

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
23RD Navajo Nation Council --- Third Year, 2017

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF RIGHT-OF-WAY TO CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC., LOCATED ON NAVAJO NATION TRUST LANDS IN RED ROCK CHAPTER, NAVAJO NATION (MCKINLEY COUNTY, NEW MEXICO) FOR CONSTRUCTING AND MAINTAINING ELECTRICAL DISTRIBUTION LINE

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. Continental Divide Electric Cooperative, Inc., has submitted a right-of-way application for a single phase 14.4 kV power line extension for the Red Rock Chapter Project, Phase II, on, over and across Navajo Nation Trust Lands in Red Rock Chapter vicinity, McKinley County, New Mexico. The application request is attached hereto and incorporated herein as **Exhibit "A."**

B. The proposed right-of-way is described in the map is attached hereto and incorporated herein as **Exhibit "B."**

C. The General Land Development Department with the Navajo Land Department identified one land user. The General Land Development Department memorandum dated December 21, 2016 and the user consent are attached hereto as **Exhibit "C."**

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

E. The environmental and archaeological studies has been completed and attached hereto and made a part hereof. **Exhibit "E,"** the Environmental Assessment/FONSI; **Exhibit "F,"** Biological Resources Compliance Form; **Exhibit "G,"** Biological Evaluation; **Exhibit "H,"**

Archaeological Inventory Report; and, **Exhibit "I,"** Cultural Resources Compliance Form.

SECTION THREE. APPROVAL

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

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

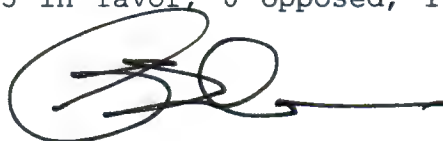
C. The Resources Development Committee of the Navajo Nation Council hereby approves the right-of-way for 40 years.

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

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

CERTIFICATION

I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at NDOT Administrative Complex, Tse Bonito (Navajo Nation) New Mexico, at which quorum was present and that same was passed by a vote of 5 in favor, 0 opposed, 1 abstained this 11th of April, 2017.



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

Motion: Honorable Jonathan Perry
Second: Honorable Benjamin Bennett

LEGISLATIVE SUMMARY SHEET

Tracking No. 0123-17

DATE: April 3, 2017

TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF RIGHT-OF-WAY TO CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC., LOCATED ON NAVAJO NATION TRUST LANDS IN RED ROCK CHAPTER, NAVAJO NATION (MCKINLEY COUNTY, NEW MEXICO) FOR CONSTRUCTING AND MAINTAINING ELECTRICAL DISTRIBUTION LINE

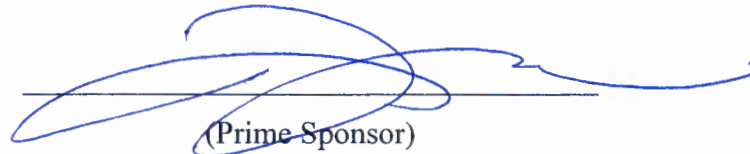
PURPOSE: Approving the Grant of Right-of-Way to Continental Divide Electric Cooperative, Inc., on, over and across Navajo Nation Trust Lands in Red Rock Chapter vicinity, McKinley County, New Mexico, for constructing and maintaining electrical distribution line.

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

5-DAY BILL HOLD PERIOD: Ready
Website Posting Time/Date: 3:55pm 4/5/17
Posting End Date: 4/10/2017
Eligible for Action: 4/11/2017

PROPOSED STANDING COMMITTEE RESOLUTION
23rd NAVAJO NATION COUNCIL -- Third Year, 2017

INTRODUCED BY



(Prime Sponsor)

TRACKING NO. 0123-17

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT
OF RIGHT-OF-WAY TO CONTINENTAL DIVIDE ELECTRIC COOPERATIVE,
INC., LOCATED ON NAVAJO NATION TRUST LANDS IN RED ROCK CHAPTER,
NAVAJO NATION (MCKINLEY COUNTY, NEW MEXICO) FOR CONSTRUCTING
AND MAINTAINING ELECTRICAL DISTRIBUTION LINE

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. Continental Divide Electric Cooperative, Inc., has submitted a right-of-way
application for a single phase 14.4 kV power line extension for the Red Rock Chapter
Project, Phase II, on, over and across Navajo Nation Trust Lands in Red Rock

Chapter vicinity, McKinley County, New Mexico. The application request is attached hereto and incorporated herein as Exhibit "A."

B. The proposed right-of-way is described in the map is attached hereto and incorporated herein as Exhibit "B."

C. The General Land Development Department with the Navajo Land Department identified one land user. The General Land Development Department memorandum dated December 21, 2016 and the user consent are attached hereto as Exhibit "C."

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

E. The environmental and archaeological studies has been completed and attached hereto and made a part hereof. Exhibit "E," the Environmental Assessment/FONSI; Exhibit "F," Biological Resources Compliance Form; Exhibit "G," Biological Evaluation; Exhibit "H," Archaeological Inventory Report; and, Exhibit "I," Cultural Resources Compliance Form.

SECTION THREE. APPROVAL

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

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

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

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

EXECUTIVE OFFICIAL REVIEWTitle of Document: CDEC, ROW Red Rock Chapt Prjt Phase II Contact Name: DRAPER, HOWARDProgram/Division: DIVISION OF NATURAL RESOURCESEmail: michellehoskie@frontier.com Phone Number: 928-871-6447☐ **Business Site Lease** Sufficient Insufficient

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

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

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

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

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

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

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

☐ **Lease Purchase Agreements**

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

☐ **Grant Applications**

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

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

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

☐ **Relinquishment of Navajo Membership**

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

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

Sufficient Insufficient

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

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

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

☐ **Rights of Way**

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

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

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

☐ **Assignment of Mineral Lease**

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

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

- | | | | | |
|-------------|-------|--------------|-------------------------------------|--------------------------|
| 1. NLD | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. F&W | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. HPD | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Minerals | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. NNEPA | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. DNR | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. DOJ (ic) | _____ | Date: 3/7/17 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 8. OPVP | _____ | Date: 3-8-17 | <input checked="" 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
(Feb. 2017)



DOJ
2/15/17 4:22pm
DATE / TIME
<input type="checkbox"/> 7 Day Deadline
C # : 007358 #2
AS # :
UNIT: NRW

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

CLIENT TO COMPLETE

DATE OF REQUEST:	2/15/2017	DIVISION:	NATURAL RESOURCES
CONTACT NAME:	Michelle Hoskie or Stevie Hudson	DEPARTMENT:	GENERAL LAND DEVELOPMENT DEPT.
PHONE NUMBER:	x 6447	E-MAIL:	michellehoskie@frontier.com

TITLE OF DOCUMENT: CDEC ROW RED ROCK CHAPTER PROJECT PHASE II

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT:	2-15-17 4:57p	REVIEWING ATTORNEY/ADVOCATE:	Irvin Chee 2-27-17
DATE TIME OUT OF UNIT:	3/7/17 8:15am		

DOJ ATTORNEY / ADVOCATE COMMENTS

- Document is legally sufficient.

REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
Time #1	3-6-17	Blankhart	3-7-17 8:11am

DOJ Secretary Called: Michelle for Document Pick Up on 3/7/17 at 8:30am By: ah

PICKED UP BY: (Print) DATE / TIME:

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

Document Information

Document Name: 003_R005_00007358.zip
Revision: 1
Version: 1
Document Desc: Michelle Hoshie NLD (Navajo Land Title Data System - Windowrock AZ)
Document Author: Sufficient
Document Status: 164 Review Process
Document Type: 06-Feb-2017
Effective Date: Never
Expires: Never
Uploaded from: Navajo Land Title Data System (NLTDs) Phase 1: Plan for Quality Management System
Step 961: 003_R005_00007358

Size: 22746 KB
Date Uploaded: 10-Jan-2017
Task 1: Upload and Manage Documents
Maintained by: Project Management Team

No Document Distribution Locations

Tier 1 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date
Eugenia Quintana EPA (Navajo Land Title Data System - Windowrock AZ)	Air and Toxics - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. No comments.	1.	11-Jan-2017
Lee Anna Martinec EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. Should the project cross waterways within the given area, please contact our office Navajo EPA Water Quality, (928) 871-7690. Thank you.	1.	17-Jan-2017
Pam Kyelella FBW (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. 16Jan1102	1.	11-Jan-2017
Robert Allen DNR (Navajo Land Title Data System - Windowrock AZ)	Deputy Director DNR	DNR Administration	Approved	no comments	No Reply	19-Jan-2017
Steven Prince MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	1. Please include the uploaded Terms and Conditions document in the total package. This affirmative vote is conditioned upon inclusion of that document. sip	1.	11-Jan-2017

Tier 2 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date
Bilitah N. Becker (FBFA)	FBFA Users	FBFA Action Team	Approved	no comments	No Reply	06-Feb-2017
Ronnie Ben EPA (Navajo Land Title Data System - Windowrock AZ)	Underground Injection Control - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. Sufficient based on terms and conditions. Abide by all laws and regulations. Surface disturbance 1 acre or more requires a SWPPP.	1.	23-Jan-2017
Rowena Cheromiah MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	1. This vote is contingent on the inclusion of the FINAL Terms and Conditions attached. RCheromiah	1.	20-Jan-2017
Saim Diswood (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	no comments	No Reply	20-Jan-2017
Tamara Billie HPD (Navajo Land Title Data System - Windowrock AZ)	HPD Reviewer	Historic Preservation Department	Approved	no comments	No Reply	23-Jan-2017
W. Mike Halson (Navajo Land Title Data System - Windowrock AZ)	Manager III Navajo Land Department	NLD Administration	Approved	no comments	No Reply	23-Jan-2017



CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.

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

May 27, 2016

The Navajo Land Department
Attn: Ms. Elerina Yazzie, Program Manager
Project Review Office
PO Box 2249
Window Rock, Arizona 86515



Re: Submitting ROW Package for Red Rock Chapter Project Phase II, WO#85481

Dear Ms. Yazzie,

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

1. \$500.00 Filing Fee, Check #133285
2. Grant of Permission to Survey – Navajo Tribal Trust Land from Mr. Howard Draper (Copy)
3. Grant of Permission to Survey - Tribal Trust Land from BIA/ENA Lester Tsosie (Copy)
4. Right of way Application – Phase II – Navajo Tribal Trust Land
5. Archaeological Report for Phase II
6. Biological Resources Compliance Form
7. Cultural Resources Compliance Form for Phase II
8. Environmental Report for Phase II
9. Biological Report for Phase II
10. FONSI for Phase II
11. Map (4) for Phase II
12. Legals for Phase II
13. Copy of Letter From NTUA for permission to cross Existing water line

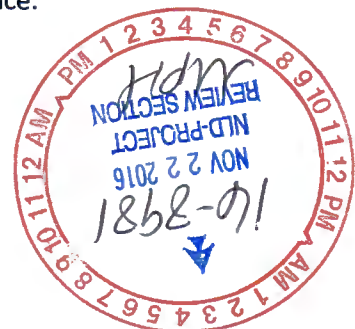
This project traverses over and across Navajo Tribal Trust Land. The distance on Navajo Tribal Trust Land for **Phase II** is 10,370.23' feet in length, 20' feet in width, and 4.73 acres.

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

Sincerely,

Debbie Olivar
Engineering/ROW

Enclosures





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

RIGHT-OF-WAY APPLICATION

NAVAJO TRIBAL TRUST LAND DESCRIPTION: Section 5, T13N, R18W, & Section 32, T14N, R18W, NMPM McKinley Cty. NM

COMES NOW THE APPLICANT Continental Divide Electric Cooperative, Inc. of this 4 day of November, 20 16, who hereby petition(s) the Bureau of Indian Affairs and respectfully files under the terms and provisions of the Act of February 5, 1948 (62 Stat. 17; 25 USC 323-328), and Departmental Regulations 25 CFR 169, an application of a 50 (term of years) right-of-way for the following purposes and reasons:

Construction, Operation, and Maintenance of 14.4 kv Electrical Distribution Line for THE RED ROCK Chapter Project; Phase II, WO#85481

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

Section 5, T13N, R18W, & Section 32, T14N, R18W, NMPM McKinley County New Mexico

Said right-of-way across Navajo Tribal Trust Land to be approximately 10,370.23' in length, 20 in width, and 4.73 in acres, as shown on attached map of definite location, attached hereto, and made a part hereof.

SAID APPLICANT UNDERSTANDS AND EXPRESSLY AGREES TO THE FOLLOWING STIPULATIONS:

1. To construct and maintain the right-of-way in a workmanlike manner.
2. To pay all damages and compensation, in addition to the deposit made pursuant to 169.4, determined by the Secretary to be due the landowners and authorized users and occupants of the land due to the survey, granting, construction and maintenance of the right-of-way.
3. To indemnify the landowners and authorized users and occupants against any liability for loss of life, personal injury and property damage arising from the construction, maintenance, occupancy or use of the lands by the applicant, his employees, contractors and their employees, or subcontractors and their employees.
4. To restore the lands as nearly as may be possible to their original condition upon the completion of construction, to the extent compatible with the purpose for which the right-of-way was granted.
5. To clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way; and dispose of all vegetative and other material cut, uprooted or otherwise accumulated during construction and maintenance of the project.

6. To take soil and resources conservation protection measures, including weed control, on the land covered by the right-of-way.
7. To do everything reasonable within its power to prevent and suppress fires on or near the lands to be occupied under the right-of-way.
8. To build and repair such roads, fences and trails as may be destroyed or injured by construction work and to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the right-of-way.
9. That upon revocation or termination of the right-of-way, the applicant shall, so far as is reasonably possible, restore the land to its original condition. The determination of "reasonably possible" is subject to Secretary's approval.
10. To at all times keep the Secretary informed of its address, and in case of corporations, of the address of its principal place of business and the names and addresses of its principal officers.
11. That the applicant will not interfere with the use of the lands by or under the authority of the landowners for any purpose not inconsistent with the primary purpose for which the right-of-way is granted.
12. During the term of this Grant of Easement, if any previously unidentified cultural resources are discovered within the easement area, work should be halted immediately and the BIA and/or Tribal Contractor should be contacted immediately.

THE APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

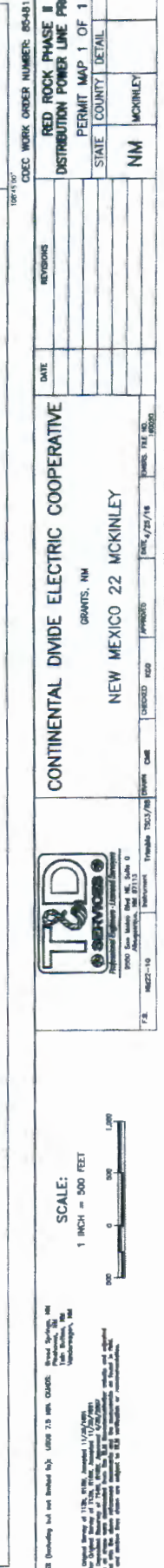
To conform and to abide by all applicable requirements with respect to the right-of-way herein applied for. The applicant agrees to conform to and abide by the rules, regulations, and requirements contained in the *Code of Federal Regulations*, Title 25 Indians, Part 169, as amended, and by reference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

DATE November 4, 2016

APPLICANT Continental Divide Electric Cooperative, Inc.
Debbie Olivar 

REQUIRED SUPPORTING DOCUMENTS:

1. () Written consent of landowner (ROW Form 94-7).
2. () Map (plats) of definite location (2 original mylars & 2 copies, See 25 CFR 169.6, 169.7, 169.8, 169.9, 169.10 and 169.11).
3. () Deposit of estimated damages or compensation (See 169.4 and 169.14).
4. () Evidence of Authority of Officers to Execute Papers (ROW Form 94-4)
5. () For corporation or business, requirements of 25 CFR 169.4 and 169.5 (unless previously filed):
 - () a. State certified copy of corporate charter or articles of incorporation.
 - () b. Certified copy of corporate resolution, by-laws, articles of partnership or association authorizing signatory to file the application.

