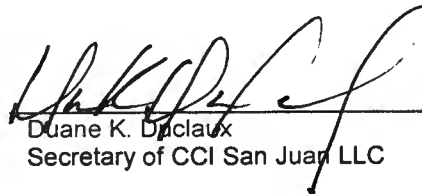
All SLM, San Juan County, UT

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

EVIDENCE OF AUTHORITY OF OFFICERS TO EXECUTE PAPERS

I, Duane K. Duclaux, solemnly swear that Brad Burmaster was, on the 11th day of October, 2015, duly qualified and acting as Senior Vice President – Head of Asset Optimization of CCI San Juan LLC, a limited liability company organized under the laws of the State of Delaware, on which day he executed a Right-of-Way Application for and on behalf of said limited liability company, covering certain Navajo Tribal Trust Indian lands in the State of New Mexico; that he was fully empowered to execute said instrument and all papers in connection therewith, and that their action in executing the same binds the said limited liability company to full performance of all obligations thereunder.

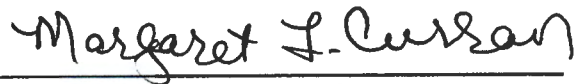
This 11th day of October, 2015



Duane K. Duclaux
Secretary of CCI San Juan LLC

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

(Signed)



MARGARET L. CURRAN
NOTARY PUBLIC, STATE OF CONNECTICUT
~~MY COMMISSION EXPIRES MARCH 31, 2018~~
(Title)

[NOTARY SEAL]



UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

RIGHT-OF-WAY APPLICATION

COMES NOW THE APPLICANT CCI San Juan, LLC, 811 Main Street, Suite 3500, Houston, TX on this 13th day of October, 2015, who hereby petition(s) the Bureau of Indian Affairs and respectfully files under the terms and provisions of the Act of February 5, 1948 (62 Stat. 17; 25 USC 323-328), and Departmental Regulations 25 CFR 169, an application of a 5 (five) year Right-of-Way for the following purposes and reasons:

Continued operation and maintenance of 6 5/8 inch, O.D. welded steel natural gas pipeline (Montezuma Creek North Pipeline)

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

Township 38 South, Range 24 East, SLB&M., San Juan County, UT

Section 31

Township 39 South, Range 23 East, SLB&M., San Juan County, UT

Sections 12, 13, 24, 25, 36

Township 39 South, Range 24 East, SLB&M., San Juan County, UT

Sections 6, 7, 31

Township 40 South, Range 23 East, SLB&M., San Juan County, UT

Section 36

Township 40 South, Range 24 East, SLB&M., San Juan County, UT

Sections 6, 7, 18, 19, 30, 31

Township 41 South, Range 23 East, SLB&M., San Juan County, UT

Section 1

Township 41 South, Range 24 East, SLB&M., San Juan County, UT

Section 6

All SLM, San Juan County, UT

Said right-of-way across Tribal Trust Lands to be 75,205.41 feet in length, 40 feet in width, and 69.06 acres in size, 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.

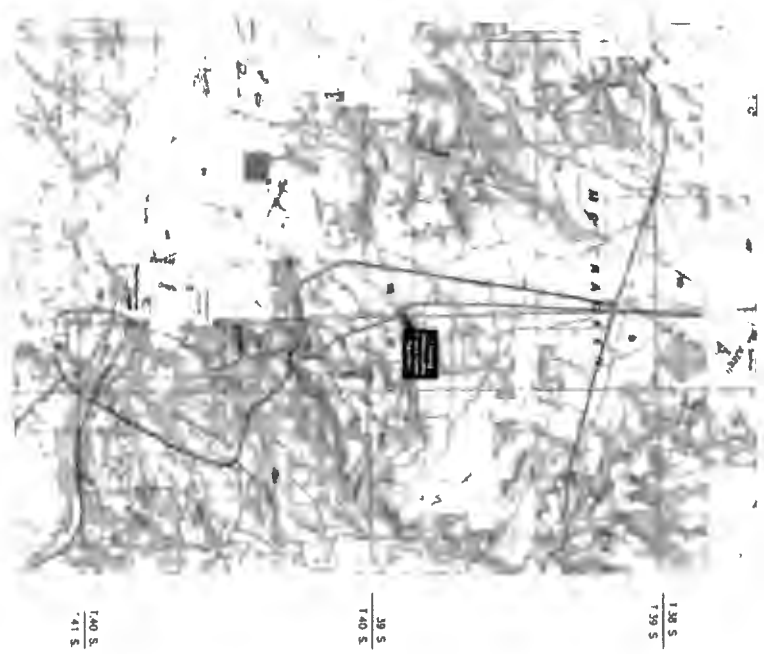
DATE October 13, 2015

APPLICANT 



CCI Paradox Midstream, LLC
Montezuma Creek North Pipeline
(formerly Whitehorse Construction/Western Gas Processor's Pipeline)

Section: 31, T.38 S., R.24 E.
Sections: 6 & 7, T.39 S., R.24 E.
Sections: 12, 13, 24, 25 & 36, T.39 S., R.23 E.
Section: 31, T.39 S., R.24 E.
Sections: 6, 7, 18, 19, 30 & 31, T.40 S., R.24 E.
Section: 36, T.40 S., R.23 E.
Section: 1, T.41 S., R.23 E.
Section: 6, T.41 S., R.24 E.
San Juan County, Utah



Vacuity Map
Not to Scale

San Juan County
Utah
Office of the Clerk
of the Board of Commissioners
100 West 1st Street
Bldg. 200
Cortez, UT 86301
863-221-1111
www.sanjuancountyutah.gov

Section: 31, T.38 S., R.24 E.
Sections: 6 & 7, T.39 S., R.24 E.
Sections: 12, 13, 24, 25 & 36, T.39 S., R.23 E.
Section: 31, T.39 S., R.24 E.
Sections: 6, 7, 18, 19, 30 & 31, T.40 S., R.24 E.
Section: 36, T.40 S., R.23 E.
Section: 1, T.41 S., R.23 E.
Section: 6, T.41 S., R.24 E.
San Juan County, Utah

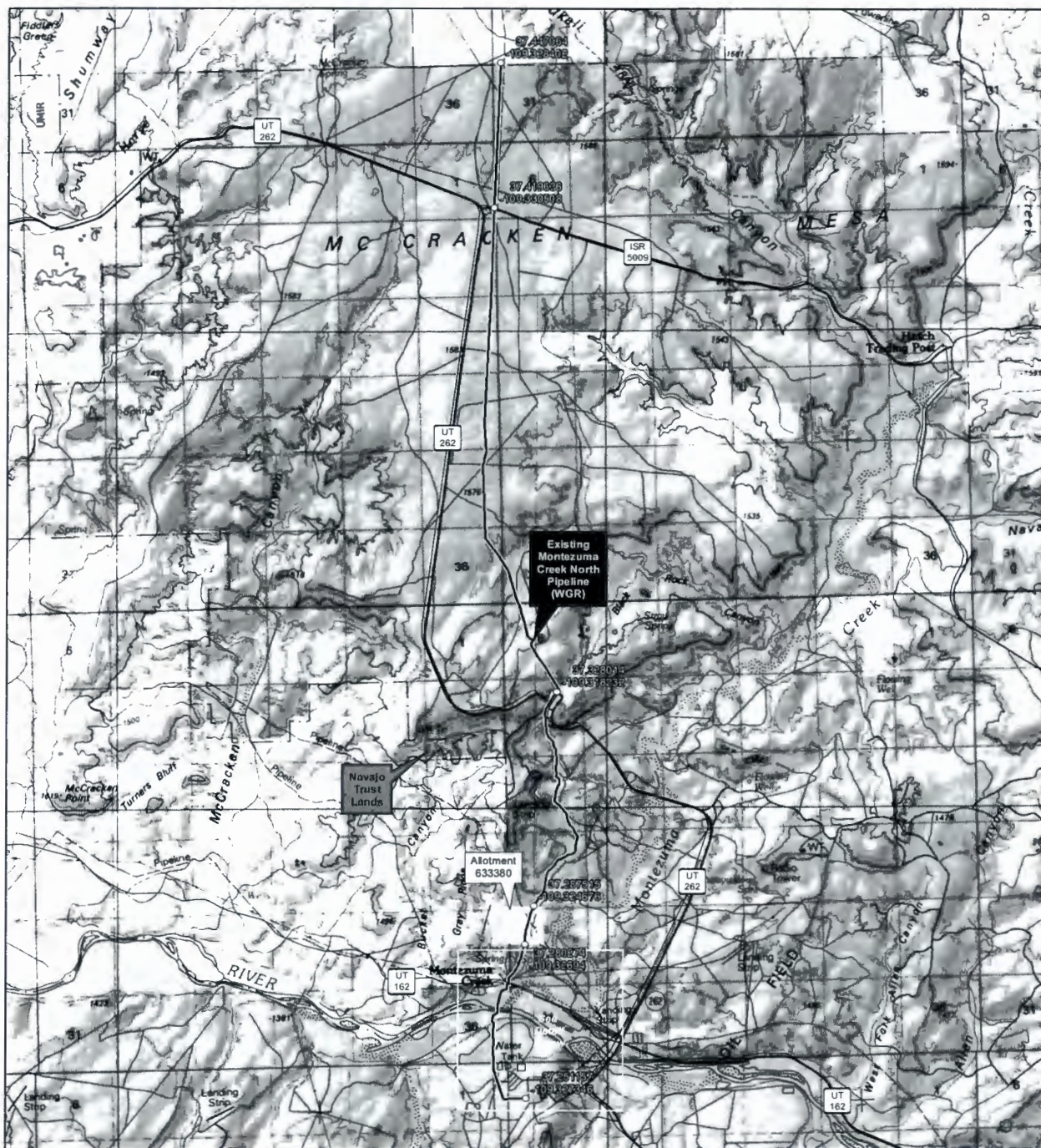
San Juan County
Utah
Office of the Clerk
of the Board of Commissioners
100 West 1st Street
Bldg. 200
Cortez, UT 86301
863-221-1111
www.sanjuancountyutah.gov



San Juan County, Utah

Surveyed 1987
Amended 10/02/1987
Amended 10/26/1987
This Page - 10/06/2015

ADDRESS: LAND SURVEYING
P.O. Box 100 - Cortez, CO 81301 - (970) 345-3300



CCI Paradox Midstream LLC

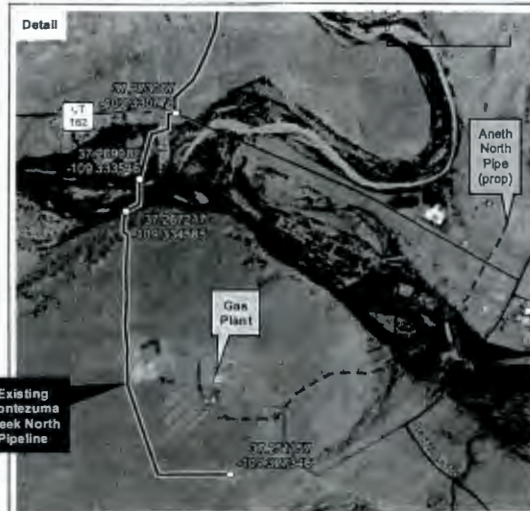
**Montezuma Creek North Pipeline
(Western Gas Resources)**
 Allotment 633380
 NW/4 Sec. 30, T.40S R.24E
 Montezuma Creek, Navajo Indian Reservation,
 San Juan County, Utah
 USGS Quads: Mont. Creek and McCracken Spring

- Existing Gas Facility
- Existing Western Gas Resources Pipeline
- - - Proposed Aneth Extension (detail)
- Navajo Tribal Trust Lands

NAD 1983 Utah State Plane
South (Feet)



1:80,578



C

RCJN-91-06

RESOLUTION OF THE RESOURCES COMMITTEE
OF THE NAVAJO NATION COUNCIL

20th NAVAJO NATION COUNCIL - Fourth Year, 2006

AN ACTION

RELATING TO RESOURCES; APPROVING THE RENEWAL OF RIGHTS-OF-WAY TO THE WESTERN GAS RESOURCES, INC. FOR THE TERM ENDING ON OCTOBER 17, 2015

BE IT ENACTED:

1. The Navajo Nation hereby approves the renewal of rights-of-way, attached hereto as Exhibit 'A', to the Western Gas Resources, Inc. for the term ending October 17, 2015.

2. The Navajo Nation hereby approves the renewal of the rights-of-way to the Western Gas Resources, Inc., subject to, but not limited to, the terms and conditions contained in Exhibit "B", attached hereto and incorporated herein by reference.

3. The Navajo Nation hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to effectuate the intent and purpose of this resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Resources Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 6 in favor, 0 opposed and 0 abstained, this 27th day of June, 2006.



George Adkins, Chairperson
Resources Committee

Witness: Lawrence Martin
Secretary: Herman Pini



**THE
NAVAJO
NATION**

Joe Shirley, Jr.
President

10-06AUG:43 RCVD

MINERALS DEPARTMENT

Post Office Box 1910

Window Rock, Arizona 86515

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

Frank Dayish, Jr.
Vice-President

August 8, 2006

Ms. Elouise Chicharelio, Regional Director
Navajo Region
Bureau of Indian Affairs
P.O. Box 1060
Gallup, NM 87301

SUBJECT: APPROVING THE RENEWAL OF NATURAL GAS AND PRODUCT
PIPELINE RIGHTS-OF-WAY FOR WESTERN GAS RESOURCES

Dear Ms. Chicharelio:

The Resources Committee of the Navajo Nation Council, by resolution RCJN-91-06, dated June 27, 2006, has approved the renewal of natural gas and product pipeline rights-of-way for Western Gas Resources, Inc. Attached are all supporting documents for the rights-of-way renewal.

Your timely approval of the rights-of-way will be greatly appreciated. If you should have any questions please call me at (928) 871-6587.

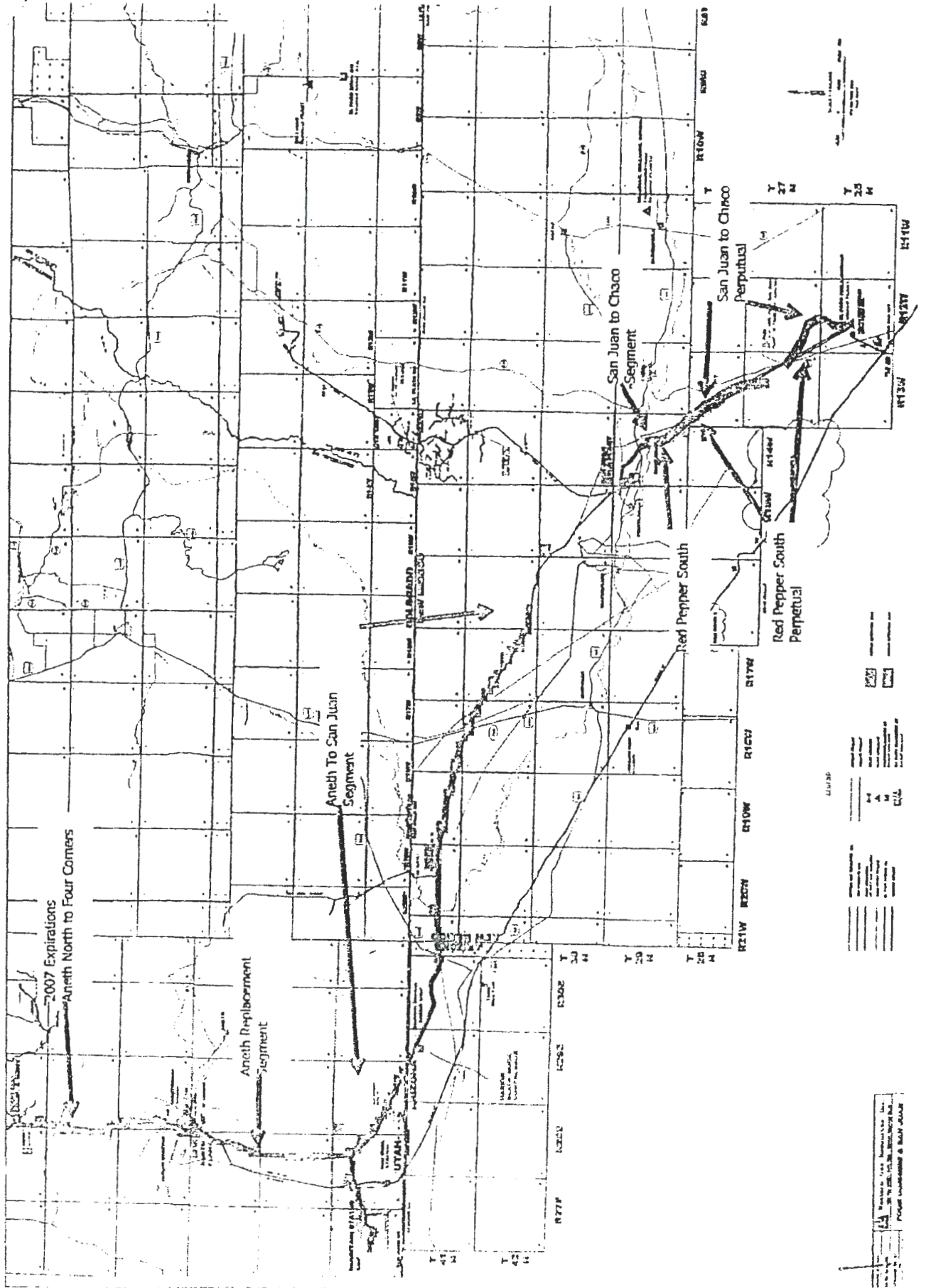
Sincerely,

Akhtar Zaman, Director
Minerals Department

CC: File

RSD:rm

EXHIBIT "A"



Pipeline Name	BIA Number	Product	Pipeline Capacity Volumes	Pipeline Diameter	Total Feet	Total Rods	Total Miles
Anech To San Juan	850328/850334	Unprocessed Natural Gas	14 MMCFD	8 inch	74056.42	4308.45	13.458
Anech To San Juan	850328/850334		4.488 MMCFD	16 inch	262537	15911.33	49.723
Totals					333693.42	20217.78	63.181
Anech North to Four Corners Compressor Site	87-87-04	Unprocessed Natural Gas	14 MMCFD	6 inch	75205.41	4557.9	14.76
Totals					75205.41	4557.9	14.76
Total SJR Plant Inlet			7.779 MMCFD	14 MMCFD			
San Juan Chaco BLM Expires 6/18/2020	RW-49308	Unprocessed Natural Gas	21 MMCFD	8 inch	22423.5	1359	4.24
San Juan Chaco BLM Expires 6/18/2020				6 inch	50678	3071.45	9.598
San Juan Chaco BLM Expires 6/18/2020				8 inch	16677.08	1010.733	3.168
Totals					39778.58	5441.183	16.996
San Juan Chaco BLM Expires 6/18/2020	850328/850334	Liquid Natural Gas	48840 Gallons	3.5 inch	22423.5	1359	4.24
San Juan Chaco BLM Expires 6/18/2020				3.5 inch	50678	3071.45	9.598
San Juan Chaco BLM Expires 6/18/2020				3.5 inch	16677.08	1010.733	3.168
Totals					89778.58	5441.183	16.996
			Total 6 inch Lines		162038.92	14305.531	45.214
			Total 16 inch Line		262537	15911.33	49.723
			Total 3.5 inch Line		89778.58	5441.183	16.996
					515255.51	35658.051	111.933



Western Gas Resources, Inc.

September 23, 2005

OCT - 3 2005

The Navajo Nation
Division of Natural Resources, Project Review Office
Attn: Howard Draper, Administrative Service Officer
P. O. Box 9000
Window Rock, AZ 86515

Subject: Application for right of way renewal for 16", 6" and 6-5/8" natural gas pipeline and a 3-1/2" natural gas liquid pipeline, forty (40') feet in width.

Dear Mr. Draper:

Enclosed please find Western Gas Resources, Inc. (WGR) application for a grant of right of way renewal for a forty (40') feet wide easement, for 16", 6-5/8" and 6" natural gas pipelines and a 3-1/2" natural gas liquid pipeline easement. This application covers NAVAJO TRIBAL TRUST (RESERVATION) lands in San Juan County, New Mexico, Apache County, Arizona and San Juan County, Utah, as submitted to Bureau of Indian Affairs, Shiprock Agency, Realty Estate Services.

The existing 16" natural gas pipeline right of way commences at a point northwest of Kirtland, New Mexico and traverses in a northwesterly direction to the launcher site in the NW 1/4 of section 11, T43S, R23E, SLP, San Juan County, Utah and continuing as a 6" natural gas pipeline to the Aneth Plant in the NW 1/4 of section 6, T41S, R24E, SLP, San Juan County, Utah. Also an existing 6-5/8" natural gas pipeline and a 3-1/2" natural gas liquid pipeline rights of way commences at a point southeast of Kirtland, New Mexico at the San Juan River and traverses in a southeasterly direction to the Navajo Nation (Reservation) boundary. Enclosed with this letter are the following:

1. Application for rights of way across NAVAJO TRIBAL TRUST (RESERVATION) lands in duplicate.
2. Maps and Legal Descriptions in duplicate.
3. Applicant's Certificate and Engineer's Affidavit in duplicate.
4. Environmental Assessment.
5. Archaeological Clearance report.
6. WGR check No. 10022197 in the amount of \$500.00 for filing and processing fees.
7. Payment for land use across NAVAJO TRIBAL TRUST (RESERVATION) lands will be determined at a later date.