[illegible]



THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT



MEMORANDUM

TO : Elerina Yazzie, Program Manager
General Land Development Dept.

FROM : Esther Kee
Esther Kee, R/W Agent
General Land Development Dept.

DATE : December 21, 2016

SUBJECT: CDEC Red Rock Chapter Phase II Power Line Extension Project

Continental Divide Electric Cooperative, Inc., Post Office Box 1087, Grants, New Mexico 87020, submitted an application for right of way to construct, operate and maintain the CDEC Red Rock Chapter Phase II single phase electric distribution line across Navajo Trust lands to serve Navajo families near Red Rock Chapter, New Mexico.

The right of way will be 10,370.23 feet in length, 20 feet in width, encompassing 4.73 acres, in Section 5, T13N, R18W & Section 32, T14N, R18W, NMPM, McKinley County, New Mexico.

The proposed project is located within District 16, Red Rock Range Unit 7, permitted to Benny Tom for grazing. I informed the grazing permittee on the proposed request and he had no objection. I obtained the grazing permittees consent along with the concurrence of the District 16 Land Board member, Emery Chee.

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

cc: Project file

CONSENT 3

(Waiver of compensation for damages)

CONSENT TO USE
NAVAJO TRIBAL LANDS

TO WHOM IT MAY CONCERN:

I, Bennie Tom, hereby grant consent to the Navajo Tribe and the Bureau of Indian Affairs to permit Continental Divide Electric Cooperative, Inc., Post Office Box 1087, Grants, New Mexico 87020, to use a portion of my land use area for the following purpose Right of way to construct, operate and maintain 10,370.23 feet in length, 20 feet in width, encompassing 4.73 acres Navajo Trust lands for a single phase electric distribution line to serve Navajo families across Navajo Trust lands near Red Rock Chapter, Red Rock Phase II Power Line Project is located in Section 5, T13N, R18W, & Section 32, T14N, R18W, NMPM, McKinley County, New Mexico, as shown on the map showing the location of the proposed project on the back of this consent form.

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

REMARKS:

12/21/16 Bennie Tom 80,484 Red Rock RU7
Date Land User Signature (or Thumbprint) Census No. Permit No.

WITNESS: _____

12.21.16 Emery D 16
Date Grazing Committee or Land Board Member District No.

Acknowledgement of Field Agent

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

Eptm Kce

Field Agent Signature

Figure 1. Red Rock Power Line Phase II, Line A, Red Rock, New Mexico
Twin Butte, NM USGS 7.5 Minute Quadrangle Map
Continental Divide Electric Cooperative, Inc.

BOP

PLS: SE/4 Section 5 Township 13 North Range 18 West USGS Map

Latitude & Longitude: 35° 23' 04.3" N 108° 45' 35.2" W NAD 83

UTM: 703,484 m E 3,917,996 m N Zone 12

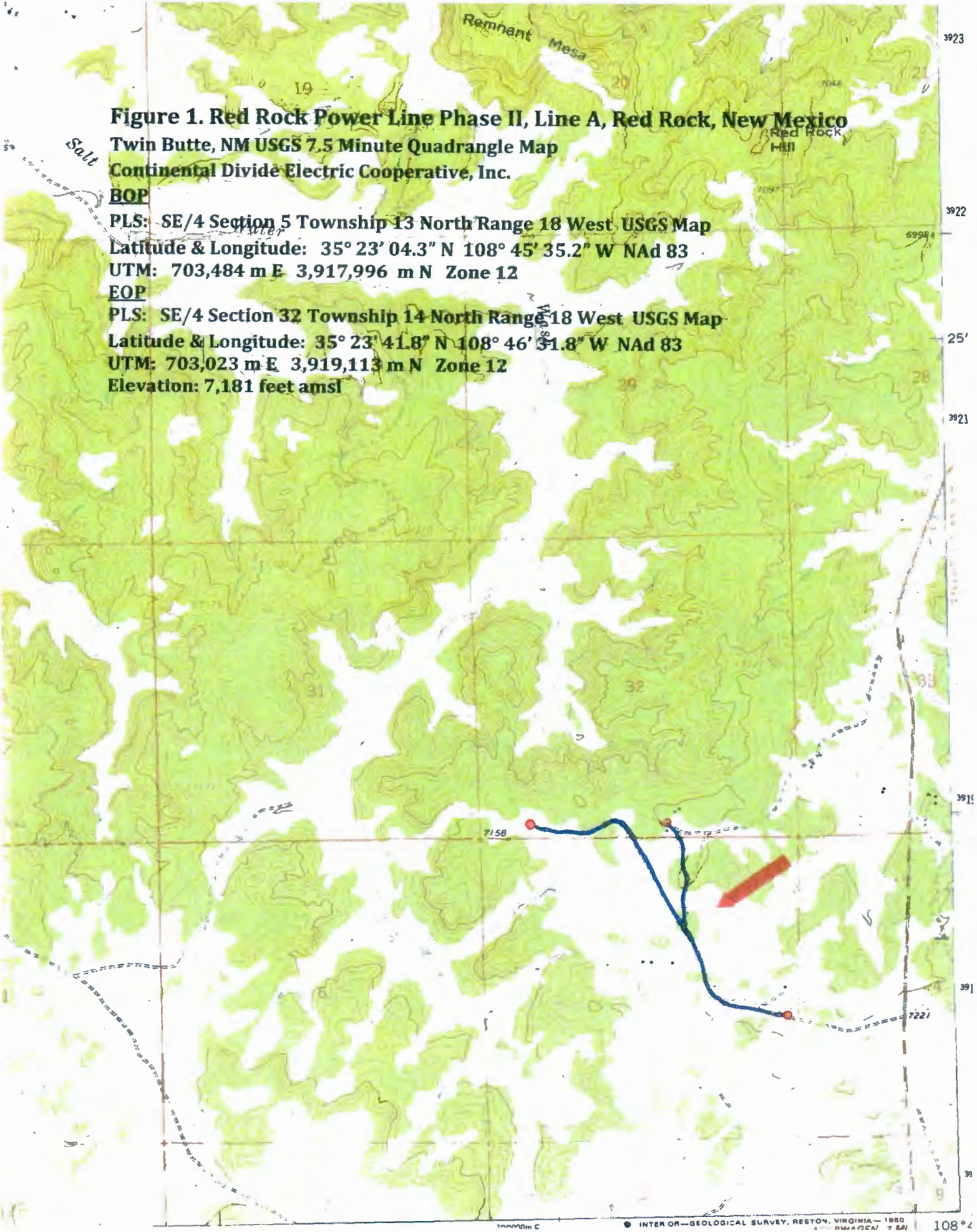
EOP

PLS: SE/4 Section 32 Township 14 North Range 18 West USGS Map

Latitude & Longitude: 35° 23' 41.8" N 108° 46' 31.8" W NAD 83

UTM: 703,023 m E 3,919,113 m N Zone 12

Elevation: 7,181 feet amsl



UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

RIGHT-OF-WAY APPLICATION

NAVAJO TRIBAL TRUST LAND DESCRIPTION: Section 5, T13N, R18W, & Section 32, T14N, R18W,
NMPM McKinley Cty. NM

COMES NOW THE APPLICANT Continental Divide Electric Cooperative, Inc. of this 4 day of November, 2016, who hereby petition(s) the Bureau of Indian Affairs and respectfully files under the terms and provisions of the Act of February 5, 1948 (62 Stat. 17; 25 USC 323-328), and Departmental Regulations 25 CFR 169, an application of a 50 (term of years) right-of-way for the following purposes and reasons:

Construction, Operation, and Maintenance of 14.4 kv Electrical Distribution Line for THE RED ROCK Chapter Project; Phase II, WO#85481

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

Section 5, T13N, R18W, & Section 32, T14N, R18W, NMPM McKinley County New Mexico

Said right-of-way across Navajo Tribal Trust Land to be approximately 10,370.23' in length, 20 in width, and 4.73 in acres, as shown on attached map of definite location, attached hereto, and made a part hereof.