WGR is currently in the process of obtaining an appraisal for this project. Consequently, no appraisal data is being file with this application. However, as such information is developed, it will be provided to your office as supplement material to this application.

If you have any questions or need additional information regarding the enclosed Environmental Assessment or Archaeological Clearances for this application, please Ellis & Associates, Inc. in Farmington, NM at (505) 326-1730 or by cell phone at (702) 267-4929. You may also contact Kelly Thomas with WGR at (303) 452-5603 in Denver, Colorado.

Sincerely,

Kelly Thomas
Manager, Surface Use Representative

APPLICATION FOR RIGHT (S) OF WAY

Bureau of Indian Affairs
United States Department of the Interior

The undersigned, WESTERN GAS RESOURCES, INC. 1099 18th Street, Suite 1200, Denver, CO 80202 (hereinafter called "Applicant"), hereby makes application, pursuant to the Act of February 5, 1948 (62 Stat. 17, 25 U.S.C. 323-328) And in accordance with the Department Regulations 25 C.F.R. Part 169, for the following rights of way across NAVAJO TRIBAL TRUST LANDS in San Juan County, State of New Mexico, Apache County, State of Arizona and San Juan County, State of Utah:

A right of way forty (40') feet in width for a 6" natural gas pipeline 71056.42 feet in length, 4306.450 rods, 13.458 miles, contains 65.249 acres \pm , to be used to continue to operate and maintain the existing welded steel pipeline.

A right of way forty (40') feet in width for a 16" natural gas pipeline 262537.00 feet in length, 15911.333 rods, 49.723 miles, contains 241.031 acres \pm , to be used to continue to operate and maintain the existing welded steel pipeline.

A right of way forty (40') feet in width for a 6-5/8" natural gas pipeline and a 3-1/2" natural gas liquids pipeline 22423.50 feet in length, 1359 rods, 4.24 miles, contains 20.590 acres \pm , to be used to continue to operate and maintain the existing welded steel pipelines.

The location of said right of way and its extent are more particularly shown on the accompanying exhibits.


Applicant has filed with the Department of the Interior evidence of its incorporation, completion of organization and qualification to do business in the State of New Mexico.

Applicant hereby agrees to comply with the following stipulation in the event of the right of way herein applied for are granted:

- To construct, operate and maintain the right of way in a workmanlike manner.
- To pay promptly all damage and compensation, in addition to the deposit made pursuant to C.F.R. 169.4, determined by the Secretary to be due the landowner and authorized users and occupants of the land on account of the exhibit, granting, construction and maintenance of the right of way.
- To indemnify the landowner and authorized user and occupants against any liability for loss, personal injury and property damage arising from construction, maintenance, occupancy or use of the lands by Applicant, his employees, contractors and their employees, or subcontractors and their employees.
- To restore the land as nearly as may be possible to their original condition upon completion of construction to the extent compatible with the purpose for which the right of way was granted.
- 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 to dispose of all vegetative and other material cut, uprooted, or otherwise accumulated during the construction and maintenance of the project.
- To do everything, reasonably within its power, to prevent and suppress fires on or near the lands to be occupied under the right of way.
- 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 work constructed, maintained or operated under the right of way.
- That upon revocation or termination of the right of way, Applicant shall, so far as is reasonably possible, restore the land to its original condition.
- To at all times keep the Secretary informed of its address, and in case of corporation, of the address of principal place of business and of the names and addresses of its principal officers.
- 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.

WHEREFORE, Applicant requests that the Secretary grant the right of way hereinabove described for a term of ten (10) years.

IN WITNESS WHEREOF Applicant has caused this instrument to be executed this 26 day of September, 2005


WESTERN GAS RESOURCES, INC.
Mark R. Petty, Attorney in Fact

WESTERN GAS RESOURCES, INC.

6" PIPELINE FROM THE LAUNCHER SITE TO ANETH PLANT
ACROSS NAVAJO RESERVATION LANDS.

NAVAJO RESERVATION LANDS
State of Utah

Township 41 South, Range 24 East, SLP, in San Juan County, Utah.

Section: 6

Township 41 South, Range 23 East, SLP, in San Juan County, Utah.

Sections: 12, 13, 24, 25, 26 and 35.

Township 42 South, Range 23 East, SLP, in San Juan County, Utah.

Sections: 2, 11, 14, 23, 26 and 35.

Township 43 South, Range 23 East, SLP, in San Juan County, Utah.

Sections: 2 and 11.

WESTERN GAS RESOURCES, INC.

16" PIPELINE FROM KIRTLAND TO THE LAUNCHER SITE
ACROSS NAVAJO RESERVATION LANDS.

NAVAJO RESERVATION LANDS
State of Utah

Township 43 South, Range 23 East, SLPM, in San Juan County, Utah.

Sections: 11, 13, 14 and 24.

Township 43 South, Range 24 East, SLPM, in San Juan County, Utah.

Sections: 19, 20, 27, 28, 29, 34, 35 and 36.

NAVAJO RESERVATION LANDS
State of Arizona

Township 42 North, Range 29 East, GSRPM, in Apache County, Arizona

Sections: 33 and 34.

Township 41 North, Range 29 East, GSRPM, in Apache County, Arizona

Sections: 1, 2, 3 and 12.

Township 41 North, Range 30 East, GSRPM, in Apache County, Arizona

Sections: 7, 8, 9, 10, 13, 14, 15, 16 and 17

Township 41 North, Range 31 East, GSRPM, in Apache County, Arizona

Sections: 17 and 18

NAVAJO RESERVATION LANDS
State of New Mexico

Township 32 North, Range 21 West, NMPM, in San Juan County, New Mexico.

Sections: 25, 26 and 27.

Township 32 North, Range 20 West, NMPM, in San Juan County, New Mexico.

Sections: 19, 25, 26, 27, 28, 29 and 30.

Township 32 North, Range 19 West, NMPM, in San Juan County, New Mexico.

Sections: 26, 27, 28, 29, 30, 35 and 36.

Township 32 North, Range 18 West, NMPM, in San Juan County, New Mexico.

Sections: 31, 32 and 33.

Township 31 North, Range 18 West, NMPM, in San Juan County, New Mexico.

Section: 2, 3, 4 and 12.

Township 31 North, Range 17 West, NMPM, in San Juan County, New Mexico.

Section: 7, 16, 17, 18, 21, 22, 23, 25, 26 and 36.

Township 31 North, Range 16 West, NMPM, in San Juan County, New Mexico.

Sections: 31, 32 and 33.

WESTERN GAS RESOURCES, INC.

6-5/8 AND 3-1/2" PIPELINES FROM SAN JUAN RIVER TO THE NAVAJO
RESERVATION BOUNDARY ACROSS NAVAJO RESERVATION LANDS.

NAVAJO RESERVATION LANDS
State of New Mexico

Township 29 North, Range 14 West, NMPM, in San Juan County, New Mexico.

Sections: 15, 22, 26, 27, 35 and 36

APPLICANT'S CERTIFICATE

This is to verify that Tony Marques who executed the Engineer's Affidavit hereon is the person employed by the undersigned applicant to prepare this map; that the survey, including the termini and/or related facilities represented on this map has been adopted that this map obtain the benefits of the Act of February 5, 1948 (62 Stat. 17, 25 U.S.C. 232)

Executed this 22nd day of September, 2005


Mark R. Petry as Attorney-in-Fact
WESTERN GAS RESOURCES, INC.

STATE OF COLORADO)

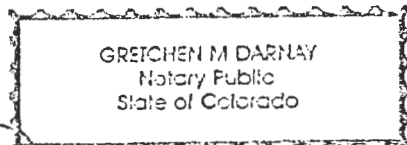
) ss.


COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 22nd day of September, 2005 by Mark R. Petry as Attorney-in-Fact of WESTERN GAS RESOURCES, INC.

Witness my hand and seal.

My Commission Expires: 9-11-2007





Notary Public

ENGINEER'S AFFIDAVIT

States that he is an engineer employed by WESTERN GAS RESOURCES, INC., that the right-of-way renewal for the 16", 6-5/8" and 6" natural gas pipelines and a 3-1/2" natural gas liquid pipeline and/or related facilities shown on this

EXHIBIT "B"

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

WESTERN GAS RESOURCES, INC. (GRANTEE)

1. The right-of-way term shall expire on October 17, 2015. The term of the right-of-way located on former U.S. Bureau of Land Management land, which has been transferred to the Navajo Nation, shall also expire on October 17, 2015.
2. The total consideration for the ROW is assessed at \$ 5,831,116.00 and is payable to the Navajo Nation in ten (10) annual installments. The first annual payment of \$583,111.60 is due within ten (10) days of approval of the ROW by the Navajo Nation. All subsequent annual payments, beginning with the second annual payments are due on or before October 17th of each year and are subject to annual adjustments based on the following formula:

$$\text{\$ 583,111.60} \times \frac{\text{CPI for August for the year payment is made}}{\text{CPI for August 2005}}$$

Where CPI is the Consumer Price Index, U.S. City Average for All Urban Consumers published by the U.S. Bureau of Labor Statistics.

If the ROW is cancelled or terminated prior to October 17, 2015 prior to making all the ten (10) annual payments, the grantee shall make a lump sum payment at the time of cancellation or termination. The lump sum payment shall be based on the value of the annual payment at the time of cancellation or termination multiplied by the number of years remaining and to be paid to the Navajo Nation.

3. The Grantee may use and occupy the ROW for the purpose(s) of transporting natural gas on six (6) inch and sixteen (16) inch diameter lines and liquid petroleum products on the 3.5 inch line. The Grantee may not develop, use or occupy the ROW for any other purpose without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions or withheld at the sole discretion of the Navajo Nation. The Grantee may not develop, use or occupy the ROW for any unlawful purpose. Further, any physical expansion of the pipeline system and or the transportation of different products other than these specified here in for the pipelines will require the written approval of the Navajo Nation and the Secretary of the Interior.
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 Federal Regulation, Part 169;
 - b. All applicable and federal and Navajo Nation antiquities laws and regulations, with the following additional conditions: 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; and
 - 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 successors; and
 - e. All Navajo Nation applicable taxes, 24 N.N.C §§ 101 et seq., and accompanying regulations.
5. The Grantee shall ensure that all air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the ROW.
 6. The Grantee shall clear and keep clear the lands within the ROW to the extent compatible with the purpose of the ROW, and shall dispose of all vegetation and other materials cut, uprooted or otherwise accumulated during any surface disturbance activities.
 7. The Grantee shall at all times during the term of the ROW and at the Grantee's sole cost and expense, maintain the land subject to the ROW and improvements located thereon and make all necessary and reasonable repairs.
 8. The Grantee shall obtain prior written permission to cross existing ROW, if any, from the appropriate parties.
 9. The Grantee shall be responsible for and promptly pay all damages attributable to the development, occupancy or use of the ROW by the Grantee.
 10. 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, occupancy or use of ROW by the Grantee.
 11. The Grantee shall not assign, convey, transfer, or sublet in any manner whatsoever, except to an affiliate of the Grantee of the ROW or any interest therein, or in or to any of the improvements on the land, subject to the ROW, without the written consent of

the Navajo Nation and the Secretary of the Interior. Any such attempted assignment, conveyance or transfer without such 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. The Grantee must notify the Navajo Nation of any assignment to an affiliate of the Grantee no later than thirty (30) days prior to the effective date of the assignment. Before granting its consent the Navajo Nation reserves its rights to conduct reasonable inquiry to confirm the relationship between the Grantee and its affiliate, and the Grantee agrees to cooperate with such inquiry by providing to the Navajo Nation all necessary documents and other reasonably required information.

12. The Navajo Nation may request the Secretary of the Interior to terminate the ROW for violation of any of the terms and conditions stated herein. In addition, the ROW shall be terminable in whole part for any of the following causes:
 - a. Failure to comply with any terms and conditions of the grant or of applicable laws or regulations; and
 - b. A non-use of the ROW for the purpose for which it is granted for a consecutive two-year period; and
 - c. The use of the land subject to the ROW for any purpose inconsistent with the purpose for which the ROW is granted.
13. At the termination of this ROW, the Grantee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. The Grantee shall reclaim the land within ninety (90) days after the termination of the ROW. 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. All reclamation or abandonment shall be performed in accordance with the rules, regulations, and guidelines of the Navajo Nation Environmental Protection Agency and applicable federal laws and regulations.
14. Holding over by the Grantee after the termination of the ROW shall not constitute a renewal or extension thereof or give the Grantee any rights hereunder or in to the land subject to the ROW or to any improvements located thereon.
15. The Navajo Nation and the Secretary shall have the right, at any reasonable time during the term of the ROW, to enter upon the premises, or any part thereof, to inspect the same and any improvements located therein.
16. By acceptance of the grant of ROW, 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 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

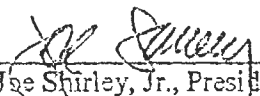
which have a proximate (legal) effect on persons or property within the Navajo Nation.

17. By acceptance of the grant of ROW, 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 policy 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 ROW or to the Navajo Nation.
18. 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 ROW 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.
19. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.
20. 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.
21. 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.
22. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the ROW and all lands burdened by the ROW, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the ROW; and the ROW and all lands burdened by the ROW shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.
23. By acceptance of this ROW Grant, the Grantee shall obtain rights to Navajo Nation Lands in the nature of easement only; i.e., a right to pass over, occupy and reasonably use and occupy the ROW for the particular purpose described herein, with limited rights of ingress and egress via those particular access roads that are in existence and useable at the grant of this ROW. Such easement shall be limited term usufructuary interest consistent with all general property rights flowing from beneficial ownership of Navajo Nation lands, with no subsurface rights to any minerals or other natural

resources located on or within the ROW. The ROW, under no circumstances or rule of law, shall be interpreted as granting a fee simple interest or creating any greater property right possessed by the Grantee other than the limited easement described herein.

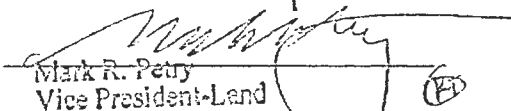
24. a) The Grantee shall maintain a Facility Response Plan that effectively addresses releases, spills or other failures with a potential to contaminate water, soil or pose a risk to human health. The plan will be reviewed and determined adequate by the NNEPA and made available to affected Navajo Nation Chapters and other interested parties, including individuals employed by the Grantee.
- b.) On an annual basis, the Grantee shall provide to the NNEPA a photocopy of maintenance reports conducted along the ROW.

THE NAVAJO NATION

By: 
Joe Shirley, Jr., President

Date: AUG 03 2006

WESTERN GAS RESOURCES, INC.

By: 
Mark R. Petry
Vice President-Land

Date: 7-18-06

RSD/srm



ENVIRONMENTAL ASSESSMENT

ON BEHALF OF



CCI PARADOX MIDSTREAM LLC
811 MAIN ST, SUITE 3500
HOUSTON, TX 77002
FOR

MONTEZUMA NORTH PIPELINE RIGHT-OF-WAY GRANT

BUREAU OF INDIAN AFFAIRS
SHIPROCK AGENCY

NAVAJO TRIBAL TRUST LAND AND
NAVAJO INDIAN ALLOTMENT 633380
SAN JUAN COUNTY, UTAH

OCTOBER 9, 2015

REVISED
OCTOBER 16, 2015

Prepared by:



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1. INTRODUCTION

Castleton Commodities International, LLC (CCI) has filed an application with the Bureau of Indian Affairs, pursuant to the terms and provisions of U.S.C Chapter 8: Rights of Way Through Indian Lands, Section 323, and to the regulations of the Department of the Interior contained in Title 25, Code of Federal Regulations Part 169, for the grant of right of way to operate and maintain an existing 6 5/8-inch natural gas pipeline and ancillary facilities across Navajo Indian Tribal Trust Lands and Navajo Indian Allotted Lands.

The existing pipeline right-of-way (ROW) is **14.76 miles (77,953.69')** long, **40 feet wide** and **71.58 acres** in area, and will be referred to as the Proposed Action in this document. The project consist of 14.24 miles (75,205.41') of pipeline on **Navajo Nation Tribal Trust Lands** encompassing 69.06 acres and 0.52 miles (2,748.28 feet) of pipeline on **Navajo Allotment #633380** encompassing 2.52 acres. No new construction is proposed within the current ROW.

This Environmental Assessment (EA) will address the Proposed Action with regards to potential impacts to the surrounding environment.

1.1 PURPOSE AND NEED

The current pipeline operator ROW holder, Western Gas Resources, intends to abandon the pipeline when the current ROW expires in October, 2015. The purpose of the Proposed Action is to allow CCI to continue to transport natural gas from the Elkhorn gas plant near Montezuma Creek northeast to the Lisbon Valley for gathering, separating, and subsequent distribution purposes.

The Proposed Action will help meet the public's need for natural gas resources and bolster the local economy in southeast Utah.

1.2 CONFORMANCE WITH APPLICABLE LAND USE PLAN

This EA addresses the resources and impacts on a site-specific basis as required by the National Environmental Policy Act (NEPA) of 1969, as amended (Public Law 91-90, 42 USC 4321 et seq.). The proposed project would not be in conflict with any local, county, or state plans. The proposed project will not be in conflict with any local, county, or state plans.

1.3 FEDERAL, STATE OR LOCAL PERMITS, LICENSES OR OTHER CONSULTATION REQUIREMENTS

The Federal Water Pollution Control Act (Clean Water Act) has been amended to provide that certain storm water discharges from field activities or operation, including construction, associated with oil and gas exploration, production, processing, or treatment operation or transmission facilities are exempt from Nation Pollutant Discharge Elimination System permit requirements. The action encourages voluntary application of best management practices for oil and gas field activities and operation to minimize the discharge of pollutants in storm water runoff and protect water quality (FR 06-12-06, V. 71, No. 112). This action applies to all States, Federal lands and Indian Country regardless of whether EPA or a State is the NPDES permitting authority. States have the authority to regulate any discharges, pursuant to state law, through a non-NPDES permit program.

Compliance with Section 106 responsibilities of the National Historic Preservation Act are adhered to by following the BLM – New Mexico SHPO protocol agreement, which is authorized by the National Programmatic Agreement between the *BLM*, the *Advisory Council on Historic Preservation*, and the *National Conference of State Historic Preservation Officers*, and other applicable BLM handbooks.

The Navajo Nation Department of Fish & Wildlife (NNFWD)-Natural Heritage Program and the U.S. Fish and Wildlife Information, Planning, and Conservation System (IPaC) website have been consulted with respect to listed species and/or species of concern that are known to occur or that have the potential to occur within the area of the Proposed Action. Listed species and species of concern will be evaluated in Section 3.0 of this document

Additionally, the Operator is required to:

- Comply with all applicable Federal, State and Local laws and regulations.
- Obtain the necessary permits and/or ROW agreement for the installation of the pipeline and temporary use areas.

2. ALTERNATIVES INCLUDING THE PROPOSED ACTION

2.1 ALTERNATIVE A - NO ACTION

The BLM NEPA Handbook (H-1790-1) states that for Environmental Assessments (EAs) on externally initiated proposed actions, the No Action Alternative generally means that the proposed activity will not take place. This option is provided in 43 CFR 3162.3-2 (h) (2). This alternative would deny the approval of the ROW necessary to construct the Proposed Action on Navajo Tribal Trust surface and allotted surface, and the current land and resource uses would continue to occur in the proposed project area. No mitigation measures would be required.

For this Environmental Assessment, the No Action Alternative is presented for baseline analysis of resource impacts.

2.2 ALTERNATIVE B - PROPOSED ACTION

The Proposed Action involves issuing a new ROW for an existing 6" natural gas pipeline. The Proposed Action would be located as indicated in Table 2.1 and shown on the location map in Appendix 1.

An application for a new Montezuma Creek North Pipeline ROW would not result in any new disturbance to the ROW. This alternative is preferable to an alternative that would introduce new disturbance to the landscape from installation of a new pipeline. As the ROW is now, successful reclamation over the last 16 years has resulted in barely discernable surface disturbance along most of the ROW route. Successful reclamation stabilizes soils, provides grazing and wildlife habitat, and maintains the integrity of the landscape.

The only new disturbance to the pipeline ROW would come from intermittent maintenance activities of the pipeline. During maintenance activities, all vehicle and equipment use would be limited to the assigned ROW; any disturbance outside the ROW would require additional Navajo approval.

If noxious weeds become established within the ROW, CCI will contact the Navajo Nation EPA Pesticides Program, Glenna Lee, Program Manager (928) 871-7815 for list of approved herbicides and applicators. It will be the CCI's responsibility to monitor, control, and eradicate all invasive, non-native plant species within the proposed project area, throughout the life of the ROW term.

Table 2.1: Land Use Specifications Summary

<i>Land Ownership</i>	<i>Township/Range</i>	<i>Section(s)</i>	<i>Length (feet)</i>	<i>Area (acres)</i>
Navajo Tribal Trust	T. 38 S., R. 24 E.	31	75,205.41	69.06
	T. 39 S., R. 23 E.	12, 13, 24, 25, & 36		
	T. 39 S., R. 24 E.	6 & 7		
	T. 39 S., R. 24 E.	31		
	T. 40 S., R. 23 E.	36		
	T. 40 S., R. 24 E.	6, 7, 18, 19, 30, & 31		
	T. 41 S., R. 23 E.	1		
	T. 41 S., R. 24 E.	6		
NIA #633380	T. 40 S., R. 24E.	30	2,748.28	2.52
TOTAL			77,953.69	71.58

2.3 ALTERNATIVES CONSIDERED BUT NOT ANALYZED IN DETAIL

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

1. On-site inspections;
2. Cultural Resources Inventory;
3. Threatened, Endangered and Special Status Species Surveys of the location of the Proposed Action; and
4. Review of Navajo Nation Department of Fish and Wildlife species of concern known to occur or with the potential to occur on the 7.5 minute Montezuma Creek, UT and McCracken Spring, UT 7.5 minute quadrangles.