SAID APPLICANT UNDERSTANDS AND EXPRESSLY AGREES TO THE FOLLOWING STIPULATIONS:


1. To construct and maintain the right-of-way in a workmanlike manner.
2. To pay all damages and compensation, in addition to the deposit made pursuant to 169.4, determined by the Secretary to be due the landowners and authorized users and occupants of the land due to the survey, granting, construction and maintenance of the right-of-way.
3. To indemnify the landowners and authorized users and occupants against any liability for loss of life, personal injury and property damage arising from the construction, maintenance, occupancy or use of the lands by the applicant, his employees, contractors and their employees, or subcontractors and their employees.
4. To restore the lands as nearly as may be possible to their original condition upon the completion of construction, to the extent compatible with the purpose for which the right-of-way was granted.
5. To clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way; and dispose of all vegetative and other material cut, uprooted or otherwise accumulated during construction and maintenance of the project.

6. To take soil and resources conservation protection measures, including weed control, on the land covered by the right-of-way.
7. To do everything reasonable within its power to prevent and suppress fires on or near the lands to be occupied under the right-of-way.
8. To build and repair such roads, fences and trails as may be destroyed or injured by construction work and to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the right-of-way.
9. That upon revocation or termination of the right-of-way, the applicant shall, so far as in reasonably possible, restore the land to its original condition. The determination of "reasonably possible" is subject to Secretary's approval.
10. To at all times keep the Secretary informed of its address, and in case of corporations, of the address of its principal place of business and the names and addresses of its principal officers.
11. That the applicant will not interfere with the use of the lands by or under the authority of the landowners for any purpose not inconsistent with the primary purpose for which the right-of-way is granted.
12. During the term of this Grant of Easement, if any previously unidentified cultural resources are discovered within the easement area, work should be halted immediately and the BIA and/or Tribal Contractor should be contacted immediately.

THE APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

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

DATE November 4, 2016

APPLICANT Continental Divide Electric Cooperative, Inc.
Debbie Olivar 

REQUIRED SUPPORTING DOCUMENTS:

1. () Written consent of landowner (ROW Form 94-7).
2. () Map (plats) of definite location (2 original mylars & 2 copies, See 25 CFR 169.6, 169.7, 169.8, 169.9, 169.10 and 169.11).
3. () Deposit of estimated damages or compensation (See 169.4 and 169.14).
4. () Evidence of Authority of Officers to Execute Papers (ROW Form 94-4)
5. () For corporation or business, requirements of 25 CFR 169.4 and 169.5 (unless previously filed):
 - () a. State certified copy of corporate charter or articles of incorporation.
 - () b. Certified copy of corporate resolution, by-laws, articles of partnership or association authorizing signatory to file the application.



EXHIBIT "D"

**NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS
CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC. (GRANTEE)
(14.4 kV ELECTRICAL DISTRIBUTION LINE FOR THE RED ROCK CHAPTER
PROJECT; PHASE II, WO#85451)**

1. The term of the right-of-way shall be for twenty (20) years, beginning on the date the right-of-way is granted by the Secretary of the Interior.
2. Consideration for the right-of-way is assessed at \$ 68,580.36 and shall be paid in full to the Controller of the Navajo Nation, in lawful money of the United States, and a copy of the receipt for such payment provided to the Navajo Nation Minerals Department, or its successor, within ten (10) days of approval of and consent to the grant of the right-of-way by the Navajo Nation.

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

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

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

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



United States Department of the Interior
Bureau of Indian Affairs
Navajo Region
P. O. Box 1060
Gallup, New Mexico 87305



MC: Branch of Environmental Quality Act Compliance & Review

Leonard Robbins
Denali Environmental Services
P.O. Box 1127
Fort Defiance, Arizona 86504

OCT 21 2016

Dear Mr. Robbins:

The Environmental Assessment (EA), **EA-17-15545**, received October 5, 2016, for the Red Rock Phase 11 Power Line "A" right-of-way project was reviewed in the Branch of Environmental Quality Act Compliance and Review, Navajo Regional Office.

Continental Divide Electric Cooperative, Inc. (CDEC) of Grants, New Mexico, proposes to tap onto an existing power line west of State Road 602. The proposed power line would parallel the existing Up Rooted Tree Road. The main distribution line and the service line spurs totaling approximately 1.96 miles would provide electric service to eleven (11) homes. The electric line would be a single-phase 14.4 Kilo volt line. The proposed right-of-way measures 10,370.23 feet (3,160.84 m) in length, 20 feet wide, encompassing 4.73 acres of Navajo Tribal Trust land.

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

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

Sincerely,

Regional Director, Navajo

**FINDING OF NO SIGNIFICANT IMPACT
ENVIRONMENTAL ASSESSMENT EA-17-15545
RED ROCK PHASE 11 POWER LINE "A" ROW**

CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.

Location: Twin Buttes, NM, USGS 7.5 Minute Series Map

BOP: SE/4, Section 5, T13N, R18W, NMPM

EOP: SE/4, Section 32, T14N, R18W, NMPM

Red Rock, New Mexico

The proposed action is the approval of a Right-of-Way Grant by the Bureau of Indian Affairs for Continental Divide Electric Cooperative, Inc. (CDECI) of Grants, New Mexico, to construct the Red Rock Phase 11, Line "A" electric line, in the Red Rock Chapter, south of Gallup, New Mexico. The proposed electric distribution line would provide electricity to eleven existing homes along the Uprooted Tree Road. The power line would allow the eleven families to refrigerate perishable foods, have electric lights for evenings, have outdoor street lighting, access the internet, and have telephone service. The proposed ROW is located within the Red Rock Community Chapter, on Navajo Tribal Trust land. The project is sponsored by Continental Divide Electric Cooperative, Inc., 200 East High Street/P.O. Box 1087, Grants, New Mexico 87020.

The BIA's deliberation as to whether a Finding of No Significant Impact (FONSI) is appropriate, or, whether an Environmental Impact Statement (EIS) should be prepared, took into consideration, the following issues, which are addressed in the environmental assessment (EA).

1. **Beneficial and adverse environmental impacts:** The EA demonstrates that there will be no significant adverse or beneficial impacts on the quality of the human environment, including: topography and soils, water resources and water quality, vegetation and wildlife- biotic resources, endangered species-fauna and flora, Navajo endangered species, migratory birds, air quality, esthetics and visual resources, cultural resources, and Native American religious concerns.
2. **Public health and safety:** The Tsé Lichii Chapter is committed to the improvement and the living conditions of its community members and this electric power project is one of the commitment projects (Resolution of the Chapter).
3. **Unique characteristics of the geographic area:** The project area is not unique within its geographical setting and is similar to other areas in the region. There are no prime farmlands, wild and scenic rivers, wilderness areas, refuges, park lands, unique ecological areas, or other unique or rare characteristics of the land and aquatic environs that will be significantly affected.
4. **Degree to which the effects on the quality of the human environment are likely to be highly controversial:** There are no known scientific controversies over the effects of the proposed project on the human environment.
5. **Degree to which the effects are highly uncertain or involve unique or unknown risks:** There are no known effects on the human environment that are highly uncertain or involve unique or unknown risks.

6. **Degree to which this action will establish a precedent for future actions with significant effects:** This project will not set a precedent for similar projects that may be implemented by the BIA or other agencies.
 7. **Relationship to other actions with cumulatively significant impacts:** There are no known incremental effects of the action that become significant when added to other past, present, or reasonably foreseeable future actions that have affected, or will affect, the project area.
 8. **Degree to which the action may affect districts, sites, objects, or structures listed on, or eligible for, the National Register of Historic Places, or may cause loss of significant cultural resources:** A cultural resources inventory of the project area has been completed by Dinéht'ahdóó Cultural Resource Management (DCRM). The Navajo Nation Historic Preservation Department issued NNHPD No. HPD-16-437 stating "No historic properties affected."
- In the event of a discovery of a previously unidentified or incorrectly identified cultural resource(s), all operations in the immediate vicinity of the discovery must cease, and the NNHPD must be notified.
9. **Degree to which the action may affect threatened, endangered, or sensitive species or their habitat:** A Biological Resources Compliance Form, NNDFW Review No. 16dan1102, was issued by the Navajo Nation Department of Fish and Wildlife approving the proposed action. An avoidance/mitigation measure is that the CDEC shall schedule project construction outside the Migratory Bird breeding season of 15 March-15 August. There are no conditions of compliance.
 10. **Whether the action violates Federal or local laws or requirements imposed for the protection of the environment:** The proposed project will not violate any Federal or Tribal environmental laws or requirements.
 11. **Indian Trust Assets:** The project area does not contain Indian Trust assets in the form of perennial water resources, fisheries, saleable timber, paleontology resources or agricultural resources. The project area is not part of any right-of-way avoidance and exclusion areas, wilderness area, special management area, area of critical environmental concern, or other protected area.

CONCLUSION

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

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

Loretta G.W. Morris
for Regional NEPA Coordinator

10/19/2016
Date

**UPROOTED TREE ELECTRICAL POWER LINE ENVIRONMENTAL ASSESSMENT
RED ROCK PHASE II POWER LINE PROJECT, LINE "A" W.O. 85481
RED ROCK CHAPTER, NEW MEXICO**



**PLS: SE/4 & NE/4 Section 5 Township 13 North Range 18 West and
SW/4 Section 32 Township 14 North Range 18 West, NMPM
Latitude & Longitude: 35° 23' 04.3" N 108° 45' 35.2" W
UTM Z12: 703,484 m E 3,917,996 m N**

Prepared by

**CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.
200 East High Street / P.O. Box 1087
Grants, New Mexico 87020**

**DENALI ENVIRONMENTAL SERVICES
P.O. Box 1127
Fort Defiance, Arizona 86504**

September, 2016

CONTENTS

1.0	PROPOSED PROJECT.....	3
1.1	Proposed Project Description.....	3
1.2	Purpose and Need for the Project.....	3
1.3	Location of the Project Area.....	3
1.4	Project Authorization.....	4
1.5	Purpose of Environmental Assessment.....	4
2.0	ALTERNATIVES INCLUDING THE PROPOSED ACTION.....	5
2.1	Alternatives Not Evaluated in Detail.....	5
2.2	No Action.....	5
2.3	Powerline Right of Way (Preferred Alternative).....	5
3.0	AFFECTED RESOURCES AND ENVIRONMENTAL EFFECTS.....	5
3.1	Resources Not Considered in Detail.....	5
3.1.1	Climate.....	5
3.1.2	Geology and Seismicity.....	6
3.1.3	Fisheries.....	6
3.1.4	Socioeconomics and Environmental Justice.....	6
3.1.5	Land Use and Zoning.....	7
3.1.6	Prime Farmland.....	7
3.1.7	Recreation.....	7
3.1.8	Traffic.....	7
3.1.9	Noise.....	8
3.1.10	Floodplain.....	8
3.1.11	Wetlands and Riparian Habitat.....	8
3.1.12	Hazardous, Toxic, and Radiological Waste.....	8
3.2	Topography and Soils.....	8
3.3	Water Resources and Water Quality.....	9
3.4	Vegetation and Wildlife.....	9
3.5	Federal Threatened and Endangered Species.....	11
3.6	Navajo Endangered Species List (NESL) Special Management Species.....	11
3.7	Migratory Birds.....	13
3.8	Air Quality.....	16
3.9	Esthetics and Visual Resources.....	17
3.10	Cultural Resources.....	17
3.11	Native American Religious Concerns.....	17
4.0	CUMULATIVE EFFECTS.....	18
5.0	COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS.....	19
6.0	PUBLIC INVOLVEMENT.....	20
7.0	COORDINATION AND REVIEW OF THE EA.....	20
8.0	CONCLUSIONS.....	21
9.0	LIST OF PREPARERS.....	21
10.0	REFERENCES.....	21

APPENDICES

Appendix A	Land Survey Plat
Appendix B	Chapter Support Resolution
Appendix C	Cultural Resource Compliance Form
Appendix D	Biological Resource Compliance Form

UPROOTED TREE ROAD POWER LINE ENVIRONMENTAL ASSESSMENT RED ROCK PHASE II POWER LINE "A" W.O. 85481

1.0 THE PROPOSED PROJECT

Continental Divide Electric Cooperative, Inc. (CDECI) of Grants, New Mexico is proposing to construct Red Rock Phase II, Line "A", in the Red Rock Chapter, south of Gallup, New Mexico. The propose right of way application would require an environmental document to support the Federal decision-making process. The propose distribution line would provide electrical service to eleven existing homes along Uprooted Tree Road in the Chapter.

1.1 Project Description

CDECI proposes to tap on to an existing power line west of State Road 602. The propose power line would parallel the existing Up Rooted Tree Road. The main distribution line and service line spurs, at approximately 1.96 miles total, would provide electrical service to 11 homes. The electrical line would be a single phase 14.4 kilo volt line. The proposed right of way measures 10,370.23 feet (3,160.84 m), at 20 feet width, encompassing 4.73 acres of land. USGS topographic map entitled Twin Buttes, NM 7.5 Minute Quadrangle, at Figure 1, illustrates the project location.

1.2 Purpose and Need

The power line extensions would allow the eleven families to refrigerate meat, milk and eggs for long periods and buy additional perishable grocery items that would otherwise spoil. Television news media and entertainment can now be enjoyed by the families. The elderly can move about in their homes at night. Outdoor street lighting is a possibility. School age kids can now do their homework with electrical lights and access the internet via satellite. The proposed initiative would also provide telecommunication via direct telephone communication. Overall, the proposed utility would play a vital part in serving the needs and interest of the people and community, often in remote and underserved regions of the Navajo Reservation.

1.3 Project Location

The proposed right of way area is located within the Red Rock Community Chapter, on Navajo tribal trust lands, at an elevation of 7,181 ± feet above mean sea level (amsl). Table 1 describes the coordinate locations of the propose right of way. USGS topographic map entitled *Twin Buttes, NM 7.5 Minute Quadrangle* illustrates the project location at Figure 1.

Figure 1. Red Rock Power Line Phase II, Line A, Red Rock, New Mexico
Twin Butte, NM USGS 7.5 Minute Quadrangle Map
Continental Divide Electric Cooperative, Inc.