No additional alternatives for the Proposed Action have been 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 GENERAL TOPOGRAPHY/SURFACE GEOLOGY

The Proposed Action is located within the Colorado Plateau physiographic region in southeast Utah. Topography in the area includes mesas, escapments, outcroppings, badlands, dry washes and rocky canyons, and the San Juan River corridor. The Proposed Action is generally north and south in its alignment and spans the San Juan River valley and adjacent mesas and badlands north and south of the valley corridor. Surface geology includes sufficial eolian deposits on the mesas, Dakota and Cedar Mountain formations within canyons and ourcroppings, Morrison Formation in badland areas, and surfical alluvium and colluvium in the San Juan River and Montezuma Creek Corridors. (Utah Geolgoical Survey, 2015).

3.1.1 Direct and Indirect Effects

1. There would be no direct or indirect impacts to land resources such as topography and soils under normal operating conditions as the pipeline is already in place and there will be no new surface disturbance associated with the proposed new ROW application.

3.1.2 Mitigation

1. Surface disturbance and vehicular traffic would be limited to approved locations within the ROW during maintenance and repair activities for the pipeline. Any new disturbance outside of the ROW would require additional approval from the Navajo Nation.
2. Disturbed areas created during regular maintenance activities would be reclaimed. Reseeding and mulching would help prevent soil loss and reduce the effects of seed bank disturbance/loss. Successful reclamation will take two to three years.
- 3.

3.2 AIR QUALITY

The proposed project is located in San Juan County, Utah on Navajo Nation Tribal Trust land and allotted land. New information about greenhouse gases (GHGs), and their effects on national and global climate conditions has emerged. On-going scientific research has identified the potential impacts of GHG emissions such as carbon dioxide (CO₂); methane (CH₄); nitrous oxide (N₂O); water vapor; and several trace gases on global climate. Through complex interactions on a global scale, GHG emissions may cause a net warming effect of the atmosphere, primarily by decreasing the amount of heat energy radiated by the earth back into space. Although GHG levels have varied for millennia (along with corresponding variations in climatic conditions), industrialization and burning of fossil carbon sources have caused GHG concentrations to increase measurably, and may contribute to overall climatic changes, typically referred to as global warming.

In addition, on October 17, 2006, the EPA issued a final ruling on the lowering of the National Ambient Air Quality Standard (NAAQS) for particulate matter ranging from 2.5 micron or smaller particle size. This ruling became effective on December 18, 2006, stating that the 24-hour standard for PM_{2.5} was lowered to 35µg/m³ from the previous standard of 65µg/m³. This revised PM_{2.5} daily NAAQS was promulgated to better protect the public from short-term particle exposure.

The project area lies within the Four Corners Interstate Air Quality Control Region. At the present time, the project area is in attainment for all state and national ambient air quality standards as defined in the Clean Air Act of 1972, as amended). The USEPA, Region IX, and the Navajo Nation EPA Air Quality Control program are responsible for administering air quality regulations on Navajo Tribal Trust Lands in Utah. Navajo Nation Air Quality Control program (NNAQCP) is responsible for the implementation and enforcement of the Navajo Air Pollution Prevention and Control Act (NAPPCA), as described in Title 4, Chapter 11, Sec. 1101-1162 of the NAPPCA and encompassing the area defined in 7 NN Sec. 254.

Air quality is classified into one of four categories (I, IA II, or III) for each type of emission. These categories are:

- I Significant violation of Federal standard from several sources exist for part of the region. Special emission controls needed.
- IA Significant violation of Federal standard from a single source (coal fired power plant) exist for part of the region.
- II Better air quality.
- III Best air quality.

San Juan County is in the Class II category which addresses prevention of significant deterioration of air quality. Air quality parameters range from Class IA for sulfur oxides and particulates to Class III for nitrogen dioxide, carbon monoxide, and photo chemical oxidants. These categories indicate air quality is good to very good, with some deterioration allowed.

The closest Class I area is Mesa Verde National Park, 40 miles east. No deterioration is allowed in a Class I area. Overall air quality is good. Nitrogen dioxide, carbon monoxide, and photo chemical oxidants are rated best. Violations of particulate and sulfur oxide levels occur south of the state line due to coal fired power plants in Arizona and New Mexico.

3.2.1 Direct and Indirect Effects to Air Quality

1. There would be no direct or indirect impacts to air quality under normal operating conditions as the pipeline is already in place and there will be no new surface disturbance associated with the proposed new ROW application.
2. Limited impacts to air quality could come from regular maintenance activities of the pipeline due to blowing dust, traffic dust, and/or vehicle emissions.

3.2.2 Mitigation

1. CCI would apply water for dust control if necessary.
2. Surface disturbance and vehicular traffic would be limited to the approved locations (ROW and existing roads) to reduce air born dust.
3. Vehicles will not be left running when not in use.
4. CCI would comply with the Environmental Protection Agency's Clean Air Act and all applicable tribal, state, and local regulations.

3.3 Water Quality: Surface and Groundwater

The hydrologic setting of the area is characterized by the San Juan River Basin. The San Juan River is a significant tributary of the Colorado River and has its source along the southern slopes of the San Juan Mountains. The average flow of the San Juan River at Bluff, Utah is about 2,200 cubic feet per second. The San Juan River drains about 24,600 square miles and the majority of its reach is within San Juan County, Utah, and San Juan County, New Mexico. It is the only significant source of freshwater in this arid region. Precipitation events provide some surface and

subsurface flow into the San Juan; however most runoff in ephemeral flows is lost to evapotranspiration.

Water quality in the San Juan River is generally good, however recent toxic spills from mine waste into the Animas River (a major tributary of the San Juan in southwest Colorado) has impacted water quality in the San Juan River in the short term and will likely have some long term affects; the extent of which is yet to be determined (EPA, 2015). Contaminants in surface water flows in the vicinity of the project area would likely come primarily from oil and gas operations, illegal dumping, and livestock. Unstable and bare soils along with sparse vegetation results in flood events contributing large amounts of sediment to ephemeral and perennial channels.

Average annual precipitation in the project areas is 7.84 inches [WRCC, 2015].

The water zones in the area are the found in the Glen Canyon group of Sandstones. Ground water in the Glen Canyon aquifer generally flows from recharge areas toward the Colorado River and its main tributaries (in the project vicinity this is generally northward). Depth to the top of the aquifer is 2000 feet or less. Ground water quality (dissolved solids concentration) where the Glen Canyon aquifer is less than 2000 feet below land surface is generally less than 1,000 milligrams per liter. However in large areas where the aquifer is deeply buried, the dissolved solids concentration exceeds 35,000 milligrams per liter. Within the project area water in the Glen Canyon aquifer is highly mineralized. Analysis of the water chemistry indicates that the source of the mineralized water is likely deeper strata which contain substantial deposits of evaporate minerals, particularly salt. The water quality in the aquifer might have been caused by upward movement of saline water through unplugged or poorly plugged oil-test holes or leaking water injection wells, which are used to dispose of saline water that is produced with oil and gas (USGS, 1995).

There are 27 shallow water wells primarily purposed for oil and gas development and irrigation located within a one mile radius of the Proposed Action (UTDWR, 2015).

The Proposed Action is located within a 100-year floodplain where it crosses the San Juan River, CCI is responsible for ensuring they are in compliance with Environmental Protection Agency (EPA) and Clean Water Act (CWA) Section 402 and Section 404 National Pollutant Discharge Elimination System (NPDES) through existing permits associated with the pipeline.

3.3.1 Direct and Indirect Effects to Water Quality

1. There would be no direct or indirect impacts to water quality under normal operating conditions as the pipeline is already in place and there will be no new surface disturbance associated with the proposed new ROW application.
2. If there is a leak in the pipeline contaminants could directly enter the San Juan River water system by migrating into ground water or being carried, via surface runoff, into local water ways and the San Juan River.

3.3.2 Mitigation

The following actions will be taken to protect surface and groundwater resources:

1. Potential environmental contaminants accidentally released from the existing pipeline will be properly contained and spilled contaminants will be cleaned up entirely, immediately after the spill, to prevent run-off of contaminants into surface hydrology or infiltration into groundwater. Clean-up methods will follow current EPA guidelines and Best Management Practices.

3.4 SOILS

The soils in the San Juan Basin were formed primarily in two kinds of parent material: alluvial sediment and sedimentary rock. The alluvial sediment is material that was deposited in river valleys and on mesas, plateaus, and ancient river terraces. The material has been mixed and sorted in transport and has a wide range in mineralogy and particle size. Sedimentary parent material consists mainly of sandstone and shale bedrock. These shale and resistant sandstone beds form prominent structural benches, buttes and mesas bounded by cliffs.

There are four soil associations within the project area: Ruinpoint-Rizno-Cahona; Rock outcrop-Myton family-Moenkopie; Toci-to-Mesa-Cudei-Badland; and Sogzie-Sheppard-Rock outcrop-Aneth. These soils are generally derived from sandstone and shale and/or eolian deposits derived from sandstone and shale. The depositional soils are generally well drained soils with low runoff. The Aneth-Sheppard soils are excessively and somewhat excessively drained soils originating in eolian deposits derived from sandstone. They have low runoff and are found in valleys, dunes, interdunes, and uplands. The Badland and outcropping associations are generally shallow and rocky and are poorly drained with high runoff. Portions of the Proposed Action are located within a 100 year floodplain (i.e., San Juan River and associated floodplain).

3.4.1 Direct and Indirect Effects to Soils – Hydrology - Watershed

1. There would be no direct or indirect impacts to soils under normal operating conditions as the pipeline is already in place and there will be no new surface disturbance associated with the proposed new ROW application.

3.4.2 Mitigation

1. Surface disturbance and vehicular traffic would be limited to approved locations within the ROW during maintenance and repair activities for the pipeline. Any new disturbance outside of the ROW would require additional approval from the Navajo Nation.
2. Disturbed areas created during regular maintenance activities would be reclaimed. Reseeding and mulching would help prevent soil loss and reduce the effects of seed bank disturbance/loss. Successful reclamation will take two to three years.

3.5 HAZARDOUS OR SOLID WASTE MATERIALS

The pipeline is already in place and functioning properly. No hazardous waste materials or solid waste materials are anticipated with renewal of the ROW application. Therefore, no mitigation is necessary. In the event of a spill (pipeline failure), CCI would follow recommended EPA regulations and BMPs during immediate cleanup efforts.

3.6 LAND USE

Almost all of the Proposed Action would be located on Navajo Tribal Trust surface. Current land use in the area is livestock grazing, oil and gas development, fishing, and recreation. A small portion (2,956.82 feet) of the pipeline ROW occurs on Navajo Allotment # 63380. Approval from the Allottee has been requested. A Field Clearance request has been issued to Navajo Nation Utah Land Office. Field clearance approval would result in any grazing permittees overlapping the project area receiving compensation as determined by the Navajo Nation.

1.1.1. Direct and Indirect Effects to Land Use

There would be no direct or indirect impacts to current land use under normal operating conditions as the pipeline is already in place and there will be no new surface disturbance associated with the proposed new ROW application.

1.1.2. Mitigation

1. Surface disturbance and vehicular traffic would be limited to approved locations within the ROW during maintenance and repair activities for the pipeline. Any new disturbance outside of the ROW would require additional approval from the Navajo Nation.
2. Disturbed areas created during regular maintenance activities would be reclaimed. Reseeding and mulching would help prevent soil loss and reduce the effects of seed bank disturbance/loss. Successful reclamation will take two to three years.
3. Land users (grazing permittees) will be compensated as determined by the Navajo Nation.

3.7 VEGETATION, FORESTRY

Except for the banks and associated floodplain of the San Juan River, the project area has few trees and is represented primarily by sage flats, desert scrub, and desert grassland typical of arid environments. At the north end of the pipeline the sagebrush community has been partially managed. The unmanaged areas are dominated by big sagebrush (*Artemisia tridentata*) with an understory of galleta (*Pleuraphis jamesii*), purple threeawn (*Aristida purpurea*), and Indian ricegrass (*Achnatherum hymenoides*) with openings of galleta. The managed areas have had the big sagebrush cut down, leaving scattered brush and shallow furrows through the area. These areas are heavily dominated by cheatgrass (*Bromus tectorum*) with broom snakeweed (*Gutierrezia sarothrae*) and Russian-thistle very common. On the descent into the San Juan River valley, plant communities transition to desert scrub plants including Greene's rabbitbrush (*Chrysothamnus Greenei*), and blackbrush (*Coleogyne ramosissima*). Disturbed areas along Highway 262 support weedy species such as Russian thistle (*Salsola tragus*) and Kochia (*Kochia* sp.) The floodplain of the San Juan River is generally dominated by four-wing saltbush, bur ragweed, broom snakeweed, Russian knapweed (*Acroptilon repens*), salt cedar (*Tamarix chinensis*), common purslane (*Portulaca oleracea*), big sagebrush, and rubber rabbitbrush. Occasional open sandy areas are dominated by narrowleaf beardtongue (*Penstemon angustifolius*), gray tansyaster (*Dieteria canescens*), wild tarragon (*Artemisia dracuncululus*), and rubber rabbitbrush (*Ericameria nauseosa* var. *graveolens*). The vegetation along the river is dominated by Russian olive (*Elaeagnus angustifolia*) and sandbar willow (*Salix exigua* var. *exigua*) on the north side and saltcedar and sandbar willow on the south side. Climbing the terrace on the south side of the river, the pipeline ROW crosses through an upland plant community dominated by alkali sacaton (*Sporobolus airoides*), broom snakeweed (*Gutierrezia sarothrae*), and four-wing saltbush. For a complete list of plant species found in the project area

3.7.1 Direct and Indirect Effects to Vegetation and Forestry

There would be no direct or indirect impacts to vegetation or forestry under normal operating conditions as the pipeline is already in place and there will be no new surface disturbance associated with the proposed new ROW application. The ROW has been reclaimed and supports native vegetation as well as weedy species.

3.7.2 Mitigation

Disturbed areas created during regular maintenance activities would be reclaimed. Reseeding and mulching would help prevent soil loss and reduce the effects of seed bank disturbance/loss. Successful reclamation will take two to three years.

3.8 INVASIVE, NON-NATIVE SPECIES

The Bureau of Indian Affairs lists three species of noxious weeds as potential invaders and fourteen species as new invaders on the Navajo Reservation (OSM, 1999). Two of these species are present in the proposed project area: halogeton (*Halogeton glomeratus*) and Russian knapweed (*Acroptilon repens*).

Both halogeton and Russian knapweed are Priority B species, indicating that they are new noxious weeds known to have invaded isolated locales on the reservation. Emphasis is placed on immediate control, prevention of seed spread, and eradication. Education, awareness, identification, control, and monitoring are the priorities (OSM, 1999). See the plant report (Appendix 5) for specific locations of these noxious weeds.

3.8.1 Direct and Indirect Effects

Portions of the existing ROW are already infested with noxious weeds (See Plant Report-Appendix 5). There would be no new direct or indirect impacts from noxious weeds under normal operating conditions as the pipeline is already in place and there will be no new surface disturbance associated with the proposed new ROW application. The ROW has been reclaimed and supports native vegetation as well as weedy species and noxious weeds.

3.8.2 Mitigation

CCI will make every effort to ensure that further infestations of noxious weeds do not spread within the ROW. CCI will contact the Navajo Nation EPA Pesticides Program, Glenna Lee, Program Manager (928) 871-7815 for list of approved herbicides and applicators to manage the infestations that are currently within the Proposed Action ROW.

3.9 WILDLIFE

Wildlife occurring in the area is typical of arid grasslands and shrublands of the Great Basin desert. This includes passerines such as horned larks (*Eremophila alpestris*), sage sparrows (*Amphispiza belli*), as well as jackrabbits (*Lepus californicus*), kangaroo rats (*Dipodomys spp.*) and whiptail lizards (*Aspidoscelis spp.*). An inventory of observed species is included in the Wildlife Report for the project area (Appendix 4).

3.9.1 Direct and Indirect Effects to Wildlife

There would be no direct or indirect impacts to wildlife under normal operating conditions as the pipeline is already in place and there will be no new surface disturbance associated with the proposed new ROW application. The ROW has been reclaimed and provides some wildlife habitat.

3.9.2 Mitigation

During regular maintenance activity, vehicles and equipment would be confined to the approved ROW. Short term impacts to wildlife during maintenance activity along the ROW are unavoidable and include displacement and possible death due to vehicles traveling over habitat. Reclamation of areas disturbed during maintenance activities would reduce the long-term impacts to wildlife that use the area. Reseeding disturbed areas would replace vegetation removed during construction.

3.10 THREATENED, ENDANGERED AND SPECIAL STATUS SPECIES

Twelve (12) Navajo Department of Fish and Wildlife- Natural Heritage Program (NNHP) listed species have potential to occur within the project area: the burrowing owl (*Athene cunicularia*), golden eagle (*Aquila chrysaetos*), Bald eagle (*Haliaeetus leucocephalus*), ferruginous hawk (*Buteo regalis*), southwestern willow flycatcher (*Empidonax traillii extimus*), yellow warbler (*Dendroica petechia*), bluehead sucker (*Catostomus discobolus*), Colorado pikeminnow (*Ptychocheilus lucius*), razorback sucker (*Xyrauchen texanus*), roundtailed chub (*Gila robusta*), a mottled sculpin (*Cottus bairdi*) and Cutler's milkvetch (*Asclepias cutleri*) [Appendices 4 and 5]. Three of these species, the southwestern willow flycatcher, the razorback sucker, and the Colorado pikeminnow are also federally listed as endangered under the Endangered Species Act (ESA). Additionally, the project crosses U.S. Fish and Wildlife (USFWS) designated critical habitat for all three of these species and proposed critical habitat for the threatened yellow-billed cuckoo (*Coccyzus americanus*). Only one listed species was detected during surveys of the project area. This species was the Cutler's milkvetch. This species is an NNHP "Sensitive" species and is scattered through the sandy areas at the south end of the project area. See Appendices 4 and 5 for further discussion of the potential for threatened, endangered, or special status species to occur within the project area.

3.10.1 Direct and Indirect Effects to Threatened, Endangered, and Special Status Species

There would be no direct or indirect impacts to wildlife to NNHP or USFWS threatened or endangered species under normal operating conditions as the pipeline is already in place and there will be no new surface disturbance associated with the proposed new ROW application. The ROW has been reclaimed and provides some wildlife habitat.

3.10.2 Mitigation

During regular maintenance activity, vehicles and equipment would be confined to the approved ROW. Short term impacts to wildlife during maintenance activity along the ROW are unavoidable and include displacement and possible death due to vehicles traveling over habitat. Reclamation of areas disturbed during maintenance activities would reduce the long-term impacts to wildlife that use the area. Reseeding disturbed areas would replace vegetation removed during construction..

3.11 VISUAL RESOURCES

Visual Resource Management (VRM) on Navajo Lands is generally conducted in accordance with BLM Handbook 8410 and BLM Manual 8411 as follows:

VRM Class	Objective	Provisions	Change
<u>Class I</u>	to preserve the existing character of the landscape	natural ecological changes; does not preclude very limited management activities	level of change to the characteristic landscape should be very low
<u>Class II</u>	to retain the existing character of the landscape	management activities may be seen, but should not attract the attention of the casual observer	changes to the landscape must repeat the basic elements of form, line, color, and texture
<u>Class III</u>	to partially retain the existing character of the landscape	change to the landscape should be moderate; management activities may attract the attention of the casual observer, but should not dominate the view	changes should repeat the basic elements found in the predominant natural features
<u>Class IV</u>	to provide for management activities that require major modifications to the existing character of the landscape	change to the landscape can be high; management activities may dominate the view and may be the major focus of viewer attention	every attempt should be made to minimize the impact of these activities through careful location, minimal disturbance, and repetition of the basic visual elements

The Farmington Field Office VRM Program has not inventoried lands outside of New Mexico for VRM classification. Current management documents from the Monticello Field Office describe the lands East of US 191 designated Class III. Class III areas must partially retain the existing character of the landscape. The level of change to the characteristic landscape should be moderate. Management activities may attract attention, but should not dominate the view of the casual observer. Changes should repeat the basic elements found in the predominant natural features of the characteristic landscape.

3.11.1 Direct and Indirect Effects to Visual Resources

The existing ROW has been reclaimed, but there is still some evidence of the ROW to the casual observer. Because the pipeline is already in place, no impacts to visual resources are anticipated.

3.11.2 Mitigation

No mitigation for Visual Resources is necessary since there is no new disturbance associated with the ROW renewal.

3.12 CULTURAL OR HISTORICAL VALUES

La Plata Archaeological Associates conducted a Class III Cultural Resources Survey of the Proposed Action area in April of 1987. The report recommended archaeological clearance and clearance was issued by Navajo Area Office August 27, 1987 (Appendix 3).

3.12.1 Direct and Indirect Effects

Because no new disturbance is associated with the ROW renewal, no impacts to cultural resources are anticipated.

3.12.2 Mitigation

If during regular maintenance of the pipeline any cultural and/or paleontology resource (historic or prehistoric site or object) discovered by CCI or any person working on their behalf, were discovered, it would be immediately reported to the Navajo Nation Historic Preservation Department (NNHPD) at (928) 871-7148 and/or the BLM Farmington Field Office Archaeologist.

3.13 ENVIRONMENTAL JUSTICE

Executive Order 12898 requires federal agencies to assess projects to ensure there is no disproportionately high or adverse environmental, health, or safety effects on minority and low-income populations. Minorities comprise a large proportion of the population residing inside the boundaries of the Farmington Field Office (see pages 3-106 to 3-107 of the PRMP/FEIS for more details on ethnicity and poverty rates).

3.13.1 Direct and Indirect Effects to Environmental Justice

Because there is no new disturbance in association with the pipeline ROW renewal, no impacts to Environmental Justice are anticipated and no mitigation is necessary.

3.14 PUBLIC HEALTH AND SAFETY

3.14.1 Direct and Indirect Effects to Public Safety

The existing pipeline should not pose any direct impacts to public health or safety. It is well marked with pipeline markers. The ROW renewal would not have any direct or indirect impacts to public health or safety, therefore no mitigation is necessary.

3.15 CUMULATIVE EFFECTS

There will be no new disturbance associated with the Proposed Action. Previous disturbance associated with the original pipeline totaled approximately 71.58 acres, much of which has been reclaimed. However, it is reasonable to assume that the cumulative impact of the original

pipeline is still occurring. This assumption comes from the fact that even though there is no new disturbance associated with an issuance of a new ROW, evidence of the original pipeline ROW is still apparent and is impacting the visual aspect of the landscape. Additionally, though the ROW has been reclaimed, it has not been returned to the pre-pipeline condition regarding native plant communities and represents a divergence from the pre-pipeline native plant community. These impacts, as well as other more subtle impacts from the existing pipeline are contributing to the cumulative impacts of the region. Analysis of cumulative impacts for the reasonably foreseeable future in the region would include development of new oil wells, water injection wells, power lines, and associated facilities on public and Tribal lands in the region. These activities are currently at a lull due to low oil and gas prices. However it is expected that these developments will continue to occur in the vicinity of the Proposed Action area contributing to the overall impacts from past and present projects.

4. CONSULTATION/COORDINATION

This section includes individuals or organizations that make up the interdisciplinary team that evaluated the project area for the development of this document.

Table 5.1 On-site inspection dates and Interdisciplinary Team

On-site Inspection			
Name	Title	Organization	Date of Onsite
Patrick Harden	Archaeologist	La Plata Archaeological Associates	April 1987
Gerald Huddleston	Surveyor	Huddleston Surveying	October 1987
Celia Cook	Consultant, Author	Permits West, Inc.	July 2015
Cindy Lawrence	Wildlife Biologist	Permits West, Inc.	September 17-20, 2015
Marian Rhoman	Botanist	Permits West, Inc.	September 19 and 20, 2015

Contact Information:

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 37 Verano Loop
 Santa Fe, NM87508
 505-466-8120
 FAX: 505-466-9682

CCI Paradox Midstream, LLC
 2200 Atlantic Street, Suite 800
 Stamford, Connecticut

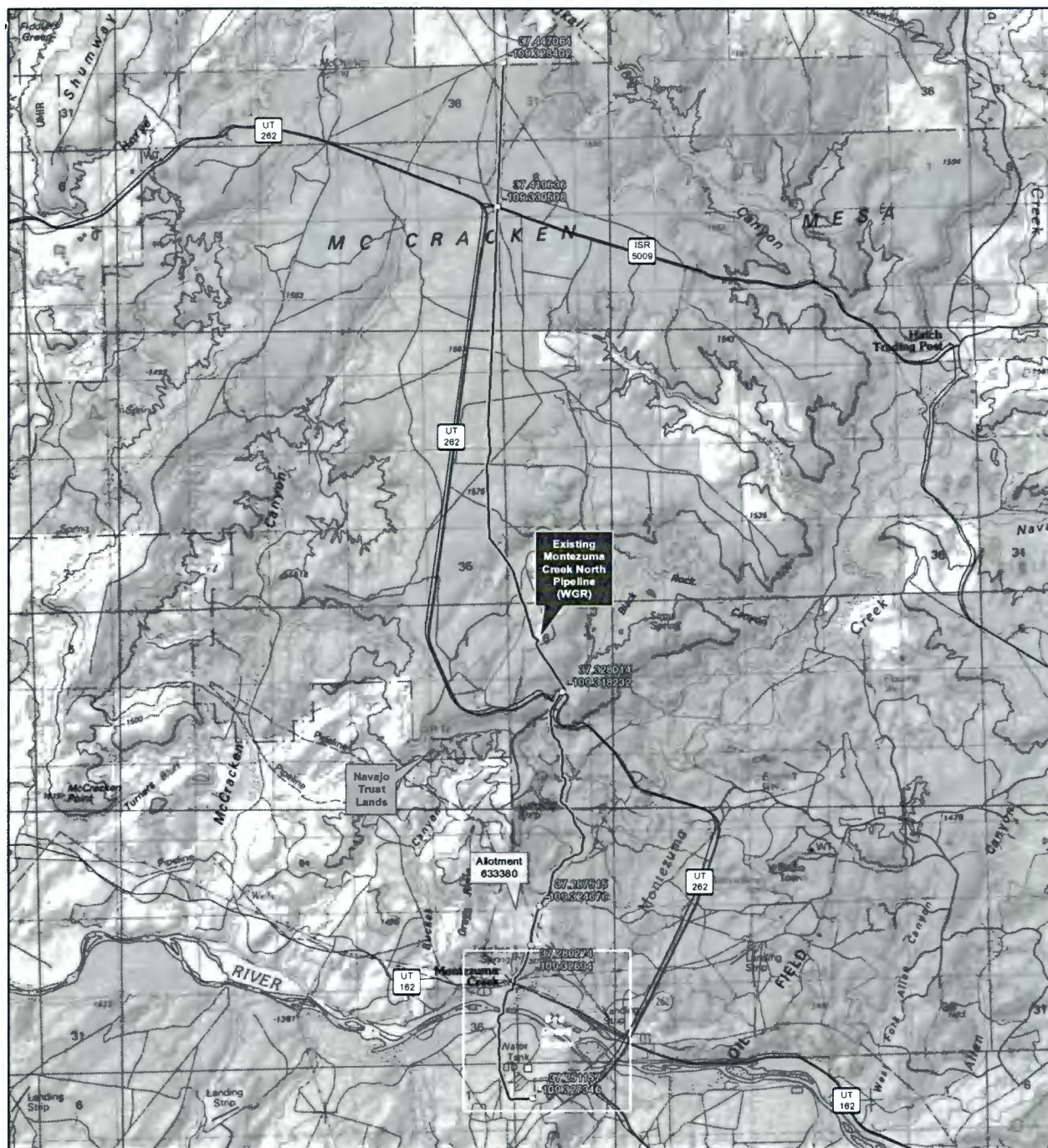
5. REFERENCES

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- Navajo Nation Division of Natural Resources Department of Fish and Wildlife (NNDFW). September 10, 2008. Navajo Endangered Species List. NNDFW, P. O. Box 1480 Window Rock, Arizona 86515.
- Navajo Natural Heritage Program (NNHP). Montezuma Creek North Pipeline Correspondence, 15perm12. P. O. Box 1480, Window Rock, AZ.
- Office of Surface Mining, United States Department of the Interior. (OSM) 1999. *A Guide to Noxious Weeds of the Navajo Reservation*. U.S. Department of the Interior.
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Western Regional Climate Center (WRCC). Aneth Plant, Utah (420157). Period of Record
Monthly Climate Summary: 05/03/1900 to 02/29/2000
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6. APPENDICES

1. Project Location Map
2. Navajo Endangered Species List (NESL) response
3. Plant Survey Report
4. Threatened, Endangered, And Special Status Wildlife Species Report
5. Cultural Clearance Letter
6. Biological Resources Compliance Form (BRCF)



CCI Paradox Midstream LLC

Montezuma Creek North Pipeline (Western Gas Resources)

Montezuma Creek, Navajo Indian Reservation,
San Juan County, Utah
USGS Quads: Montezuma Creek and McCracken Spring

- Existing Gas Facility
- Existing Western Gas Resources Pipeline
- - - Proposed Aneth Extension (detail)
- Navajo Tribal Trust Lands

NAD 1983 Utah State Plane
South (Feet)



1:80,576



Appendix 1-1





NNHP

Navajo Natural Heritage Program

PO Box 1480
Window Rock, AZ
86515

P 928.871.6472
F 928.871.7603

<http://nnhp.nndfw.org>

15perm112

16-September-2015

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

SUBJECT: Montezuma Creek North Pipeline

Mike Deutsch,

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

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

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

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

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

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

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

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

Species

AQCH = *Aquila chrysaetos* / Golden Eagle NESL G3
 ASCR = *Astragalus cronquistii* / Cronquist Milk-vetch NESL G3
 EMTREX = *Empidonax traillii* extimus / Southwestern Willow Flycatcher NESL G2 FE

2. Potential Species

Species

AQCH = *Aquila chrysaetos* / Golden Eagle NESL G3
 ASCR = *Astragalus cronquistii* / Cronquist Milk-vetch NESL G3
 ATCU = *Athene curicularia* / Burrowing Owl NESL G4
 BURE = *Buteo regalis* / Ferruginous Hawk NESL G3
 CADI = *Catostomus discobolus* / Bluehead Sucker NESL G4
 CEAL = *Ceryle alcyon* / Belted Kingfisher NESL G4
 CIME = *Cinclus mexicanus* / American Dipper NESL G3
 COAM = *Coccyzus americanus* / Yellow-billed Cuckoo NESL G2 FC
 COBA = *Cottus bairdi* / Mottled Sculpin NESL G4
 DEPE = *Dendroica petechia* / Yellow Warbler NESL G4
 EMTREX = *Empidonax traillii* extimus / Southwestern Willow Flycatcher NESL G2 FE
 FAPE = *Falco peregrinus* / Peregrine Falcon NESL G4
 GIRO = *Gila robusta* / Roundtail Chub NESL G2
 HALE = *Haliaeetus leucocephalus* / Bald Eagle NESL G2
 LIP1 = *Lithobates pipiens* / Northern Leopard Frog NESL G2
 PHIN = *Phacelia indecora* / Drab Phacelia NESL G4
 PTLU = *Ptchocheilus lucius* / Colorado Pikeminnow NESL G2
 XYTE = *Xyrauchen texanus* / Razorback Sucker NESL G2 FE

3. Quadrangles (7.5 Minute)

Quadrangles

McCracken Spring (37109-D3) / UT
 Montezuma Creek (37109-C3) / UT

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

SITE	EO1MI	EO3MI	QUAD	MSO	POTS	AREAS
Montezuma Creek North Pipeline - Allotment Land	EMTREX	AQCH, ASCR, EMTREX	Montezuma Creek (37109-C3) / UT	None	XYTE, LIPI, PTLU, HALE, GIRO, FAPE, EMTREX, COBA, CIME, BURE, ATCU, AQCH, PHIN, ASCR	Area 3
Montezuma Creek North Pipeline - Trust Land	None	None	McCracken Spring (37109-D3) / UT	None	LIPI, FAPE, EMTREX, BURE, ATCU, AQCH, ASCR	Area 3
Montezuma Creek North Pipeline - Trust Land	AQCH, EMTREX	AQCH, ASCR, EMTREX	Montezuma Creek (37109-C3) / UT	None	XYTE, LIPI, PTLU, HALE, GIRO, FAPE, EMTREX, DEPE, COBA, COAM, CIME, CEAL, CADI, BURE, ATCU, AQCH, PHIN, ASCR	Area 1, Area 2, Area 3

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

- A. **Biological Resource Land Use Clearance Policies and Procedures (RCP)** - The purpose of the RCP is to assist the Navajo Nation government and chapters ensure compliance with federal and Navajo laws which protect, wildlife resources, including plants, and their habitat resulting in an expedited land use clearance process. After years of research and study, the NNDFW has identified and mapped wildlife habitat and sensitive areas that cover the entire Navajo Nation.
- The following is a brief summary of six (6) wildlife areas:
1. **Highly Sensitive Area** - recommended no development with few exceptions.
 2. **Moderately Sensitive Area** - moderate restrictions on development to avoid sensitive species/habitats.
 3. **Less Sensitive Area** - fewest restrictions on development.
 4. **Community Development Area** - areas in and around towns with few or no restrictions on development.
 5. **Biological Preserve** - no development unless compatible with the purpose of this area.
 6. **Recreation Area** - no development unless compatible with the purpose of this area.
- None** - outside the boundaries of the Navajo Nation
- This is not intended to be a full description of the RCP please refer to the our website for additional information at <http://www.nndfw.org/clup.htm>.

- B. **Raptors** – If raptors are known to occur within 1 mile of project location: Contact Chad Smith at 871-7070 regarding your evaluation of potential impacts and mitigation.
- o **Golden and Bald Eagles**- If Golden or Bald Eagle are known to occur within 1 mile of the project, decision makers need to ensure that they are not in violation of the Golden and Bald Eagle Nest Protection Regulations found at http://nnhp.nndfw.org/docs_reps/gben.pdf.
 - o **Ferruginous Hawks** – Refer to "Navajo Nation Department of Fish and Wildlife's Ferruginous Hawk Management Guidelines for Nest Protection" http://nnhp.nndfw.org/docs_reps.htm for relevant information on avoiding impacts to Ferruginous Hawks within 1 mile of project location.
 - o **Mexican Spotted Owl** - Please refer to the Navajo Nation Mexican Spotted Owl Management Plan http://nnhp.nndfw.org/docs_reps.htm for relevant information on proper project planning near/within spotted owl protected activity centers and habitat.
- C. **Surveys** – Biological surveys need to be conducted during the appropriate season to ensure they are complete and accurate please refer to NN Species Accounts http://nnhp.nndfw.org/sp_account.htm. Surveyors on the Navajo Nation must be permitted by the Director, NNDFW. Contact Jeff Cole at (928) 871-7068 for permitting procedures. Questions pertaining to surveys should be directed to the NNDFW Zoologist (Chad Smith) for animals at 871-7070, and Botanist (Andrea Hazelton) for plants at (928)523-3221. Questions regarding biological evaluation should be directed to Jeff Cole at 871-7068.
- D. **Oil/Gas Lease Sales** – Any settling or evaporation pits that could hold contaminants should be lined and covered. Covering pits, with a net or other material, will deter waterfowl and other migratory bird use. Lining pits will protect ground water quality.
- E. **Power line Projects** – These projects need to ensure that they do not violate the regulations set forth in the Navajo Nation Raptor Electrocution Prevention Regulations found at http://nnhp.nndfw.org/docs_reps/repr.pdf.
- F. **Guy Wires** – Does the project design include guy wires for structural support? If so, and if bird species may occur in relatively high concentrations in the project area, then guy wires should be equipped with highly visual markers to reduce the potential mortality due to bird-guy wire collisions. Examples of visual markers include aviation balls and bird flight diverters. Birds can be expected to occur in relatively high concentrations along migration routes (e.g., rivers, ridges or other distinctive linear topographic features) or where important habitat for breeding, feeding, roosting, etc. occurs. The U.S. Fish and Wildlife Service recommends marking guy wires with at least one marker per 100 meters of wire.
- G. **San Juan River** – On 21 March 1994 (Federal Register, Vol. 59, No. 54), the U.S. Fish and Wildlife Service designated portions of the San Juan River (SJR) as critical habitat for *Ptychocheilus lucius* (Colorado pikeminnow) and *Xyrauchen texanus* (Razorback sucker). Colorado pikeminnow critical habitat includes the SJR and its 100-year floodplain from the State Route 371 Bridge in T29N, R13W, sec. 17 (New Mexico Meridian) to Neskahai Canyon in the San Juan arm of Lake Powell in T41S, R11E, sec. 26 (Salt Lake Meridian) up to the full pool elevation. Razorback sucker critical habitat includes the SJR and its 100-year floodplain from the Hogback Diversion in T29N, R16W, sec. 9 (New Mexico Meridian) to the full pool elevation at the mouth of Neskahai Canyon on the San Juan arm of Lake Powell in T41S, R11E, sec. 26 (Salt Lake Meridian). All actions carried out, funded or authorized by a federal agency which may alter the constituent elements of critical habitat must undergo section 7 consultation under the Endangered Species Act of 1973, as amended. Constituent elements are those physical and biological attributes essential to a species conservation and include, but are not limited to, water, physical habitat, and biological environment as required for each particular life stage of a species.

- H. **Little Colorado River** - On 21 March 1994 (Federal Register, Vol. 59, No. 54) the U.S. Fish and Wildlife Service designated Critical Habitat along portions of the Colorado and Little Colorado Rivers (LCR) for Gila cypha (humpback chub). Within or adjacent to the Navajo Nation this critical habitat includes the LCR and its 100-year floodplain from river mile 8 in T32N R6E, sec. 12 (Salt and Gila River Meridian) to its confluence with the Colorado River in T32N R5E sec. 1 (S&GRM) and the Colorado River and 100-year floodplain from Nautuloid Canyon (River Mile 34) T36N R5E sec. 35 (S&GRM) to its confluence with the LCR. All actions carried out, funded or authorized by a federal agency which may alter the constituent elements of Critical Habitat must undergo section 7 consultation under the Endangered Species Act of 1973, as amended. Constituent elements are those physical and biological attributes essential to a species conservation and include, but are not limited to, water, physical habitat, and biological environment as required for each particular life stage of a species.
- I. **Wetlands** - In Arizona and New Mexico, potential impacts to wetlands should also be evaluated. The U.S. Fish & Wildlife Service's National Wetlands Inventory (NWI) maps should be examined to determine whether areas classified as wetlands are located close enough to the project site(s) to be impacted. In cases where the maps are inconclusive (e.g., due to their small scale), field surveys must be completed. For field surveys, wetlands identification and delineation methodology contained in the "Corps of Engineers Wetlands Delineation Manual" (Technical Report Y-87-1) should be used. When wetlands are present, potential impacts must be addressed in an environmental assessment and the Army Corps of Engineers, Phoenix office, must be contacted. NWI maps are available for examination at the Navajo Natural Heritage Program (NNHP) office, or may be purchased through the U.S. Geological Survey (order forms are available through the NNHP). The NNHP has complete coverage of the Navajo Nation, excluding Utah, at 1:100,000 scale; and coverage at 1:24,000 scale in the southwestern portion of the Navajo Nation. In Utah, the U.S. Fish & Wildlife Service's National Wetlands Inventory maps are not yet available for the Utah portion of the Navajo Nation, therefore, field surveys should be completed to determine whether wetlands are located close enough to the project site(s) to be impacted. For field surveys, wetlands identification and delineation methodology contained in the "Corps of Engineers Wetlands Delineation Manual" (Technical Report Y-87-1) should be used. When wetlands are present, potential impacts must be addressed in an environmental assessment and the Army Corps of Engineers, Phoenix office, must be contacted. For more information contact the Navajo Environmental Protection Agency's Water Quality Program.
- J. **Life Length of Data Request** - The information in this report was identified by the NNHP and NNDFW's biologists and computerized database, and is based on data available at the time of this response. If project planning takes more than two (02) years from the date of this response, verification of the information provided herein is necessary. It should not be regarded as the final statement on the occurrence of any species, nor should it substitute for on-site surveys. Also, because the NNDFW information is continually updated, any given information response is only wholly appropriate for its respective request.

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

6. Personnel Contacts

Wildlife Manager

Sam Diswood

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Botanist

Vacant

Biological Reviewer

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Wildlife Tech

Sonja Detsoi

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sdetsoi@nndfw.org

7. Resources

National Environmental Policy Act

Navajo Endangered Species List:
<http://nnhp.nndfw.org/endangered.htm>

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

Biological Investigation Permit Application
http://nnhp.nndfw.org/study_permit.htm

Navajo Nation Sensitive Species List
http://nnhp.nndfw.org/study_permit.htm

Various Species Management and/or Document and Reports
http://nnhp.nndfw.org/docs_reps.htm

Consultant List
(Coming Soon)

Dexter D Prall
Digitally signed by Dexter D Prall
DN: cn=Dexter D Prall, o=Navajo Nation Department
of Fish and Wildlife, ou=Navajo Natural Heritage
Program, email=prall@nndfw.org, c=US
Date: 2015.09.16 14:28:01 -0700

Dexter D Prall, GIS Supervisor - Natural Heritage Program
Navajo Nation Department of Fish and Wildlife

CASTLETON COMMODITIES INTERNATIONAL, LLC

MONTEZUMA CREEK NORTH PIPELINE

Section 31, T. 38 S., R. 24 E.

Sections 6 & 7, T. 39 S., R. 24 E.

Sections 12, 13, 24, 25, and 36, T. 39 S., R. 23 E.

Section 31, T. 39 S., R. 24 E.

Sections 6, 7, 18, 19, 30 and 31, T. 40 S., R. 24 E.

Section 36, T. 40 S., R. 23 E.

Section 1, T. 41 S., R. 23 E.

Section 6, T. 41 S., R. 24 E.