BOP

PLS: SE/4 Section 5 Township 13 North Range 18 West USGS Map

Latitude & Longitude: 35° 23' 04.3" N 108° 45' 35.2" W NAD 83

UTM: 703,484 m E 3,917,996 m N Zone 12

EOP

PLS: SE/4 Section 32 Township 14 North Range 18 West USGS Map

Latitude & Longitude: 35° 23' 41.8" N 108° 46' 31.8" W NAD 83

UTM: 703,023 m E 3,919,113 m N Zone 12

Elevation: 7,181 feet amsl

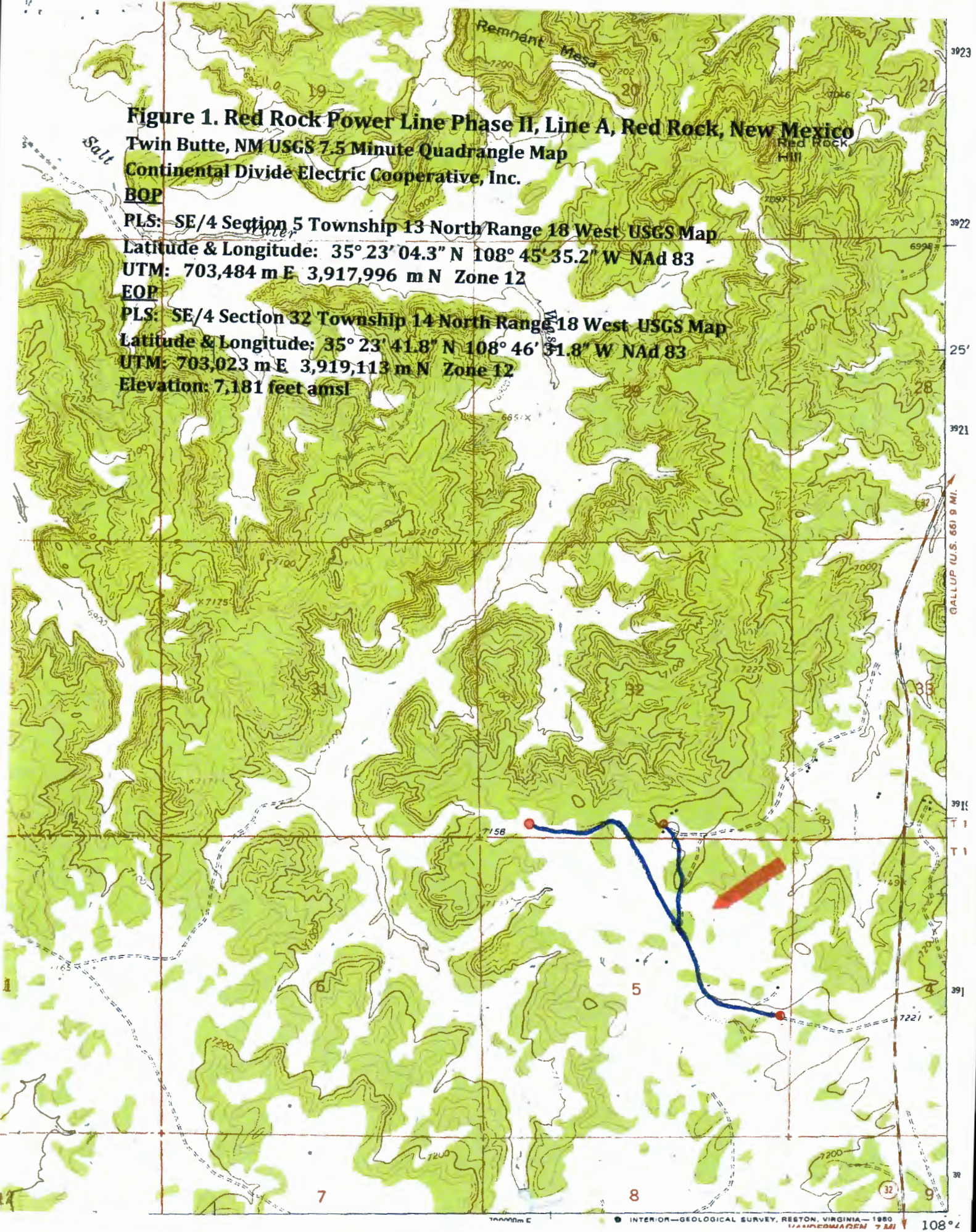


Table 1. USGS Map Waypoint Descriptions of the Propose Red Rock Electrical Power Line Extension Phase II, Up Rooted Tree Road, CDECI WO# 85481.

Description (mile)	Public Land Survey Description	Latitude and Longitude NAd 83	UTM, Zone 12	Elevation
0.0 BOP	SE/4 Section 5 T13N R18W	35° 23' 04.3" N 108° 45' 35.2" W	703,484 m E 3,917,996 m N	7,181
0.5 mile	NE/4 Section 5 T13N R18W	35° 23' 19.4" N 108° 45' 56.9" W	702,920 m E 3,918,447 m N	7,190
1.0	SW/4 Section 32 T14N R18W	35° 23' 36.1" N 108° 45' 12.5" W	702,522 m E 3,918,950 m N	7,175
1.9 EOP	SE/4 Section 32 T14N R18W	35° 23' 41.8" N 108° 46' 31.8" W	703,023 m E 3,919,113 m N	7,148

1.4 Project Authorization

This project was authorized by the Navajo Nation Code, Title 16 Land, Chapter 11 § 1101, land for public community purposes. NNC authorizes the Navajo Nation to participate and manage land use leases on the Navajo Indian Reservation projects in rural Utah, Arizona, and New Mexico.

The Bureau of Indian Affairs is the lead Federal agency, as authorized by the Snyder Act of November 20, 1921, 25 USC Chapter 1 § 13, which establishes appropriation for BIA permitting and leasing activity. The proposed right of way approval would allow CDECI to acquire the power line property long term, construct the 11.4 kv electrical power line, and provide electrical service to 11 families.

Shown at Appendix B, the Red Rock Chapter has passed a resolution approving the propose telecommunication tower site.

1.5 Purpose of Environmental Assessment

The environmental assessment is an instrument required by federal law and regulations to determine if potential impacts of a federal action are of such significant as to require the preparation of an environmental impact statement. The proposed federal action is approval of a electrical right of way. The approval of the right of way would allow the operator to withdraw a tract of land, on which to further construct and operate a electrical utility infrastructure. This document addresses potential impacts and mitigation for the approval of the right of way. The proposed land use of Indian trust land is managed by the Navajo Nation, and administered by Bureau of Indian Affairs.

2.0 ALTERNATIVES

2.1 Alternate Site Locations

An alternate site, of sufficient size and elevation within the Red Rock community, at a location as convenient as the proposed location, is generally not available. Alternate locations were reviewed. The proposed right of way location adjacent to Up Rooted Tree Road would be the best alternative, that would have the least amount of environmental impact. On adjoining land, allotment holders generally try to retain their grazing allotments intact, and not to become fragmented. As allotted, holistic grazing areas are needed to sustain livestock herds. Other locations would become difficult to acquire.

Alternate site locations would be subject to the same public reviews, resource assessments, approvals and clearance processes, as the preferred alternative; an alternative site would require a restart of land use approvals, starting with the grazing permit holder approvals, environmental assessment, and other special studies, as required.

2.2 No Action Alternative

If the no action alternative is taken, the proposed long term lease will not be approved. The proposed electrical power line would not go as planned. Infrastructure for the residents would become moot. The existing alignment would not be elevated to a higher productive state.

2.3 Approval of the Preferred Alternative

The preferred alternative involves approval of a right of way, which would allow for the construction and operation of the proposed electrical power line, which would provide services for the Diné People of Red Rock Chapter. Details of the preferred alternative, purpose and need, are described in Section 1.0, Description of the Proposed Action. A forum for public involvement in the decision-making process for the project was provided. The Red Rock Chapter support resolution is attached as Appendix B. The proposed power line right of way would be approved by resolution of the Resources and Development Committee of the Navajo Nation Council. After Navajo Nation review, the BIA would provide final approval.

3.0 AFFECTED RESOURCES AND ENVIRONMENTAL EFFECTS

3.1 Resources Not Considered in Detail (Non-Critical)

Initial evaluation of the alternatives indicated that there would likely be little to no direct, indirect, or cumulative effects on several resources. These resources are discussed in Sections 3.1.1 through 3.1.12 to add to the overall understanding of the environmental setting of the project area.

3.1.1 Climate

Gallup Municipal Airport is the nearest weather station to the project area. The proposed power line project is located in a semi-arid climate. The Red Rock Chapter experiences four distinct climatic seasons and has an annual average maximum temperature of 66.0°F and average minimum temperature of 44.3°F. Summer highs reach the 85.1 °F range with lows in the 45.0°F average. Winter highs are usually in the 44°F range with lows at 13.6. Average annual precipitation is 11.08

inches in the Gallup area. The average annual snowfall is 30.6 inches (WRCC 2015). Due to the small size and nature of the proposed lease area, the proposed project would have no effect on climate. Since there would be no effects on climate, no mitigation would be required.

3.1.2 Geology and Seismicity

The proposed lease area is located on the Crevasse Canyon Formation. Surface soils at the tower site are characterized with alternating beds of tan irregularly bedded and lenticular sandstone, drab siltstone and claystone. The regional geologic structure is stable; there are no regional faults or fissures in the project area (Cooley, M.E, J.W. Harshbarger, J.P. Akers, and W.F. Hardt, 1969), (Wilks, M. E., 2005). Based on the history of the area, geology will not be a factor in this development. There are no surface mineral resources located near the tract. No mitigation is required for any geologic adversity.

3.1.3 Fisheries

There are no fisheries or fishery habitat occurrences in the propose lease area. No mitigation is required for any fishery adversity.

3.1.4 Socioeconomics and Environmental Justice

The proposed project would have no effects on the socioeconomics of the area because it would not directly alter or limit either present-day or future opportunities for agriculture, raising livestock, business, employment, or housing.