San Juan County, Utah

PLANT SURVEY REPORT

Prepared for Permits West, Inc., Santa Fe, New Mexico

By Marian J. Rohman September 28, 2015

This report discusses the potential for disturbance to plant species of concern listed by the Navajo Natural Heritage Program (NNHP) and the U.S. Fish and Wildlife Service (USFWS) that have the potential to occur in the project area. The NNHP has identified Cronquist's milkvetch (*Astragalus cronquistii*) as a species known to occur within three miles of the project area and Bluff phacelia (*Phacelia indecora*) as a species that is a potential species based on project proximity to respective suitable habitat (Detsoi, 2015). In addition, Cutler's milkweed (*Asclepias cutleri*) will be discussed. The potential for disturbance to species listed by the USFWS for the project area will also be addressed. The only USFWS-listed species is Navajo sedge (*Carex specuicola*) (IPaC, 2015).

Cronquist's milkvetch is listed in Group 3 on the Navajo Endangered Species List (NESL), indicating that its prospects of survival or recruitment are likely to be in jeopardy in the foreseeable future. Bluff phacelia is in Group 4. Group 4 species do not have sufficient information to support their being listed as endangered, but there is reason to consider them (NNHP, 2008a). Cutler's milkweed is listed as sensitive by the NNHP (NNHP, 2008b), indicating that it should be noted and reported, but is not protected (Roth, 2008). Navajo sedge is listed as threatened by the USFWS (IPaC, 2015). Threatened species are likely to become endangered within the foreseeable future throughout all or a significant portion of their range (USFWS, 2015).

Cronquist's milkvetch is a medium-sized plant that closely resembles the more common Hopi milkvetch (*Astragalus fucatus*) vegetatively. It has pink-purple flowers with a pale keel and

wing that are dispersed along the flowering stalk when blooming. The pods are uniformly green, narrow, and drooping, with a pronounced furrow separating the pod into two locules. The leaves have sheathing but not truly connate stipules. It grows in sandy clay soils, usually near outcrops of sandstone and exposed shale. Hopi milkvetch has uniformly pink flowers that are clustered near the top of the flowering stalk when first blooming. The stalk elongates as the flowers wilt and go to fruit. The pods are highly mottled, inflated, and unilocular. The leaves have minimally connate stipules. It grows in sandy soils (UNPS, 2003-2015; Roth, 2001a; personal observation). On the Navajo Nation, Cronquist's milkvetch flowers from late April to June and grows at elevations of 4600 to 5800 feet (Roth, 2001a; personal observation).

Bluff phacelia is a small annual measuring 3-14 cm tall with erect to spreading glandular stems. The flower is narrowly campanulate with pubescent lobes and is pale blue with a pale yellow tube streaked with blue lines. It flowers in May. It grows in salt desert scrub communities at elevations of 3600 to 4500 feet and is not yet known from the Navajo Nation (Roth, 2001c).

Cutler's milkweed is a delicate ephemeral annual with filiform leaves and small dusky rose-purple flowers. It occurs on sand dunes and gravelly soils in mixed desert shrub and piñon-juniper communities at elevations between 4200 and 4700 feet (UNPS, 2003-2015).

Navajo sedge is a perennial grass-like plant with leaves that are 1-3 mm wide and dried persistent leaf bases. The flowers are inconspicuous with the female flowers located above the males in 2-4 short spikelets clustered at the end of a long thin stalk. The perigynia are strongly flattened with broad hyaline margins on the pistillate scales. Navajo sedge is unusual in having both lenticular and trigonous achenes. Flowering and fruit set occur from spring to summer, but most of the reproduction appears to be vegetative. The plants are typically found in seeps and hanging gardens on vertical sandstone cliffs and in alcoves from 4600 to 7200 feet (Roth, 2001b).

PROJECT DESCRIPTION

The proposed project consists of the relicensing of an existing pipeline. The pipeline measures 77,953.69 feet (14.76 miles) in length within a 50-foot corridor. The total land use for the existing pipeline is 89.48 acres. No additional construction is planned. The project area is located in Section 31, T. 38 S., R. 24 E., Sections 6 & 7, T. 39 S., R. 24 E., Sections 12, 13, 24, 25, and 36, T. 39 S., R. 23 E., Section 31, T. 39 S., R. 24 E., Sections 6, 7, 18, 19, 30 and 31, T. 40 S., R. 24 E., Section 36, T. 40 S., R. 23 E., Section 1, T. 41 S., R. 23 E., and Section 6, T. 41 S., R. 24 E. The distance from the town of Montezuma Creek is from 1.68 miles to the southwest, to 1.58 miles to the northwest and 12.83 miles to the north. The pipeline is in San Juan County, Utah, predominantly on Navajo Tribal Trust land, with a small portion crossing Navajo Allotment 633380.

The pipeline begins at the Navajo Reservation-BLM border in Section 31, T. 38 S., R. 24 E. It heads south across McCracken Mesa, then southeast and drops off of the mesa to Utah Highway 262. It turns south and crosses the highway, continuing south until it crosses Utah Highway 162. At this point it travels northeast to southwest beneath a maintenance yard then turns south again

and continues to the San Juan River. The line crosses beneath the river and continues south, then turns east to end at a Western Gas Processors facility in Section 6, T. 41 S., R. 24 E. The pipeline is predominantly marked with Western Gas Processors markers, with a few Western Gas Resources markers. It is in a corridor with at least one other pipeline for almost its entire length and generally follows dirt, two-track, or gravel roads.

The landscape in the area is variable with the San Juan River flowing from east to west through the southern part of the project area. The landscape at the beginning of the existing pipeline is a gently rolling sagebrush plain across the top of McCracken Mesa. The sagebrush community has been partially managed. The unmanaged areas are dominated by big sagebrush (*Artemisia tridentata*) with an understory of galleta (*Pleuraphis jamesii*), purple threeawn (*Aristida purpurea*), and Indian ricegrass (*Achnatherum hymenoides*) with openings of galleta. The managed areas have had the big sagebrush cut down, leaving scattered brush and shallow furrows through the area. These areas are heavily dominated by cheatgrass (*Bromus tectorum*) with broom snakeweed (*Gutierrezia sarothrae*) and Russian-thistle very common. As the line continues south across McCracken Mesa, shadscale (*Atriplex confertifolia*), four-wing saltbush (*Atriplex canescens*), Greene's rabbitbrush (*Chrysothamnus Greenei*), and blackbrush (*Coleogyne ramosissima*) join the sagebrush community. There are several small drainages across the mesa, some of which are dominated by devil's claw (*Proboscidea parviflora*), and infrequent areas of scattered Utah juniper (*Juniperus osteosperma*), piñon (*Pinus edulis*), broom snakeweed, and cliffrose (*Purshia stansburyana*). Occasional rocky areas are dominated by blackbrush, prince's plume (*Stanleya pinnata*), four-wing saltbush, and Greene's rabbitbrush. Eventually the big sagebrush drops out and the community is dominated by blackbrush with areas of galleta. The open grassy areas are often dominated by Russian-thistle, with only sparse grass visible. As the disturbed corridor drops off of McCracken Mesa down to UT Hwy 262, it is dominated by Shockley's wild buckwheat (*Eriogonum shockleyi*) and perennial cat's-eye (*Cryptantha* sp.).

The pipeline follows the highway for a short distance. This area is dominated by Russian-thistle, broom snakeweed, and scattered four-wing saltbush. As the line continues south it drops off of the terrace the highway is on and continues down a rocky shale slope with shadscale, blackbrush, prince's plume, yellow milkvetch (*Astragalus flavus*), and broom snakeweed.

In the plains south of the highway, the predominant plant communities are desert shrub and desert grassland. The desert shrub is dominated by Bigelow's rabbitbrush (*Ericameria nauseosa* var. *bigelovii*) and/or blackbrush with broom snakeweed, bur ragweed (*Ambrosia acanthicarpa*), and galleta. The desert grassland is dominated by galleta and/or Indian ricegrass, and cheatgrass. Russian-thistle is present throughout. Other communities include sandstone areas dominated by Torrey's ephedra (*Ephedra torreyana*) and blackbrush with singleleaf ash (*Fraxinus anomala*) and broom snakeweed, occasional small washes and drainages dominated by bur ragweed, and an infrequent salt desert shrub community dominated by four-wing saltbush, alkali sacaton (*Sporobolus airoides*), bur ragweed, galleta, desert blazingstar (*Mentzelia multiflora*), and/or greasewood (*Sarcobatus vermiculatus* var. *vermiculatus*).

The broad floodplain along the north side of the San Juan River is generally dominated by four-wing saltbush, bur ragweed, broom snakeweed, Russian knapweed (*Acroptilon repens*), salt cedar (*Tamarix chinensis*), common purslane (*Portulaca oleracea*), big sagebrush, and rubber

rabbitbrush. Occasional open sandy areas are dominated by narrowleaf beardtongue (*Penstemon angustifolius*), gray tansyaster (*Dieteria canescens*), wild tarragon (*Artemisia dracunculus*), and rubber rabbitbrush (*Ericameria nauseosa* var. *graveolens*). The vegetation along the river is dominated by Russian olive (*Elaeagnus angustifolia*) and sandbar willow (*Salix exigua* var. *exigua*) on the north side and saltcedar and sandbar willow on the south side. The cobbled slope and terrace above the south side of the river is dominated by alkali sacaton, broom snakeweed, four-wing saltbush, with Russian-knapweed immediately above the river community.

The south end of the pipeline crosses through an open desert shrub plain dominated by Greene's rabbitbrush, Bailey's yucca (*Yucca baileyi*), Bigelow's rabbitbrush, bur ragweed, broom snakeweed, and Gunnison's gilia (*Ipomopsis gunnisonii*) with areas of galleta. Again, Russian-thistle is common or dominant throughout. Bur ragweed is dominant in the sandiest areas.

The soil units on the top of McCracken are predominantly Whit very fine sandy loam, 1 to 8 percent slopes and Whit very fine sandy loam, low rainfall, 1 to 8 percent slopes. These units consist of aeolian deposits derived from sandstone with a soil texture of very fine sandy loam. South of McCracken Mesa is the Badland-Typic Torrifluvents association, steep soil unit. This unit consists of mixed alluvium, mixed aeolian deposits, and/or alluvium or aeolian deposits derived from sandstone and shale. The soil textures range from loam to sandy loam. Along the San Juan River is the Aquic Ustifluvents-Typic Fluvaquents association, gently sloping soil unit. This association consists of mixed alluvium with soil textures of very fine sandy loam and sandy loam to loam. South of the river, the pipeline is entirely within the Aneth-Sheppard association, rolling soil unit consisting of aeolian deposits derived from sandstone with soil textures of loamy fine sand and fine sand (NRCS, 2015). The underlying bedrock is the Morrison Formation with alluvial and colluvial deposits along the San Juan River (Hintze, 1980). The elevation of the project area is approximately 5315 feet at the beginning of the line on McCracken Mesa. The elevation drops down to 4335 feet at the San Juan River, then rises back to 4700 feet at the end of the line.

Disturbances in the project area include overhead power lines, surface and subsurface pipelines, facilities, a maintenance yard, paved, dirt, and two-track roads, fences, and grazing by horses, cattle, sheep, donkeys, and goats.

METHODOLOGY

The project area was surveyed on September 19 and 20, 2015, by botanist Cindy Lawrence and on September 21-23, 2015, by botanist Marian Rohman. The survey was accomplished by walking a zigzag transect along each side of the centerline, covering the 50-foot width of the corridor and a buffer zone of 200 feet on each side. The emphasis of the survey was to inspect for the identified species of concern; however, all plants were identified in order to provide a more complete description of the environment. A list of the plants observed in the project area is included at the end of this report.

SURVEY RESULTS

Species of Interest to the Navajo Natural Heritage Program and the U.S. Fish and Wildlife

Service: The NNHP has identified Cronquist's milkvetch as a species known to occur within three miles of the project area and Bluff phacelia as a species that is a potential species based on project proximity to respective suitable habitat (Detsoi, 2015). In addition, Cutler's milkweed will be discussed. The potential for disturbance to species listed by the USFWS for the project area will also be addressed. The only USFWS-listed species is Navajo sedge (IPaC, 2015).

SPECIES STATUS	HABITAT	POTENTIAL TO OCCUR IN THE PROJECT AREA
<i>Asclepias cutleri</i> Cutler's milkweed NNHP Sensitive	On sand dunes and gravelly soils in mixed desert shrub and piñon-juniper communities at elevations between 4200 and 4700 feet (UNPS, 2003-2015).	Appropriate habitat: this species is scattered through the sandy areas at the south end of the project area. (K)
<i>Astragalus cronquistii</i> Cronquist's milkvetch NESL Group 3	Salt desert shrub and blackbrush communities on sandy or gravelly soils derived from the Cutler, Morrison, and Bluff Sandstone Formations between 4600 and 5800 feet. Flowers from late April to June (Roth, 2001a, UNPS, 2003-2015, personal observation).	No appropriate habitat: there are no appropriate salt desert shrub or blackbrush communities with the proper combination of sandy clay soil near sandstone and shale in the project area. All known populations of this species in the area are east of Montezuma Creek. The project area is entirely west of Montezuma Creek. (NP)
<i>Carex specuicola</i> Navajo sedge USFWS Threatened NESL Group 3	Restricted to seeps and hanging gardens on vertical sandstone cliffs and in alcoves between 4600 and 7200 feet. Flowering/fruiting period is from spring to summer (Roth, 2001b).	No appropriate habitat: there are no seeps, or hanging gardens in the project area. (NP)
<i>Phacelia indecora</i> Bluff phacelia NESL Group 4	In salt desert scrub communities at 3600 to 4500 ft. Flowers in May. Fruits into June. Not yet known from the Navajo Nation (Roth, 2001c).	No appropriate habitat: there is no salt desert scrub community in the project area. (NP)

Status USFWS – U.S Fish and Wildlife Service (USFWS, 2015)

Threatened – A species that is likely to become endangered within the foreseeable future throughout all or a significant portion of its range.

NESL – Navajo Endangered Species List (NNHP, 2008a)

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

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

Navajo Sensitive Species List (NNHP, 2008b)

Sensitive - A species that should be noted and reported, but is not yet protected (Roth, 2008).

Potential to Occur

K – Known, documented observation within project area.

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

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

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

Cutler's milkweed occurs as occasional scattered plants in open sandy areas in the project area south of the San Juan River. Two concentrations of 5-10 plants each occur at N37.254643/W109.333947 and N37.253348/W109.333334.

Noxious weeds: The Bureau of Indian Affairs lists three species of noxious weeds as potential invaders and fourteen species as new invaders on the Navajo Reservation (OSM, 1999). Two of these species are present in the proposed project area: halogeton (*Halogeton glomeratus*) and Russian knapweed (*Acroptilon repens*).

Both halogeton and Russian knapweed are Priority B species, indicating that they are new noxious weeds known to have invaded isolated locales on the reservation. Emphasis is placed on immediate control, prevention of seed spread, and eradication. Education, awareness, identification, control, and monitoring are the priorities (OSM, 1999).

On the north side of the San Juan River, halogeton occurs as a continuous scatter of plants from approximately three-quarters of the way across McCracken Mesa to just north of UT Hwy 162, a line distance of approximately 5.8 miles. Twelve concentrations of plants along this portion of the line are noted below:

- thousands of plants on the clay slopes of a low hill on McCracken Mesa: in the corridor and both buffer zones at N37.352043/W109.329369 and continuing approximately 550 feet to the south
- hundreds of plants just after the last slope down from the top of McCracken Mesa to UT Hwy 262: mostly in the corridor and in the northwest buffer at N37.328322/W109.317868
- hundreds of plants on the terrace along UT Hwy 262: in the corridor and both buffers at N37.322651/W109.320941
- hundreds of plants on the steep shale slope heading down the side of McCracken Mesa south of UT Hwy 262: in the corridor and both buffers at N37.319942/W109.320469
- over 50 plants along a dirt road: in the corridor at N37.321800/W109.317949
- hundreds of plants on shale slope: in the corridor and both buffers at N37.308758/W109.3166846
- over 100 plants: in the corridor and the east buffer at N37.302054/W109.314694
- over 100 plants: in the east buffer at N37.300049/W109.314219
- hundreds of plants: in the corridor and both buffers at N37.295097/W109.319551 and extending approximately 140 feet to the north
- 20-40 plants in a previously cleared strip along a gravel road: in the corridor and both buffers at N37.290061/W109.322223
- over one hundred plants on a shaley slope above a medium-size drainage: in the corridor and both buffers at N37.278633/W109.327533 and extending approximately 325 feet to the north

- a small concentration of 10-20 plants at the south end of the long distribution of halogeton, on the side of a gravel road: in the corridor at N37.275005/W109.329439

South of the San Juan River there are three concentrations of halogeton:

- 50-100 plants on the slope down to the San Juan River: in the corridor and both buffers at N37.266753/W109.334660 and extending 150-200 feet to the base of the slope
- one plant on the slope down to the San Juan River: in the corridor at N37.266141/W109.334567
- 10-20 plants on the edge of the facility at the beginning of the line: in the corridor and both buffers at N37.251298/W109.328065

Russian knapweed is present in eleven locations north of the San Juan River:

- over 100 plants on shale: in the corridor at N37.314238/W109.318662 and extending 50 feet to the north
- 150-200 plants on the side of a medium-size wash: in the east buffer at N37.296677317/W109.317199
- 50-100 plants with saltcedar on the edge of a water-filled depression on the side of a gravel road: in the east buffer at N37.290586/W109.321961
- 50-100 plants: in the corridor and both buffers at N37.286715/W109.324898 and extending 60 feet to the north
- 150-200 plants: in the corridor and both buffers at N37.286121/W109.325139 and extending 60 feet to the north
- 50-100 plants ditch along gravel road: in the east buffer at N37.285426/W109.325434 and extending 150 feet to the north
- hundreds of plants in a medium-size drainage: in the corridor at N37.273819/W109.330761
- over 100 plants in a medium-size drainage: in the east buffer at N37.273421/W109.330640
- thousands of plants growing under the saltcedar on the broad flood plain north of the river: in the corridor and both buffers at N37.272439/W109.330734
- hundreds of plants on the west side of the maintenance yard just south of UT Hwy 162: in the corridor and both buffers at N37.271961/W109.332188
- hundreds of plants on the flood plain north of the river: in the corridor and both buffers at N37.270564/W109.333025

and two locations south of the San Juan River:

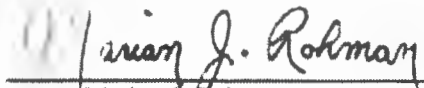
- hundreds of plants on the edge just above the river: in the corridor and both buffers at N37.267010/W109.334624
- 5-10 plants near the top of the terrace above the San Juan River: in the corridor at N37.265590/W109.334430

DISCUSSION

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

Signature of Author:

September 28, 2015



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PLANTS OF THE MONTEZUMA CREEK PIPELINE

Scientific names according to Heil et al, 2013

Identifications based on Welsh et al, 2003 and Heil et al, 2013

Trees

Elaeagnus angustifolia

Fraxinus anomala

Juniperus osteosperma

Pinus edulis

Populus deltoides var. *wislizeni*

Tamarix chinensis

Russian olive

Singleleaf ash

Utah juniper

Piñon

Cottonwood

Saltcedar

Shrubs and Subshrubs

Artemisia filifolia
Artemisia spinescens
Artemisia tridentata
Atriplex canescens
Atriplex confertifolia
Atriplex gardneri var. *cuneata*
Brickellia microphylla var. *scabra*
Chrysothamnus depressus
Chrysothamnus Greenei
Chrysothamnus viscidiflorus
Coleogyne ramosissima
Ephedra viridis var. *viscida*
Ephedra torreyana
Ericameria nauseosa var. *bigelovii*
Ericameria nauseosa var. *graveolens*
Eriogonum corymbosum
Eriogonum leptocladon
Grayia spinosa
Gutierrezia sarothrae
Isocoma rusbyi
Krascheninnikovia lanata
Lycium pallidum subsp. *pallidum*
Poliomintha incana
Purshia stansburyana
Salix exigua var. *exigua*
Sarcobatus vermiculatus var. *vermiculatus*
Stanleya pinnata var. *pinnata*
Suaeda nigra
Xanthisma spinulosum
Yucca baileyi
Zuckia brandegeei var. *brandegeei*

Sand sage
Budsage
Big sagebrush
Four-wing saltbush
Shadscale
Gardner's saltbush
Littleleaf brickellbush
Long-flower rabbitbrush
Greene's rabbitbrush
Green-flowered rabbitbrush
Blackbrush
Cutler's ephedra
Torrey's ephedra
Bigelow's rabbitbrush
Rubber rabbitbrush
Broadleaf wild buckwheat
Sand wild buckwheat
Hopsage
Broom snakeweed
Rusby's goldenbush
Winterfat
Pale wolfberry
Purple sage
Cliffrose
Sandbar willow
Greasewood
Prince's plume
Torrey's seepweed
Spiny goldenweed
Bailey's narrowleaf yucca
Siltbush

Cacti

Echinocereus triglochidiatus
Opuntia polyacantha
Sclerocactus sp.

Claretcup cactus
Starvation pricklypear
Fishhook cactus

Grasses and Grass-like Plants

Achnatherum hymenoides
Agropyron cristatum
Aristida purpurea
Bouteloua barbata
Bromus tectorum
Chloris virgata

Indian ricegrass
Crested wheatgrass
Purple threeawn
Six-weeks grama
Cheatgrass
Showy windmillgrass

Dasyochloa pulchella
Echinochloa crus-galli
Elymus longifolius
Elymus smithii
Eremopyrum triticeum
Hesperostipa comata
Hordeum jubatum
Hordeum pusillum
Muhlenbergia pungens
Munroa squarrosa
Pleuraphis jamesii
Scirpus pungens
Setaria viridis
Sporobolus airoides
Sporobolus contractus
Sporobolus cryptandrus
Sporobolus flexuosus

Fluffgrass
 Barnyard grass
 Bottlebrush squirreltail
 Western wheatgrass
 Annual wheatgrass
 Needle-and-thread
 Foxtail barley
 Little barley
 Sandhill muhly
 False buffalograss
 Galleta
 Common threesquare
 Green bristlegrass
 Alkali sacaton
 Spike dropseed
 Sand dropseed
 Mesa dropseed

Forbs

Abronia fragrans
Acroptilon repens
Allium sp.
Ambrosia acanthicarpa
Androstephium breviflorum
Artemisia dracunculus
Artemisia ludoviciana
Asclepias cutleri
Asclepias macrosperma
Astragalus sp.
Astragalus amphioxys
Astragalus ceramicus
Astragalus flavus
Astragalus fucatus
Astragalus mollisimus
Astragalus nuttallianus
Astragalus praelongus
Atriplex argentea
Bassia scoparia
Castilleja chromosa
Chaetopappa ericoides
Chamaesaracha coronopus
Chamaesyce fendleri
Chamaesyce glyptosperma
Chamaesyce parryi
Cirsium sp.

Fragrant sand-verbena
 Russian knapweed
 Onion
 Bur ragweed
 Funnel lily
 Wild tarragon
 Silver wormwood
 Cutler's milkweed
 Large-seed milkweed
 Milkvetch
 Crescent milkvetch
 Painted milkvetch
 Yellow milkvetch
 Hopi milkvetch
 Woolly locoweed
 Small-flowered milkvetch
 Stinking milkvetch
 Silver orach
 Summer cypress
 Desert paintbrush
 Sand aster
 Green-leaf five-eyes
 Fendler's spurge
 Ribseed spurge
 Parry's spurge
 Native thistle

<i>Conyza canadensis</i>	Horseweed
<i>Cordylanthus wrightii</i>	Wright's bird's-beak
<i>Cryptantha</i> sp.	Perennial cat's-eye
<i>Cryptantha crassisejala</i> var. <i>elachantha</i>	Thick-sepal cat's-eye
<i>Cycloloma atriplicifolium</i>	Winged pigweed
<i>Cymopterus terebinthus</i> var. <i>petraeus</i>	Rock parsley
<i>Datura wrightii</i>	Sacred datura
<i>Delphinium scaposum</i>	Barestem larkspur
<i>Descurainia pinnata</i>	Western tansymustard
<i>Descurainia sophia</i>	Northern tansymustard
<i>Dicoria canescens</i> subsp. <i>brandegeei</i>	Desert twinbugs
<i>Dieteria canescens</i>	Gray tansyaster
<i>Erigeron</i> sp.	Fleabane
<i>Eriogonum divaricatum</i>	Spreading wild buckwheat
<i>Eriogonum inflatum</i>	Desert trumpet
<i>Eriogonum ovalifolium</i>	Cushion wild buckwheat
<i>Eriogonum palmerianum</i>	Palmer's wild buckwheat
<i>Eriogonum shockleyi</i>	Shockley's wild buckwheat
<i>Eriogonum wetherillii</i>	Wetherill's wild buckwheat
<i>Erodium cicutarium</i>	Filaree
<i>Gaillardia pinnatifida</i>	Hopi blanketflower
<i>Halogeton glomeratus</i>	Halogeton
<i>Helianthus petiolaris</i>	Prairie sunflower
<i>Hymenopappus filifolius</i>	Fineleaf hymenopappus
<i>Ipomopsis gunnisonii</i>	Gunnison's gilia
<i>Ipomopsis longiflora</i>	Blue trumpets
<i>Lappula occidentalis</i>	Spiny sheepbur
<i>Lepidium</i> sp.	Pepperwort
<i>Lygodesmia grandiflora</i>	Rush pink
<i>Malcolmia africana</i>	African mustard
<i>Marrubium vulgare</i>	Common horehound
<i>Melilotus</i> sp.	Sweet clover
<i>Mentzelia multiflora</i>	Desert blazingstar
<i>Mirabilis linearis</i>	Narrowleaf umbrellawort
<i>Oenothera albicaulis</i>	Whitestem evening primrose
<i>Oenothera cespitosa</i>	Tufted evening primrose
<i>Orobanche ludoviciana</i>	Louisiana broomrape
<i>Penstemon angustifolius</i>	Narrowleaf beardtongue
<i>Phacelia integrifolia</i>	Torrey's phacelia
<i>Phlox longifolia</i>	Longleaf phlox
<i>Physaria</i> sp.	Twinpod
<i>Plantago patagonica</i>	Wooly plantain
<i>Portulaca oleracea</i>	Common purslane
<i>Proboscidea parviflora</i>	Devil's claw
<i>Rumex hymenosepalus</i>	Sand dock

Salsola collina
Salsola tragus
Senecio flaccidus var. *flaccidus*
Senecio spartioides
Sisymbrium altissimum
Sphaeralcea coccinea
Stenogonum salsuginosum
Stephanomeria exigua
Streptanthella longirostris
Thelesperma megapotamicum
Tiquilia latior
Tribulus terrestris
Verbena bracteata
Xanthium strumarium

Slender Russian-thistle
Russian-thistle
Threadleaf ragwort
Broom ragwort
Tall tumblemustard
Scarlet globemallow
Smooth wild buckwheat
Small wirelettuce
Longbeak fiddle-mustard
Greenthread
Matted tiquilia
Goathead
Carpet vervain
Common cocklebur

Wildlife Survey Report
FOR
CASTLETON COMMODITIES INTERNATIONAL
NATURAL GAS PIPELINE RIGHT-OF-WAY RENEWAL
NAVAJO NATION - SHIPROCK AGENCY, SAN JUAN COUNTY, UTAH
Prepared By: Cindy Lawrence
Prepared For: Permits West, Inc.
September 2015

1.0 Introduction

Castleton Commodities International (CCI) is requesting to renew a natural gas pipeline right-of-way (ROW) for the Aneth North Pipeline that was issued in 1995. This pipeline has been renamed the Montezuma Creek North Pipeline by CCI. A Species of Concern survey was conducted from September 17th through September 20th, 2015 to comply with Navajo Nation Department of Fish and Wildlife-Navajo Natural Heritage Program (NNDFW-NNHP) regulations to renew the pipeline ROW. The Aneth North Pipeline (Montezuma Creek North Pipeline) begins at a well site located approximately 1 mile southwest Montezuma Creek, Utah and extends north for 14.75 miles (30-foot ROW width) to the Bureau of Land Management (BLM) border; the ROW continues across BLM land. Coordinates 37.447064, -109.328402 NAD83 (North End), 37.251157, -109.327346 NAD83 (South End). The ROW crosses the San Juan River approximately 2 miles north of the beginning of the pipeline and passes through the town of Montezuma Creek before extending into more remote territory to the BLM border. This report includes those lands located on Navajo Nation Tribal (14.25 miles) and Navajo Tribal Allotted (0.5 mile) lands only. No construction or other ground disturbing activities would be conducted. The pipeline ROW is located San Juan County, Utah within the following legal descriptions:

Section 31, Township 38 South, Range 19 East,
Sections 6&7, T39S, R24E
Sections 12,13,24,25&26, T39, R23E
Section 31, T39S, R24E
Sections 6,7,18,19,30,&31, T40S, R24E
Section 36, T40S, R23E
Section 1, T41S, R23E
Section 6, T41S, R24E

2.0 Methods

Prior to the survey, a Navajo Natural Heritage Program Data Request was made to determine Species of Concern known to occur or with the potential to occur within the ROW as indicated on the 7.5 minute McCracken Spring-Utah and Montezuma Creek-Utah, quadrangles. The data response was received on September 16, 2015. See Section 11.0 for data response.

The Species of Concern survey was conducted from September 17th through September 20th, 2015. This biological survey consisted of walking the ROW to assess the general habitat and the potential for Species of

Concern to occur. The surveyed area consisted of the pipeline ROW and adjacent areas ranging from several hundred feet or within binocular site. Raptor nest locations, if present, were noted. In addition, a general wildlife survey was conducted and all wildlife identified by direct observation of individuals, tracks, scat, or other sign were recorded. See Section 6.0 for a complete list of wildlife observed. Weather during the survey was sunny with little (less than 5 percent) to no cloud cover. Winds were calm at 0 to 5 miles per hour. Temperatures spanned from approximately 65 (°F) in the mornings to 90 (°F) in the afternoons.

3.0 Description of Existing Habitat

Topography at the beginning of the ROW consists of gently rolling hills and slightly sloping terrain. After the ROW crosses the San Juan River topography begins to consist of steep rolling hills surrounded by low-lying mesas, rocky outcroppings, and some stretches of badland areas. The ROW eventually ascends a series of steep mesa-side tiers to reach the top of McCracken Mesa. McCracken Mesa consists of gently rolling terrain as is typical of mesa-top topography. However, there is a valley depression on the top of the mesa that is surrounded by hills with rocky outcroppings. Several erosional washes are present throughout the ROW. Elevation within the ROW ranges from approximately 4,500 feet at the lowest point at the San Juan River to approximately 5,200 feet at the end of the ROW on top of McCracken Mesa. The ROW begins at approximately 4,600 feet in elevation.

Development within the surrounding area includes the town of Montezuma Creek, several residences, and natural gas infrastructure. Existing infrastructure includes the meter sites, well sites, compressor stations, dirt access roads, powerlines, and numerous pipeline ROWs. The southern half of the ROW contains the majority of development; very little infrastructure exists within the northern half of the ROW. Other uses include livestock grazing (cattle, sheep, and goats) and year-round horse grazing.

Several habitat types occur within the ROW. See Section 10.0 for habitat photographs. Heavy infestations of Russian thistle (*Salsola tragus*) are present throughout the ROW and surrounding areas with the exception of the desert grassland habitat within the northern most one mile of the ROW. This habitat was located within an area that was fenced and had not been recently grazed. The ROW is generally sparsely vegetated with low species composition. Broom snakeweed (*Gutierrezia sarothrae*) was prevalent throughout all habitat types. Habitat types with dominant floral species are as follows (from south to north):

South of San Juan River: Desert scrub habitat is dominated by Russian thistle, rubber rabbitbrush (*Ericameria nauseosa*), broom snakeweed, and bur ragweed (*Ambrosia acanthicarpa*).

San Juan River riparian habitat: Riparian habitat is dominated by Russian olive (*Elaeagnus angustifolia*) and willow (*Salix* spp). Patches of tamarisk (*Tamarix ramosissima*) and cottonwood trees (*Populus* sp.) are present.

Immediately north of town of Montezuma Creek: Dominant species include Russian thistle, fourwing saltbush (*Atriplex canescens*), Indian ricegrass (*Oryzopsis hymenoides*), James' galleta (*Hilaria jamesii*), and threeawn (*Aristida purpurea*): these species provide relatively good ground cover.

Steep rolling hills surrounded by low-lying mesas, rocky outcroppings, and some stretches of badland areas: Dominant species on lower elevations include Russian thistle, greasewood (*Sarcobatus* sp.) and fourwing saltbush with scattered James' galleta. Higher elevation areas (hillsides and tops) are sparsely vegetated and dominated by black brush (*Coleogyne ramosissima*) and halogeton (*Halogeton glomeratus*). Farther north, more rolling hills give way to habitat dominated by broom snakeweed, fourwing saltbush, and rubber rabbitbrush.

Mesa-side tiers: Lower elevation tiers contain badland areas dominated by halogeton. Other dominant species include Russian thistle, fourwing saltbush, broom snakeweed, and rubber rabbitbrush. Higher elevation tiers include habitat dominated by black brush, and scattered juniper trees (*Juniperus* sp.). The ROW corridor is heavily vegetated by broom snakeweed.

McCracken Mesa (southern portion): Habitat within the southern end of McCracken Mesa is dominated by broom snakeweed and Russian thistle within the ROW and big sagebrush (*Artemisia tridentata*) with some fourwing saltbush immediately adjacent to the ROW. The valley depression is infested with a thick, interwoven

mat of Russian thistle. As the ROW progresses to the north, big sagebrush becomes dominant. However, the ROW contains a prevalence of broom snakeweed and remains heavily infested with Russian thistle.

McCracken Mesa north of ISR 5009 (Hatch Trading Post road): This area has not been recently grazed as it is located behind fence with a locked gate. Big sagebrush habitat exists with prevalence of grasses interspersed. Grasses include James' galleta, threeawn, Indian ricegrass, and crested wheatgrass (*Agropyron cristatum*). Farther north, big sagebrush habitat gives way to desert grassland habitat dominated by the aforementioned grasses. Seepweed (*Suaeda moquinii*) is also prevalent within this habitat. Very scattered big sagebrush is present within the grassland habitat.

4.0 Species of Concern

The ROW is located within Wildlife Areas 1, 2, and 3 as designated by the NNDFW-NNHP. Area 1 has high sensitivity wildlife resources. This Area contains the best habitat for endangered and rare plant, animal, and game species, and the highest concentration of these species on the Navajo Nation. Area 2 is classified as a moderately sensitive area with moderate restrictions on development to avoid sensitive species and habitats. Area 3 has a low, fragmented concentration of Species of Concern. Species in this area may be locally abundant on 'islands' of habitat, but islands are relatively small, limited in number and well spaced across the landscape.

The following table lists and describes all Species of Concern with the potential to occur within the associated McCracken Spring-Utah and Montezuma Creek-Utah 7.5-minute quadrangle maps. The following tribal and federal statuses are indicated: Navajo Endangered Species List (NESL), federal Endangered Species Act (ESA), Bald and Golden Eagle Protection Act (BGEPA) and the Migratory Bird Treaty Act (MBTA). The Navajo Natural Heritage Program website, www.nnhp.nndfw.org was referenced for the following species accounts:

Species	Status	Habitat	Habitat Suitability Within the ROW
American dipper (<i>Cinclus mexicanus</i>)	NESL Group 3, MTBA	Nests in clear unpolluted streams with a variety of riffles, pools, and waterfalls with substrate of rocks, sand, and rubble. Instream and streamside boulders are necessary for perches.	NP. San Juan River is too murky and placid to attract this species.
Bald Eagle (<i>Haliaeetus leucocephalus</i>)	NESL Group 2, MBTA, BGEPA,	Typically nest in trees in forested areas, especially mature and old-growth stands, adjacent to large bodies of water with suitable forage of waterfowl and fish. Winters along lakes and rivers with large trees.	S (Winter). The San Juan River and surrounding area may be used for foraging during migration and during winter.
Belted kingfisher (<i>Ceryle alcyon</i>)	NESL Group 4, MBTA	Nests in burrows in earthen banks usually near major water source (clear streams, rivers, ponds, and lakes) with adequate prey supply of small fish and other aquatic animals.	NP. San Juan River is too murky to attract this species.
Burrowing owl	NESL Group 4, MBTA	Nests in ground burrows (often deserted prairie-dog burrows) typically in dry, open grasslands or desert scrub. Grasslands with sparse	S

Species	Status	Habitat	Habitat Suitability Within the ROW
<i>(Athene cunicularia)</i>		junipers may also be used on the Navajo Nation; presence of suitable nest burrow is critical requisite.	
Ferruginous hawk <i>(Buteo regalis)</i>	NESL Group 3, MBTA	Nests in badlands, flat or rolling desert grasslands, and desert shrub. Most nests on Navajo Nation are on pinnacles, small buttes, or short cliffs. May nest on ground or in bushes.	S.
Golden eagle <i>(Aquila chrysaetos)</i>	NESL Group 3, MBTA, BGEPA	A wide variety of open habitats, typically nests in steep cliffs typically > 30 meters in height.	S
Peregrine falcon <i>(Falco peregrinus)</i>	NESL Group 4, MBTA	Nests in sheer cliff faces typically > 30 meters in height usually near water or mesic canyons. In migration, occurs in a variety of lowland, wetland habitats.	NP. Nesting cliffs are absent from the ROW and adjacent areas. This species may use the area during migration.
Southwestern willow flycatcher <i>(Empidonax traillii extimus)</i>	NESL Group 2, MBTA, ESA-E	Cottonwood-willow habitats within perennial riparian areas.	S. Habitat marginal for nesting within San Juan River Corridor. Migratory use is expected.
Yellow-billed cuckoo <i>(Coccyzus americanus)</i>	NESL Group 2, MBTA, ESA-T	Found within close proximity to water in mature riparian woodlands with dense understories. Also found in orchards.	NP. Habitat within and adjacent to the ROW does not contain required components to attract this species for nesting.
Yellow warbler <i>(Dendroica petechia)</i>	NESL Group 4, MBTA	Found in wet, deciduous thickets, especially those dominated by willows, and in disturbed and early successional habitats.	S
Bluehead sucker <i>(Catostomus discobolus)</i>	NESL Group 4	Occupies a wide range of water conditions within river/stream habitats with variable water temperatures and stream volumes.	S
Colorado pikeminnow <i>(Ptychocheilus lucius)</i>	NESL Group 2, ESA-E	Adults use backwaters and flooded riparian areas during spring runoff, and migrate to spawn in riffle-run areas with cobble/gravel substrates. Post-spawning adults primarily use run habitats, with eddies and	S

Appendix 4-4

Species	Status	Habitat	Habitat Suitability Within the ROW
		slackwater also being important.	
Mottled sculpin (<i>Cottus bairdi</i>)	NESL Group 4	Prefer stream sections with coarse gravel and small-to-large rock substrates usually with riffles, regardless of water depth.	S
Razorback sucker (<i>Xyrauchen texanus</i>)	NESL Group 2, ESA-E	Backwaters over sand/silt substrate, deep eddies, and impoundments, shallow to deep runs over sandbars and seasonally-flooded shorelines and bottomlands.	S
Roundtailed chub (<i>Gila robusta</i>)	NESL Group 2	Adults inhabit permanent water in cool to warm water mid-elevation streams, typically using pools and eddies adjacent to rapids and boulders.	S
Northern leopard frog (<i>Lithobates pipens</i>)	NESL Group 2	Found in wetlands usually with permanent water and aquatic vegetation (especially cattails), ranging from irrigation ditches and small streams to rivers, and small ponds and marshes to lakes or reservoirs.	NP. The San Juan River does not provide adequate aquatic vegetation required by this species.

Status*

E - Endangered T - Threatened C – Candidate NESL - Navajo Endangered Species List BGEPA – Bald and Golden Eagle Protection Act

Presence**

K - Known, documented observation within project area.

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

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

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

5.0 Survey Results and Discussion

Species of Concern Eliminated From Detailed Evaluation

Due to lack of appropriate habitat, five Species of Concern were given a rating of “NP”, “habitat not present and species unlikely to occur” within the ROW or within the vicinity of the ROW. However, three of these species may occur during migration or utilize the area for occasional foraging but are not expected to occupy the area for residence or nesting/breeding. Please refer to the table above for a list of these species.

Species of Concern Warranting Detailed Evaluation

Appendix 4-5

No Species of Concern were detected during the biological survey. Eleven (11) Species of Concern have the potential to occur within or within the vicinity of the ROW. These species are evaluated below in Sections 5.1 – 5.9. Migratory birds are evaluated in Section 5.10.

5.1 Bald Eagle

The majority of the project area is poor foraging habitat for wintering or migrant bald eagles due to a lack of prey base. Large cottonwood snags along the San Juan River are mostly absent from the project area where it crosses the San Juan River.

Wintering or migratory eagles occasionally occur in this area. Because no impact to riparian habitat along the San Juan is anticipated from the proposed project and given uncommon occurrence of bald eagles in the area, this species should not be adversely impacted by the proposed project.

5.2 Burrowing owl

Burrowing owls nest in ground burrows (often deserted prairie dog burrows) typically found in dry, open grasslands, or desert scrub. On the Navajo Nation, grasslands with sparse junipers may also be used. The presence of a suitable nest burrow is a critical requisite for this species (NNDFW-NNHP, 2015).

Three small (less than 100 burrows) Gunnison's prairie dog (*Cynomys gunnisoni*) towns are present within the northern most 2 miles of the ROW. Burrows within the ROW were inspected for burrowing owl sign. No white wash, pellets, or feathers were detected. However, burrows would provide suitable nesting sites. No burrowing owls were detected during the biological survey.

5.3 Ferruginous hawk

Ferruginous hawks nest in open habitats such as badlands, flat or rolling desert grasslands, and desert scrub. Most nests on the Navajo Nation are on clay or rock pinnacles, small buttes, or short cliffs (less than 100 feet in height). A few nests are placed in the tops of juniper trees or on the ground. Habitat surrounding the nest site must support populations of preferred prey species, such as cottontail, jackrabbits, prairie dogs, ground squirrels, and gophers. The Navajo Nation is used by ferruginous hawks year-round; more than 90 percent of the resident population breed and winter in northwestern New Mexico. This species also has been found to breed and winter in Arizona in the Chinle Valley and Dilkon vicinity (NNDFW-NNHP, 2015).

Suitable low-level nesting areas within, and within view of the ROW have too much human and dog disturbance to attract this species. Higher pinnacles/cliffs are absent. This species may use the area for foraging for white-tailed antelope ground squirrels (*Ammospermophilus leucurus*), prairie dogs, and lagomorphs.