There are currently more than 717 homes in the Red Rock Chapter. According to the 2004 census, approximately 2,030 people reside in the Chapter, which would indicate a population density of 30.7 people per square mile. Native Americans make up 96.7 % of the population (NN DED/LSRI, 2004). Red Rock Chapter's economy is primarily based on wage-earning employment. Currently most residents in the chapter area are wage earners, working at various federal, tribal government and commercial jobs in the area. The Red Rock Chapter (including the CHR, Special Diabetes Project, Senior Citizens Center) and Navajo Nation Department of Head Start are the major employers in the area. Employment is also available in Gallup. Full service Indian Health Service Hospitals are located in Gallup and Zuni, New Mexico. In the past, the economy was primarily based on livestock production, but this is no longer the predominate source of income; currently livestock production makes up a small percentage of the chapter's economy (NN DED/LSRI, 2004).

The retired elderly in the area still carry on the ranching life style, as raising livestock has been a sustainable economy in the past. Grazing permit areas, ranches, are relatively small and occasionally overlap; not large enough to sustain a viable operating ranch for the entire family, however. The younger family members, those that have jobs in the region and wish to be with their elders, have moved back to the old homesteads. New houses are built on the family allotments and traditional use areas. The ranch area provides a better quality of life, in contrast to apartment living in nearby border towns.

Executive Order 12898, Environmental Justice – the mandate requires federal agencies to assess projects to ensure there would be 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 in the action area (96.7%). The new power line project and infrastructure will be for the beneficial use of the population. The project would have no disproportionate effects on minorities or low-income populations; the proposed lease will benefit all sectors of society. The local chapter has approved a supporting resolution at Appendix B. A similar resolution would be approved by the Resource and Development Committee of the Navajo Nation Council. The Bureau of Indian Affairs, as federal trustee, would approve the right of way. The new power line would allow the people to lead better lives in the community, and would further provide a better quality of life for the Diné People.

3.1.5 Land Use and Zoning

The proposed right of way is used for rangeland and livestock production. Land users have acquired grazing permits and, over generations, have built their houses on the permitted area. The land status is Navajo Indian trust land.

Open rangeland, grazed by sheep, cattle and horses of local ownership, occupy most of the area. Housing is located on the permitted area. The Red Rock Chapter House and warehouse is located to the north of project area. State Highway 602 is located east of the project area. Other than individual home sites, grazing permits, and specific land use areas, there are no other regulated land uses and zoning regulations in the community area.

There are no other bankable assets, such as timber, fossil fuels, fossils, or valuable minerals on the tract, surface or subsurface. The proposed project will not impact any Indian trust assets of the individual allotment owners or the Navajo Nation government. The new infrastructure would benefit the population.

3.1.6 Prime Farmland

There are no Prime Farmland occurrences in vicinity of the proposed project area. Dry farm land is very limited in the project area. No Prime Farmlands exist in the project area. The NRCS designates the land capability subclass as "non-irrigated" (NRCS, 2016). Prime Farmland would not be a factor in this development; no mitigation is required for any farmland adversity.

3.1.7 Recreation

Recreation resources would not be impacted as a result of the lease application. As related to the local land use, rodeos are a favorite sport on the Navajo Reservation. The "Chicken Pulls" or rodeos are a traditional sport in the region.

Outdoor recreation in the area, include fishing, boating, picnicking, hiking at Ramah Lake. The nearby Zuni Mountains also provide fishing, picnicking, hiking and camping. Archery and rifle hunting for big game, mule deer, elk and turkey, is a possibility on the Zuni Mountains east of the project area. Winter varmint hunting are favorites. Locally, horseback riding is another source of outdoor recreation. Motorcycles and ATVs are other sources of outdoor recreation.

3.1.8 Traffic

The existing Up Rooted Tree Road would be located adjacent to the propose power line. Motorized traffic using the access road will not be a factor during operation and maintenance of the power line. The propose power line is located in a predominantly rural setting.

3.1.9 Noise

Noise from motorized traffic using the public access road will not be a factor during operation and maintenance of the power line. The project area is located in a rural setting. Wires of the power line would emit a low volume hum during periods of high wind during the spring windy season. The ambient noise would not be a problem for anyone living adjacent to the development. No published noise ordinance for tower construction activities exists in the Navajo Nation code. Due to the remoteness of the project area and low volume of traffic on the access road and highway, noise emission from the tower would not be a factor to residents living in the project area.

3.1.10 Floodplain

The tract is not located on a floodplain; nor located in a flood prone area. The proposed project area has a broad drainage basin on the north and south sides. Surface waters generally flow south. Floodplain maps were reviewed for flood prone areas; the project area is excluded from any floodplain designation.

3.1.11 Wetlands and Riparian Habitat

There are no wetlands or riparian areas on the mesa where the power line would be located. The mesa was field checked. There are no riparian habitats on the base slopes surrounding the mesa. The Zuni, NM National Wetlands Inventory Map was reviewed. The proposed lease area does not exhibit any hydric soils, nor hydrophilic vegetation, nor does it support a wetland hydrology (U.S. ACOE, 1987). The proposed tower site lease would not impact riparian habitat or wetland resources resulting from the development; no mitigation is required.

3.1.12 Hazardous, Toxic, and Radiological Waste

Other than roaming livestock grazing, there are no previous industrial uses of the area. The propose project site currently does not contain any damaged or discarded automotive or industrial equipment. No fill dirt has been brought onto the property that originated from a contaminated site. There is no evidence of leaks and spills of hazardous substance, radiological waste, or spills of petroleum products on the existing tract.

No Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste sites, nor RCRA Subtitle D, non-hazardous solid waste sites occur on or near the project area. No Comprehensive Environmental Response Conservation and Liabilities Act (CERCLA) hazardous substance (including radiological waste) occur near the project area. No Toxic Substance Control Act (TSCA) waste sites occur on or near the existing site. Hence, there will be no residual hazardous effects on the proposed right of way.

CRITICAL ELEMENTS

3.2 Topography and Soils

3.2.1 Existing Conditions

The tract topography exhibit steep slopes 2-10 percent on all sides of the mesa. Precipitation generally drains south. Onsite landform is a steep sloping mesa top, with clayey and fine sandstone faces.

Undisturbed surface soils are light-colored clay entisols under the pinyon and juniper canopy and grassy areas. There is no alluvial sediment in the project area. Sedimentary rock parent material consists mainly of sandstone located on nearby mesas on the north and south horizons. Soil texture ranges from loamy, sandy loam and clayey. The Gish-Mentmore complex, Highdye-Evpark-Bryway complex, Bryway-Glalzuni soil associations, at 1-10 percent slope, has been delineated in the project area (NRCS, 2016). Soils are generally disturbed along the proposed tract and access road. Because of the linear nature of the propose project, the project would have no effect on soil conditions long term. The electrical right of way will not be bladed.

3.2.2 Effects

The topography and soils as they exist now would not impact the proposed undertaking, and any future construction.

3.2.3 Mitigation

No mitigation is required for the project topography and soils.

3.3 Water Resources and Water Quality

3.3.1 Existing Conditions

Surface water drain north toward the Rio Puerco drainage west of Gallup, and eventually to the Little Colorado River near Holbrook, Arizona. Primary discharges of these drainages occur during the spring months, during the spring snow thaw, and during occasional intense summer thundershowers in late summer. Torrential thunderstorms can produce flood-stage flows within minutes (Cooley, M. E., J. W. Harshbarger, J. P. Akers, & W. F. Hardt, 1969). NTUA operates the Red Rock Community Water System and provides Safe Drinking Water to the community. The NTUA water tank is located approximately three miles northwest of the project area.

3.3.2 Effects

Present and future project construction work or other related activities will not have impact on any springs, wells or aquifer recharge areas. No impacts to the Red Rock Community Water System or natural ground water in the vicinity may be expected by the approval of the right of way application. Previous water line construction and access road surface disturbance has stabilized.

3.3.3 Mitigation

Blading of the powerline will not be required. No mitigation to the water resources would be required.

3.4 Vegetation and Wildlife- Biotic Resources

The Pinon-Juniper Grassland Savannahs are dry and cold in the winter. Mean annual precipitation would range from seven to twelve inches, and the annual growing season would range from 125 – 200 days (April to September). "These transitional areas also receive a larger percentage of their precipitation during the winter and spring months; May through August rainfall averages less than 5 inches" (Turner, R.M. & Brown, 1994). At lower elevations the contact is most frequently with Great Basin desert grassland.