5.4 Golden eagle

Golden eagles nest on steep cliffs, typically more than 100 feet in height; shorter cliffs (more than 30 feet high) may be used, although infrequently. Nests are usually placed in middle to upper parts of cliffs in sheltered ledges, potholes, or small caves which provide protection from the elements. Nesting sites are usually adjacent to open foraging habitat of desert grasslands or desert shrub with little to no shrub cover that support populations of prey species such as cottontail and jackrabbits. Nesting occurs at nearly all elevations across the Navajo Nation, and on nearly all types of cliff substrates including sandstone, limestone, and those of volcanic origin (NNDFW-NNHP, 2015).

No golden eagles were detected during the survey. No golden eagle nest structures were detected within the ROW or within binocular range of the ROW. The ROW and adjacent areas may provide potential foraging

opportunities for prey such as white-tailed antelope ground squirrels, prairie dogs, and lagomorphs.

5.5 Southwestern Willow Flycatcher

In association with another project (CCI-Aneth Extension) which would disturb habitat, formal southwestern willow flycatcher surveys were conducted in the project area where the existing pipeline ROW crosses the San Juan River and associated floodplain in the summer of 2015. Six (6) willow flycatchers were detected early in the season (May 29) but within the breeding dates of the southwestern willow flycatcher. Though habitat was variable within the floodplain and banks on both sides of the river, some habitat patches were suitable for the *traillii* subspecies. However, subsequent surveys resulted in no further detections (Black, 2015).

5.6 Yellow warbler

Yellow warblers nest primarily in wet, deciduous thickets, especially those dominated by willows (*Salix* spp.), and in disturbed and early successional habitats. Migration habitats are mainly semi-open scrub or shrublands and second-growth forests, often associated with wetlands (NNDFW-NNHP, 2015).

No yellow warblers were detected during the survey. However, this species is expected utilize the riparian habitat along the San Juan River, within and adjacent to the ROW, for breeding, nesting, and foraging.

5.7 Bluehead sucker

Bluehead suckers occupy the upper Colorado River drainage in Utah, Colorado, and northwestern New Mexico and the Colorado River in the Grand Canyon area and upper Little Colorado River tributaries in Arizona. On the Navajo Nation, this species can be found throughout the San Juan River and its major tributaries. A wide range of water conditions within river habitats, including variable water temperatures (16-26 degrees C), and stream volumes such as swiftwater areas in mountain streams are utilized. Smaller tributaries adjacent to large rivers are often nursery areas (NNDFW-NNHP, 2015).

The San Juan River within the ROW may potentially provide habitat for the bluehead sucker.

5.8 Colorado pikeminnow

Colorado pikeminnows have been documented throughout the San Juan River on the Navajo Nation from Shiprock, New Mexico to Lake Powell. Adults use backwaters and flooded riparian areas during spring runoff, (such as the Mancos River mouth) and migrate large distances to spawn in riffle-run areas with cobble/gravel substrates. Post-spawning adults primarily use run habitats, with eddies and slackwater also being important. Young-of-year use warm backwaters along shorelines. Deeper backwater areas are the preferred habitat of young fish into the subadult stage. Irrigation canals and ponds connected to San Juan River may provide potential habitat (NNDFW-NNHP, 2015).

The San Juan River within the ROW may provide migration habitat for the Colorado pikeminnow.

5.9 Mottled sculpin

Documented populations of mottled sculpins on the Navajo Nation are from New Mexico-reach of the San Juan River. Potential populations may occur in the Utah-reach and perennial tributaries of the San Juan River. Mottled sculpins prefer stream sections with coarse gravel and small-to-large rock substrates (usually riffle areas) regardless of water depth. Adults rarely use areas with slow current and silt substrate; young typically use areas with little or no current, and may hide within silt of slow-water shorelines. Spawning occurs within shallow, scooped-out depressions under large rocks; eggs are adhered to the underside of rocks. Water velocity is not

criteria for spawning sites (NNDFW-NNHP, 2015).

The San Juan River within the ROW provides marginal habitat for the mottled sculpin.

5.10 Razorback sucker

Razorback suckers are considered rare in the San Juan arm of Lake Powell and upstream within the San Juan River. The only occurrences recorded for the San Juan River are from Bluff, UT; in 1976 two adult and 100-150 young were found in an irrigation pond connected to the river by a man-made canal, and in 1988 one adult was captured in the main channel. This species occupies mainstream portions of rivers, pre- and post-spawning suckers can be found in low-flow areas such as backwaters over sand and silt substrate, deep eddies, and impoundments. Shallow to deep runs over sandbars and seasonally-flooded shorelines are also important. Spawning occurs in areas with shallow, swift riffles over gravel or cobble substrate, and backwater habitats. Young-of-year use warm, flooded bottomlands and backwaters. Irrigation canals and ponds connected to the San Juan River may be potential habitat (NNDFW-NNHP, 2015).

The San Juan River within the ROW may provide potential habitat for this species. However, presence of this species is unlikely due to of low population numbers.

5.11 Roundtailed chub

Roundtailed chubs have been extirpated from the Colorado River, but is extant in the San Juan and Mancos Rivers on the Navajo Nation. Rare detections of this species have been documented from Shiprock to near Lake Powell with the majority of detections occurring between Shiprock and Aneth. Adults inhabit cool to warm water mid-elevation streams, typically using pools and eddies, adjacent to rapids and boulders. Roundtailed chubs are often found near cover such as rock and plant roots and in pools behind irrigation diversions. Juveniles prefer the margins of flowing water and backwater areas. Spawning occurs over gravel bottoms in runs and pools with greater than 10 inches of water depth (NNDFW-NNHP, 2015).

The San Juan River within the ROW may potentially provide habitat for the roundtailed chub.

5.12 Migratory Birds

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

The all avian species observed during the biological survey, with the exception of the domestic goose, are protected under the Migratory Bird Treaty Act.

6.0 Wildlife Observations

While the field visit focused on Species of Concern, observations of non-listed species were also recorded. Some avian species observed were in the process of migration such as the yellow-rumped warblers (*Setophaga coronata*) and the killdeer (*Charadrius vociferus*). The most common avian species detected were Brewer's sparrows (*Spizella breweri*) and house finches (*Carpodacus mexicanus*). The most common mammalian species detected were desert cottontails (*Sylvilagus audubonii*) and white-tailed antelope ground squirrels. Western whiptail lizards (*Cnemidophorus tigris*) were the most common reptilian species detected. The following lists

include all wildlife species observed:

AVIAN SPECIES OBSERVED (VISUALLY AND AUDIBLY):

- Mourning dove (*Zenaida macroura*)
- Common raven (*Corvus corax*)
- Cliff swallow (*Petrochelidon pyrrhonota*)
- Horned lark (*Eremophila alpestris*)
- Rock wren (*Salpinctes obsoletus*)
- Sage sparrow (*Amphispiza belli*)
- Red-tailed hawk (*Buteo jamaicensis*)
- Chipping sparrow (*Spizella passerina*)
- House finch (*Carpodacus mexicanus*)
- Domestic goose
- Turkey vulture (*Cathartes aura*)
- Yellow-breasted chat (*Icteria virens*)
- Canada goose (*Branta canadensis*)
- Spotted sandpiper (*Actitis macularius*)
- Merriam's turkey (*Meleagris gallopavo*)
- Scaled quail (*Callipepla squamata*)
- Brewer's sparrow (*Spizella breweri*)
- Green-tailed towhee (*Pipilo chlorurus*)
- Loggerhead shrike (*Lanius ludovicianus*)
- Say's phoebe (*Sayornis saya*)
- Yellow-rumped warbler (*Stetophaga coronata*)
- Killdeer (*Charadrius vociferus*)
- Western bluebird (*Sialia mexicana*)
- Prairie falcon (*Falco mexicanus*)
- Black-chinned hummingbird (*Archilochus alexandri*)
- Northern harrier (*Circus cyaneus*)
- Blue-gray gnatcatcher (*Poliophtila caerulea*)

MAMMALIAN SPECIES OBSERVED (FROM TRACKS, SCAT, AND OTHER SIGN):

- White-tailed antelope ground squirrel (*Ammospermophilus leucurus*)
- Domestic horse
- Domestic sheep
- Domestic cattle
- Domestic goat

- Pocket mouse (*Chaetodipus* sp.)
- Black-tailed jackrabbit (*Lepus californicus*)
- Badger (*Taxus taxidea*)
- Coyote (*Canis latrans*)
- Raccoon (*Procyon lotor*)
- Pocket gopher (*Thomomys* sp.)
- Gunnison's prairie dog (*Cynomys gunnisoni*)
- Gray fox (*Urocyon cinereoargenteus*)
- Desert cottontail (*Sylvilagus audubonii*)

REPTILIAN AND AMPHIBIAN SPECIES OBSERVED:

- Lesser earless lizard (*Holbrookia maculata*)
- Western whiptail lizard (*Cnemidophorus tigris*)
- Long-nosed leopard lizard (*Gambelia wislizenii*)

7.0 Recommendations

No construction or other potentially disturbing activities are proposed. No mitigation measures are recommended.

8.0 Certification

It has been determined by Permits West, Inc. that renewal of the ROW lease would not violate any of the provisions of the Endangered Species Act of 1973, as amended, and the Navajo Nation code requirements for Navajo Endangered Species. Conclusions of this report are based on actual field examination and are correct to the best of my knowledge.



Cindy Lawrence, Wildlife Biologist

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10.0

Habitat Photographs (South - North)



Near the beginning of the ROW looking north



Overview to north of San Juan River and the town of Montezuma Creek



Greasewood and fourwing saltbush habitat looking north



Black brush and broom snakeweed habitat looking south



Broom snakeweed, fourwing saltbush, and rabbitbrush dominant habitat



Overview to south from near highway 262 road crossing with badland habitat in foreground



Mesa-side tier with black brush, broom snakeweed dominant with scattered juniper



Valley depression on top of McCracken Mesa looking north



Big sagebrush habitat with broom snakeweed in ROW on McCracken Mesa looking north



Desert grassland habitat near the end of the ROW looking north

11.0 NNHP Data Response



PO Box 1480
Window Rock, AZ
86515

P 928 871 6472
F 928 871 7603

<http://nnhp.nndfw.org>

15perm112

16-September-2015

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

SUBJECT: Montezuma Creek North Pipeline

Mike Deutsch,

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

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

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

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

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

Page 1 of 7

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

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

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

Species

AQCH = *Aquila chrysaetos* / Golden Eagle NESL G3
 ASCR = *Astragalus cronquistii* / Cronquist Milk-vetch NESL G3
 EMTREX = *Empidonax traillii extimus* / Southwestern Willow Flycatcher NESL G2 FE

2. Potential Species

Species

AQCH = *Aquila chrysaetos* / Golden Eagle NESL G3
 ASCR = *Astragalus cronquistii* / Cronquist Milk-vetch NESL G3
 ATCU = *Athene cunicularia* / Burrowing Owl NESL G4
 BURE = *Buteo regalis* / Ferruginous Hawk NESL G3
 CADL = *Catostomus discobolus* / Bluehead Sucker NESL G4
 CEAL = *Ceryle alcyon* / Belted Kingfisher NESL G4
 CIME = *Cinclus mexicanus* / American Dipper NESL G3
 COAM = *Coccyzus americanus* / Yellow-billed Cuckoo NESL G2 FC
 COBA = *Cottus bairdi* / Mottled Sculpin NESL G4
 DEPE = *Dendroica petechia* / Yellow Warbler NESL G4
 EMTREX = *Empidonax traillii extimus* / Southwestern Willow Flycatcher NESL G2 FE
 FAPE = *Falco peregrinus* / Peregrine Falcon NESL G4
 GIRO = *Gila robusta* / Roundtail Chub NESL G2
 HALE = *Haliaeetus leucocephalus* / Bald Eagle NESL G2
 LIPI = *Lithobates pipiens* / Northern Leopard Frog NESL G2
 PHIN = *Phacelia indecora* / Drab Phacelia NESL G4
 PTLU = *Ptychocheilus lucius* / Colorado Pikeminnow NESL G2
 XYTE = *Xyrauchen texanus* / Razorback Sucker NESL G2 FE

3. Quadrangles (7.5 Minute)

Quadrangles

McCracken Spring (37109-D3) / UT
 Montezuma Creek (37109-C3) / UT

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

SITE	EO1MI	EO3MI	QUAD	MSO	POTS	AREAS
Montezuma Creek North Pipeline - Allotment Land	EMTREX	AQCH, ASCR, EMTREX	Montezuma Creek (37109-C3) / UT	None	XYTE, LIPI, PTLU, HALE, GIRO, FAPE, EMTREX, COBA, CIME, BURE, ATCU, AQCH, PHIN, ASCR	Area 3
Montezuma Creek North Pipeline - Trust Land	None	None	McCracken Spring (37109-D3) / UT	None	LIPI, FAPE, EMTREX, BURE, ATCU, AQCH, ASCR	Area 3
Montezuma Creek North Pipeline - Trust Land	AQCH, EMTREX	AQCH, ASCR, EMTREX	Montezuma Creek (37109-C3) / UT	None	XYTE, LIPI, PTLU, HALE, GIRO, FAPE, EMTREX, DEPE, COBA, COAM, CIME, CEAL, CADI, BURE, ATCU, AQCH, PHIN, ASCR	Area 1, Area 2, Area 3

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

- A. Biological Resource Land Use Clearance Policies and Procedures (RCP) - The purpose of the RCP is to assist the Navajo Nation government and chapters ensure compliance with federal and Navajo laws which protect, wildlife resources, including plants, and their habitat resulting in an expedited land use clearance process. After years of research and study, the NNDFW has identified and mapped wildlife habitat and sensitive areas that cover the entire Navajo Nation. The following is a brief summary of six (6) wildlife areas:
1. *Highly Sensitive Area* – recommended no development with few exceptions.
 2. *Moderately Sensitive Area* – moderate restrictions on development to avoid sensitive species/habitats.
 3. *Less Sensitive Area* – fewest restrictions on development.
 4. *Community Development Area* – areas in and around towns with few or no restrictions on development.
 5. *Biological Preserve* – no development unless compatible with the purpose of this area.
 6. *Recreation Area* – no development unless compatible with the purpose of this area.
- None* - outside the boundaries of the Navajo Nation
- This is not intended to be a full description of the RCP please refer to the our website for additional information at <http://www.nndfw.org/clup.htm>.

Navajo Area Office
Post Office Box M
Window Rock, Arizona 86515

Archeological Clearance Project
BIA NAO LPAC-87-060

AUG 27 1987

Mr. Dean McClellan
Western Gas Processors
c/o Whitehorse Construction
Montezuma Creek, Utah

Dear Mr. McClellan:

This letter concerns the **Conditional Archeological Clearance** of an "Archeological Survey of Western Gas Processors' Pipeline and Gas Processing Facility, San Juan County, Utah".

I. Description of Undertaking-The proposed undertaking, including locational information and specific project dimensions, is described in the attached report. Under consideration for archeological clearance within this letter is the construction of approximately 15.8 miles of pipeline and an associated gas processing facility.

The Bureau of Indian Affairs, Navajo Area Office is the lead surface management agency. Portions of this proposed undertaking occur within public domain lands. This clearance document deals only with lands within the BIA Navajo Area Office jurisdiction.

II. Methodology and Reporting-An area of approximately 195.5 acres (79.2 ha) was intensively inventoried by means of a pedestrian methodology. It is expected that the potential surface disturbance will encompass only surfaces within the area of inventory as described within the attached report. All areas of proposed surface disturbance were examined via parallel transects spaced 15 meters apart.

With clarification the report fulfills our requirements for a cultural survey (refer to 36 CFR Part 800.4).

a. The U.T.M. coordinates for Site 42SA18337 should be altered to Zone 12 647,600 Easting and 4,146,700 Northing.

b. The inventory records a remarkably low frequency (one site per 39.1 acres) of cultural resources for the area inventoried. The McCracken Mesa area generally appears to have a

site density in excess of two to four times that figure. Additionally it is curious that no isolated occurrences at all were discovered. The inventory report does not explain or justify these results.

c. The resource maps for Sites 42SA18337 and 42SA18354 do not include estimated boundaries for observed cultural materials.

III. Resources Located, Identified and Evaluated (Significance Criteria Considered)-The inventory records five sites (42SA18337, 42SA18338, 42SA18351, 42SA18354 and 42SA18355). These cultural values are identified in the attached report. Resources 42SA18337, 42SA18338, 42SA18351, 42SA18354 and 42SA18355 appear to possess the qualities of integrity and meet at least one of the other criteria (d) of 36 CFR Part 60.4 to be considered for inclusion within the National Register of Historic Places at this time. Resources 42SA18337, 42SA18338, 42SA18351, 42SA18354 and 42SA18355 are considered to meet the definitions of archeological resources under the Archeological Resources Protection Act (16 USC 470).

IV. Special Conditions of Clearance-

1. Options for Treatment-Either option a or b must be selected.

a. Avoidance Plan-Significant characteristics of Resources 42SA18337, 42SA18338, 42SA18351, 42SA18354 and 42SA18355 must be avoided by project related activities, thereby removing these characteristics from the area of effect, or;

b. Treatment Plan-This may require the implementation of further evaluation or data recovery measures. The sponsor may be required to prepare or have prepared documentation pursuant to a determination of effect as per 36 CFR Part 800.13. All proposed evaluation and treatment programs must be responsive to the Treatment of Archeological Properties: A Handbook (Advisory Council on Historic Preservation) and Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines (National Park Service).

2. Monitoring-Because of the unusual density of remains recorded all project related activity must be monitored by an archeologist who meets the minimum Professional Qualification Standards outlined in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (Federal Register Vol. 48 Number 190 pages 44716-44740) and who has appropriate consent to work within the lands involved.

3. Report Corrections-The subject report must be corrected/ amended as follows. All corrections requested must be submitted together. No amendments to archeological clearance will be issued based upon a partial submittal of requested information.

Those issues introduced in Section II b and c of this letter must be addressed.

4. Split Jurisdiction-This clearance pertains only to those portions of the undertaking under the jurisdiction of the BIA-NAO. Those portions of the undertaking which occur within other jurisdictions will require clearance/approvals from the appropriate land owners/managers. This clearance is conditional upon the implementation of adequate protective measures for resources within those other jurisdictions. Documentation of compliance with this condition must be provided.

5. Reports-Six copies of all monitoring reports and all required corrections must be submitted to this office for review and approval prior to any further amendments to this conditional archeological clearance.

V. Clearance Decision-As described, the subject undertaking should have no effect on known, significant cultural values. Conditional archeological clearance is granted for the subject undertaking provided that the Special and Standard Conditions are adhered to.

If you have any questions about this clearance, contact the Area Archeologist at FTS 479-5358 or (602) 871-5151, extension 5358.

Sincerely,

/s/ Floyd E Espinoza

Acting Assistant Area Director

Enclosures:

1. Standard Conditions
2. Report LPAC-87-060

cc: HPO-UT

Navajo Tribal Chairman,
Attention: Director, Division of Resources
Superintendent-Shiprock

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.: Montezuma North Pipeline Right-of-Way Grant

DESCRIPTION: CCI seeks the approval for the grant of ROW for the continued operation and maintainance of an existing natural gas pipeline and ancillary facilities. The pipeline is 14.76 miles (77,953.69 ft.) in length with a 40-ft. wide corridor. Total acreage is 69.06 acres on Navajo Tribal Trust Lands and 2.52 acres on Navajo Allotment #633380.

LOCATION: Aneth & Red Mesa Chapters, San Juan County, Utah

REPRESENTATIVE: Permits West, Inc. for CCI San Juan LLC

ACTION AGENCY: Navajo Nation and Bureau of Indian Affairs-Navajo Region

B.R. REPORT TITLE / DATE / PREPARER: Montezuma North Pipeline Right-of-Way Grant/09 OCT 2015/Permits West, Inc.

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 1 & 3. [1] Raptor Sensitive Area (RSA) onsite for HALE & AQCH; [2] Survey indicates marginal nesting habitat for EXTREX is present within the San Juan River corridor.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED:

- [1] *Aquila chrysaetos* (Golden Eagle) G3, GBENPR, BGEPA, MBTA
- [2] *Haliaeetus leucocephalus* (Bald Eagle) G2, GBENPR, BGEPA, MBTA
- [3] *Buteo regalis* (Ferruginous Hawk) G3, MBTA
- [4] *Athene cunicularia* (Burrowing Owl) G4, MBTA
- [5] *Dendroica petechia* (Yellow Warbler) G4, MBTA

FEDERALLY-LISTED SPECIES AFFECTED: [1] *Empidonax traillii extimus* (Southwestern Willow Flycatcher) G2, Endangered, MBTA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: Continued O&M.

AVOIDANCE / MITIGATION MEASURES: NA

CONDITIONS OF COMPLIANCE*: [1] Potential nesting habitat exists within the San Juan River corridor for the Southwestern Willow Flycatcher (*Empidonax traillii extimus*), a species listed for protection under the Endangered Species Act. Light to heavy maintenance activity shall not be allowed in the San Juan River corridor and within ¼

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mile of riparian habitat during 01 MAY-31 AUG; [2] Light to heavy maintenance activity shall avoid the Burrowing Owl (*Athene cunicularia*) breeding season of 01 MAR-15 AUG where suitable breeding habitat exists within and adjacent to the ROW. If the breeding season cannot be avoided, pre-action surveys will be required. The survey area must include a 0.4 km (¼ mi) buffer from the edge of disturbance. Activity will be not allowed within a ¼ mile of an active nest burrow until the young have fledged the nesting area.

FORM PREPARED BY / DATE: Pamela A. Kyselka/23 NOV 2015

COPIES TO: (add categories as necessary)



B. 20



2 NTC § 164 Recommendation:

Signature

Date

☐ Approval

☒ Conditional Approval (with memo)

☐ Disapproval (with memo)

☐ Categorical Exclusion (with request letter)

☐ None (with memo)

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

11/24/15

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

Representative's signature

Date



**PRESIDENT
RUSSELL BEGAYE
VICE PRESIDENT
JONATHAN NEZ**

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

23 November 2015

15perm112

Mike Deutsch, Project Director
Permits West, Inc.
37 Verano Loop
Santa Fe, New Mexico 87508

Dear Mike,

The Navajo Nation Department of Fish and Wildlife (NNDFW) reviewed the Environmental Assessment for CCI San Juan LLC's proposed **Montezuma North Pipeline Right-of-Way Grant** located in the Aneth and Red Mesa Chapters in Utah. The purpose of this letter is to inform you that we are granting the proposed grant of ROW a Conditional Approval. The ROW is approved with the following conditions:

[1] Potential nesting habitat exists within the San Juan River corridor for the Southwestern Willow Flycatcher (*Empidonax traillii extimus*), a species listed for protection under the Endangered Species Act. Light to heavy maintenance activity shall not be allowed in the San Juan River corridor and within 1/4 mile of riparian habitat during 01 MAY-31 AUG.

[2] Light to heavy maintenance activity shall avoid the Burrowing Owl (*Athene cunicularia*) breeding season of 01 MAR-15 AUG where suitable breeding habitat exists within and adjacent to the ROW. If the breeding season cannot be avoided, pre-action surveys will be required. The survey area must include a 0.4 km (1/4 mi) buffer from the edge of disturbance. Activity will be not allowed within a 1/4 mile of an active nest burrow until the young have fledged the nesting area.

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

Sincerely,

Pamela A. Kyselka, Wildlife Biologist
Navajo Natural Heritage Program

CONCURRENCE

Gloria Tom, Director
Department of Fish and Wildlife

11/24/15
Date

xc: CONS-100-15
BIA

Appendix 6-3

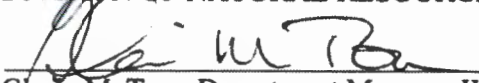
THE NAVAJO NATION



RUSSELL BEGAYE
JONATHAN NEZ

MEMORANDUM

TO : David Mikesic, Zoologist
Department of Fish and Wildlife
DIVISION OF NATURAL RESOURCES

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

DATE : November 20, 2015

SUBJECT : DELEGATION OF AUTHORITY

I will be on Travel on Monday thru Wednesday, November 23-25, 2015. Therefore, I am hereby delegating you to act in the capacity of the Director, Department of Fish and Wildlife, effective 8:00 am on, Monday, November 23, 2015. This delegation shall end at 5:00 p.m. on Wednesday, November 25, 2015.

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:


David Mikesic, Zoologist
Department of Fish & Wildlife

ARCHEOLOGICAL SURVEY OF
WESTERN GAS PROCESSORS'
PIPELINE AND GAS PROCESSING FACILITY,
SAN JUAN COUNTY, UTAH

LAC REPORT 8721

by
Patrick L. Harden

LA PLATA ARCHEOLOGICAL CONSULTANTS, INC.
P.O. BOX 783
DOLORES, COLORADO 81323
(303) 882-4933

JUNE 11, 1987

Federal Antiquities Permit
85Ut57626
Utah State Permit
U87-LA-083 b,i
BIA Use Authorization No.
LPAC-022-004
BIA Project No.
LAPC-87-060

Prepared For:
Western Gas Processors
c/o: Whitehorse Construction
Montezuma Creek, Utah

ABSTRACT

During April 1987 an archeological survey of 15.8 miles of pipeline right-of-way and a 300 square foot area for a gas processing facility for Western Gas Processors was conducted by personnel of La Plata Archeological Consultants, Inc. The survey was requested by Whitehorse Construction for Western Gas. The proposed project consists of a six or eight pipeline and a gas processing facility. The processing facility and 1.6 miles of the pipeline are located on lands administered by the Bureau of Land Managment - San Juan Resource Area, and the remaining 14.2 miles of pipeline are on the Navajo Indian Reservation. The project is located in southeastern San Juan County, Utah. A 100' wide corridor along the pipeline route was inventoried for cultural resources. Five archeological sites were found and recorded. In order to insure that none of the sites are adversely affected by the project it is recommended that a fence be built between sites 42SA18337 and 18354 prior to pipeline construction. Also, it is recommended that an archeologist be present during right-of-way clearance and pipeline trenching in the general vicinity of site 42SA18355. The other two sites (42SA18338 and 18351) are well outside of the construction area and will not be adversely affected. Given the above stipulations regarding site protection measures archeological clearance for the project is recommended.

INTRODUCTION

On April 16, 17, 18, 19, 20, and 21, 1987 an archeological survey of 15.8 miles of pipeline right-of-way and a 300 foot square area for a gas processing facility was conducted by Patrick Harden, Carol Smith, and Barry Hibbets of La Plata Archeological Consultants, Inc. of Dolores, Colorado. The proposed project is a development planned by Western Gas Processors. The archeological survey was requested by Mr. Dean McClellan of Whitehouse Construction of Montezuma Creek, Utah.

The project will consist of the construction of a 6 or 8" steel pipeline which will be buried, and a gas processing facility. The pipeline will connect the Havasu Oil Field on the north to the El Paso Natural Gas facilities at the town of Montezuma Creek on the south.

The pipeline will be located primarily on McCracken Mesa and San Juan River valley. The extreme north end of the pipeline will be in Alakli Canyon. A total of 15.8 miles of pipeline is involved, with 1.6 miles on lands administered by the Bureau of Land Management, and the remaining 14.2 miles on the Navajo Reservation. The gas processing facilities are on BLM land.

Legal location, land status, and dimensional information is contained in Table 1. UTM's are presented on the project location maps. The UTM for the gas processing facilities are those for the center of the surveyed area.

The project area is contained on the Montezuma Creek, Utah 15' series topographic map (1962).

TABLE 1
Locational, Land Status, and Dimensional Information

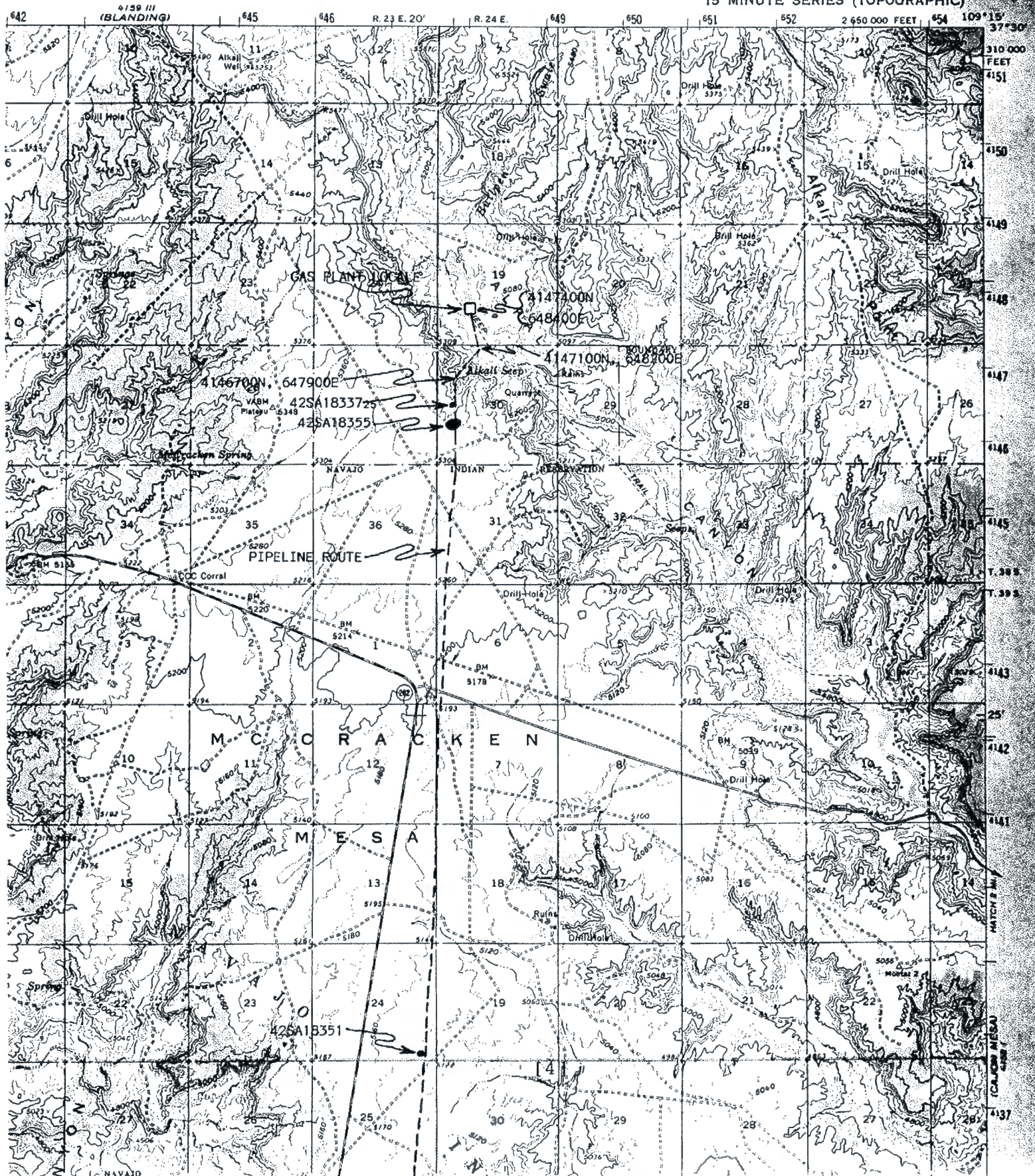
LEGAL LOCATION		LAND STATUS				
<u>Township 38 South, Range 24 East</u>						
Section:	19(SW1/4), 30(W1/2)	BLM				
Section:	31(W1/2)	NAVAJO				
<u>Township 39 South, Range 24 East</u>						
Section:	6(W1/2), 7(W1/2)	NAVAJO				
<u>Township 39 South, Range 23 East</u>						
Section:	12(SE1/4), 13(E1/2), 24(E1/2), 25(E1/2), 36(E1/2)	NAVAJO				
<u>Township 40 South, Range 23 East</u>						
Section:	1(NE1/4)	NAVAJO				
<u>Township 40 South, Range 24 East</u>						
Section:	6(W1/2; SE1/4), 7(E1/2), 18(E1/2), 19(NE1/4; S1/2), 30(W1/2)	NAVAJO				
<u>Township 40 South, Range 23 East</u>						
Section:	25(SE1/4), 36(N1/2, NE1/4)	BLM				
Section:	36(S1/2, NE1/4; SE1/4)	NAVAJO				
<u>Township 41 South, Range 23 East</u>						
Section:	1(NE1/4)	NAVAJO				
<u>Township 41 South, Range 24 East</u>						
Section:	6(NW1/4)	NAVAJO				
OWNERSHIP	MILES	FEET	METERS	ACRES	HECTARES	
Navajo Tribe	14.2	74,976	22,853	174.0	70.4	
BLM	1.6	8,448	2,575	19.4	7.9	
BLM*	----	-----	-----	2.1	.9	
PROJECT TOTALS	15.8	83,424	25,428	195.5	79.2	

* = Gas Processing Facility

PHYSIOGRAPHY AND ENVIRONMENT

The project is located in extreme southeastern San Juan County, Utah. The pipeline is oriented north-south and

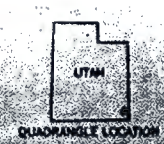
WORLD





CONTOUR INTERVAL 40 FEET
 DOTTED LINES REPRESENT 20-FOOT CONTOURS
 DATUM IS MEAN SEA LEVEL

COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
 AL SURVEY, DENVER, COLORADO 80225 OR WASHINGTON, D. C. 20242
 TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST



ROAD CLASSIFICATION

Medium-duty ——— Light-duty ———

Unimproved dirt - - - - -

○ State Route

MONTEZUMA CREEK, UTAH
 N3715—W10915/15

1963
 AND 4158 IV—SERIES VT87

begins ca. fourteen miles north of the San Juan River and extends on mile south of the River near the town of Montezuma Creek. From north to south, the pipeline begins in Alkali Canyon is nearly flat, while the canyon slopes are steep and quite rugged. Nearly all of McCracken Mesa is flat to gently undulating. As the pipeline descends into the San Juan River valley the terrain becomes much more dissected and is heavily eroded. Some stretches of relatively flat terrain are also present in this area, however. The bluffs along the south side of the San Juan River are steep, while the area to the south of the bluffs are relatively flat.

Vegetation is primarily a shadscale community in the bottom of Alkali Canyon and all areas except McCracken Mesa. An expansive sagebrush dominant association is prevalent over nearly all of McCracken Mesa. A pinyon-juniper association (juniper dominant) is present on the Alkali Canyon slopes. A riparian association, consisting of tamarisk, willow, and cottonwood is found along the floodplain of the San Juan River.

Sediments consist of aeolian sand to sandy loam on McCracken Mesa. Sand to boulder sized colluvium is found on the slopes of Alakli Canyon. Alluvial sand is located in the bottom of Alkali Canyon and in the San Juan River environs. Aeolian sand is present south of the River. North of the River and extending for approximately four miles in the eroded and dissected terrain sediments consist

primarily of aeolian sand, colluvium, and residual sandstone bedrock. Small to large sand dunes are common and frequently cap ridges whose slopes are strewn with cobble sized sandstone detritus.

The only sources of permanent water in the area are the San Juan River and small spring ca. three miles north of the River.

Current use of the area is restricted to livestock grazing and oil and gas production.

EXAMINATION PROCEDURES

Prior to the field investigations a file search was requested through the Division of State History, and another conducted at the BLM office in Monticello. The reviews indicated that only a relatively few archeological sites had been recorded in the general project vicinity, and none along the pipeline route per se.

On-the-ground survey was conducted by walking two parallel transects spaced 15 meters apart along the pipeline corridor, effectively inventoring a 100' wide area. The gas processing facilities had a series of transects spaced 15m apart walked over a 300 x 300' area. The field archeologists flagged the pipeline route. Most of the route except for the south ca. three miles closely parallels an existing Unocal pipeline, and much of the surface disturbance which will be created by the pipeline construction will be the right-of-way cleared for the Unocal line.

All of the archeological sites were recorded on standard IMACS site form. Blue flagging was placed around the perimeteres of all the sites to indicate where all ground disturbing activities are strictly prohibited, and where it is recommended that fences be built around sites 42SA18337 and 18354.

Where the Western Gas pipeline parallels the Unocal pipeline the 100' wide corridor surveyed for the Western line is measured from the actual location of the Unocal line except where deviations from the Unocal line are necessary because of terrain or archeological sites.

SURVEY RESULTS

Five archeological sites were found in the areas surveyed. The sites are briefly described below. More detailed information is contained in the site forms submitted to appropriate governmental agencies.

SITE NUMBER: 42SA18337

DESCRIPTION: This site is a 3 x 1.5 meter upright slab lined feature containing burned rock and ash. It is probably a kiln. A quartzite knife/scrapper with unifacial retouch, along one teral edge was 2 meters from the kiln. The site is located adjacent to an ephemeral drainage on a northeast facing bench along the edge of McCracken Mesa. A pipeline is adjacent to the kiln.

SITE NUMBER: 42SA18338

DESCRIPTION: This site consists of a 4 x 2m granary located in a small overhang in a low rocky escarpment along the south side of a large shallow valley. One large upright slab is in front of the granary. At least six courses of dry laid rock are on the west wall of the feature. There does not appear to be any depth to the to the cultural deposits.

SITE NUMBER: 42SA18351

DESCRIPTION: This site consists of a 'C' shaped rubble mound, kiva depression, and midden. The surface structure has at least three rooms are obvious and there are probably four to five others present. The midden contains a dense artifact and burned rock concentration. A pipeline has partially disturbed the site along the east side. Ceramics indicate a PII occupation.

SITE NUMBER: 42SA18354

DESCRIPTION: This site consists of a 5 x 10m sparse scatter of lithic debitage and burned rock. The site area is deflated, and has been bulldozed. There appears to be no depth to the cultural deposits. A total of 15 flakes, a chert chopper, and a hammerstone were noted. The site is located on the crest of a low ridge in very eroded terrain dotted with sand dunes.

SITE NUMBER: 42SA18355

DESCRIPTION: This site consists of two separate habitation units and three concentrations of burned rock and artifacts. The concentrations contain mainly grayware sherds only these three areas might represent an earlier component on the site (i.e., Basketmaker component). Structure #1 is a rubble mound of ca. 10-12 rooms and a kiva depression. An unknown amount of this structure has been destroyed by pipeline construction. It is possible that a second kiva is also present on this structure. Rubble is also to the east of the pipeline. It appears that at least a part of the site was deliberately bulldozed outside of the other pipeline ROW clearing. A midden is to the south of the structure. The second structure is ca. 30m to the SW of #1 and consists of a rectangular outline of walls with a central wall. This structure has also been bulldozed, although the walls are clearly visible. A kiva depression is to the south and two track trail passes through it. A midden is also associated with this structure. Although artifacts are relatively abundant throughout the site area, and particularly in the middens, there are very few decorated sherds, probably because they have all been collected. The site is located on the crest of a very low ridge along the northeast edge of McCracken Mesa.

CONCLUSION

Between April 16 and 21, 1987 an archeological survey of 15.8 miles of a proposed gas pipeline and a 300 X 300' gas processing facility was conducted by personnel of La Plata Archeological Consultants, Inc. The survey was performed at the request of Whitehorse Construction, although the pipeline will be built by Western Gas Processors. Of the 15.8 miles of pipeline 14.2 miles are located on the Navajo Indian Reservation; the remaining 1.6 miles of pipeline and the gas processing facility are located on lands administered by the Bureau of Land Management - San Juan Resource Area.

A 100' wide corridor along the pipeline was inventoried for cultural resources. Five archeological sites were found and recorded, all along the corridor surveyed for the pipeline. Although the pipeline construction will avoid all of the sites some protective measures are warranted to insure that the sites are not adversely affected. It is recommended that protective fences be built between sites 42SA18337 and 42SA18354 prior to pipeline construction. It is also recommended that an archeologist be present during right-of-way clearance and pipeline trenching in the vicinity of site 42SA18355. Sites 42SA18338 and 42SA18351 are well outside of the pipeline corridor and in no danger of being disturbed. Given the above stipulations, and provided that all of the sites are strictly avoided, archeological clearance for the project is recommended.



EXHIBIT "E"

NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS CCI SAN JUAN, LLC (GRANTEE) (6-5/8" Natural Gas Pipeline – Montezuma Creek North Right-Of-Way)

1. The term of the right-of-way shall be for five (5) years, expiring on October 17, 2020.
2. Consideration for the right-of-way is assessed at \$152,833.00 annually and shall be paid to the Controller of the Navajo Nation, in lawful money of the United States, and a copy of the receipt for such payment provided to the Navajo Nation Minerals Department, or its successor, on or before October 17 of each year. The payment will be subject to annual CPI adjustment, based on the July 2015 CPI index.

If consideration has been waived, the Navajo Nation contributes the amount listed above to the project because the project serves a public purpose and will benefit Navajo residents.
3. The Grantee may develop, use, and occupy the right-of-way for the purpose(s) of constructing, operating, and maintaining the 6-5/8" natural gas pipeline. The Grantee may not develop, use, or occupy the right-of-way for any other purpose, nor allow others to use or occupy the right-of-way for any other purpose, without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions, or withheld at the sole discretion of the Navajo Nation. The Grantee may not develop, use, or occupy the right-of-way for any unlawful purpose.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
 - a. Title 25, Code of Federal Regulations, Part 169; subject to the terms of this right-of-way;
 - b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery, all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices;
 - c. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., and the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq.; and
 - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq. Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.

6. The Grantee shall clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during any surface disturbance activities.
7. The Grantee shall reclaim all surface lands disturbed related to the right-of-way, as outlined in a restoration and revegetation plan, which shall be approved by 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, land users, 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 at 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 term or condition of the grant or 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. 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; and
 - 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 site assessment of the premises at least sixty (60) days prior to delivery of the said premises. This provision 12 shall not apply to the United States as Grantee.

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 judgements 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-way do not unreasonably interfere with the Grantee's use of the right-of-way.



Castleton Commodities International LLC
2200 Atlantic Street, Suite 800
Stamford, Connecticut 06902 - 6834



January 17, 2017

Mr. Alton Shepard

Chairman, Navajo Nation Resources and Development Committee

Dear Mr. Shepard:

On behalf of CCI Paradox Midstream LLC, I am respectfully requesting that Resolution #0427-16, be amended to reflect a company name change from CCI Paradox Midstream LLC to CCI San Juan LLC.

CCI Paradox Midstream LLC and CCI San Juan LLC are subsidiary companies of the same parent company, Castleton Commodities International (CCI). CCI is planning to sell its Paradox Midstream division but would like to retain ownership of the Montezuma Creek North Pipeline.

Sincerely,

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

Brad Burmaster

Senior Vice President