3.4.1 Existing Conditions

The Up Rooted Tree Power Line Phase II is located in the Pinyon-Juniper Grassland Savannah Ecosystem of northwest New Mexico. At an elevation of 7,181 amsl, conifer woodland groves of pinyon pine *Pinus edulis* and juniper *Juniperus monosperma* trees are located onsite. Under natural conditions, growing amid the P-J canopy under story are shrubs, grasses, forbs and annuals. These plants form the ecological backbone of the woodland ecosystem: they provide food, shelter, and nesting sites for birds, mammals, insects, and reptiles. Under natural conditions, understory shrubs include sagebrush, rabbit brush, yucca and snakeweed. Grass cover may be almost a mixture of dropseeds, galleta, blue grama and others (Brown, D.E., and C.H. Lowe, 1994).

The natural open areas are typically composed of annuals, grasses, e.g. cheatgrass *Bromus tectorum* blue grama *Bouteloua gracilis*, galleta *Pleuraphis jamesii*, dropseeds *Sporobolus cryptandrus* and Indianrice grass *Oryzopsis hymenoides*, and shrubs, e.g. rabbitbrush *Chrysothamnus nauseosus*, sagebrush *Artemisia spp.*, threadleaf groundsel *Senecio flaccidus*, banana yucca *Yucca baccata* and broom snakeweed *Gutierrezia sarothrae*.

Annual plants such as cheatgrass *Bromus tectorum*, Russian thistle *Salsolia kali*, tansy mustard *Descurainia obtusa*, sun flower *Helianthus annuus* and kochia weed *Bassia hyssopifolia* occur on the site.

The fauna of the Juniper Savannah is somewhat diverse than that of other habitats. Mule deer *Odocoileus hemionus* may roam the area in transit during late fall and winter months. Other big game species are not found in the project area, as marginal foraging habitat exists. Construction of the proposed site in the residential and rural setting will not have an effect on the natural habitat necessary for the continued survival of these species.

Most abundant small mammals include blacktail jack rabbits *Lepus californicus*, mountain cottontails *Sylvilagus nuttalli*, pinyon mice *Peromyscus truei*, valley gophers *Thomomys bottae*, porcupines *Erethizon dorsatum*, Mexican woodrats *Neotoma mexicana* and Ord's kangaroo rats *Dipodomys ordi*.

Characteristic breeding birds of this ecosystem include common night hawks *Chordeiles minor*, pinyon jay *Gymnorhinus cyanocephalus*, Northern flickers *Colaptes auratus*, Western kingbirds *Tyrannus verticalis*, horned larks *Eremophila alpestris*, loggerhead shrikes *Lanius ludovicianus*, sparrows *Spizella spp.*, grey-headed juncos *Junco hyemalis* and common ravens *Corvus corax*.

Reptiles include striped plateau lizards *Sceloporus virgatus*, plateau whiptails *Cnemidophorus velox* and short-horned lizards *Phrynosoma douglassii*.

3.4.2 Effects

The area presently provides suitable foraging and nesting habitat for small mammals and birds. Due to the size of the small acreage of the small project, small mammals and birds are not expected to be impacted. As initial field surveys indicate, flora and fauna species are not present on the proposed lease area. Therefore the proposed project would not cause a huge loss of potential nesting, cover and forage habitat of terrestrial flora and fauna species.

3.4.3 Mitigation

Indirect mitigation is recommended for all fauna and flora on the proposed area. Natural vegetative cover can be restored over time. The proposed undertaking will have minimal effect on vegetation and potential habitat in the area.

3.5 Federal Endangered Species Act Fauna and Flora

3.5.1 Existing Conditions

Denali staff conducted an onsite reconnaissance of the 1.9 mile right of way location and associated infrastructure May 16, 2016 and May 19, 2016. The entire propose right of way tract was inspected by driving and walking the propose project area and access road. In accordance with *Biological Resource Land Clearance Policy and Procedures* (BRLCP&P), Navajo Natural Heritage Program (NNHP) was consulted for a data request (listing of T&E species). The program provided data response and qualified the propose right of way and surrounding area as an Area 3; the project area is designated as a low wildlife sensitive area. ESA fauna and flora suitable habitat is not found within the propose project area.

3.5.2 Effects

Impacts posed by the propose power line can be expected to be minimal. The project area is in a rural residential setting, and will not have an effect on the habitat or other elements necessary for the continued survival of T&E species, as these species are generally not found on the project area. The NNHP consultation does not list any Federal ESA species in the propose project area. During the field survey no ESA/USFWS listed species, known or potential species or habitats, were found in the project area. The NNHP concurs with the field report: no Federal ESA or Navajo NESL species would be impacted. No extraordinary circumstances were noted during the site visit. See Appendix D for the Biological Resource Compliance Form and biological resource consultations.

3.5.3 Mitigation

The propose power line would have no effect on the federally listed species. No Federal ESA mitigation is recommended for this project.

3.6 Navajo Endangered Species List (NESL) Special Management Species

3.6.1 Existing Conditions

Denali staff conducted an onsite reconnaissance of the 1.9 mile right of way location and associated infrastructure May 16, 2016 and May 19, 2016. The entire propose right of way tract was inspected by driving and walking the propose project area and access road. In accordance with *Biological Resource Land Clearance Policy and Procedures* (BRLCP&P), Navajo Natural Heritage Program (NNHP) was consulted for a data request (listing of T&E species). The program provided data response and qualified the propose right of way and surrounding area as an Area 3; the project area is designated as a low wildlife sensitive area. According to the data response, the NESL fauna is found within the propose project area.

The two species were listed that warranted special management consideration by the NNHP, the Golden Eagle and Peregrine Falcon. See Table 2. The project area appears to be sterile after many generations of livestock grazing. The P-J habitat structure and composition has changed due to previous land uses; infrastructure development (roads and water lines) adjoins the proposed electrical right of way. Families living in the project area have acquired home site leases and livestock grazing permits. The intense understory of ground forbs and grasses are not present, only the sagebrush shrub and P-J canopy is present. If the Golden Eagle and Peregrine Falcon were

present, there would be the potential for direct and short-term impacts to the species foraging habitat. Given the distance of unknown hunting territories of these raptors and suitable nesting habitat from the proposed location, it is possible that these raptors species may forage in proximity or fly through the proposed project and action areas. Wildlife habitat for prey species is not present and raptor species are not likely to occur within the project area. These two raptor species were not present during the two field surveys. The proposed new powerline construction does not have the potential to significantly impact the natural environment.

Other potential impacts during construction to the P-J fauna would include noise and increase human activity. The new activity disturbance associated with the proposed project would result in an approximate direct short-term loss of wildlife foraging during construction activities.

Table 2. Navajo Natural Heritage Program Navajo Endangered Species List Special Management Species.

SPECIES/NESL STATUS	HABITAT ASSOCIATION	POTENTIAL TO OCCUR IN PROJECT OR ACTION AREA
FAUNA		
Golden Eagle (Aquila chrysaetos) NESL G3	Nest on steep cliffs, normally adjacent to foraging habitat of desert grasslands or desert scrub, that provide primary prey of prairie dogs, cottontail and jack rabbits.	NP The action area contains large expanses pinyon/juniper savannah & open desert shrub habitat not suitable for foraging habitat. The species was not present during the field surveys.
Peregrine Falcon (Falco peregrinus) NESL G4	Foraging habitat surrounding nest site must support populations of their preferred prey. Foraging habitat includes support populations of their preferred prey: doves, pigeons, waterfowl and small birds are their preferred forage.	NP The action area contains large expanses pinyon/juniper savannah & open fields (rangeland/farm) habitat not suitable for foraging habitat. The species was not present during the field surveys.
K – Known, documented observation within project area		
S – Suitable habitat 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		

3.6.2 Effects

Impacts posed by the proposed powerline and existing home sites can be expected to be minimal. The proposed powerline and is in a rural setting, and will not have an effect on the habitat or other elements necessary for the continued survival of T&E species, as the eagle and falcon species were not found on the project area.

Direct impacts to the Golden Eagle as a result of the proposed project would include approximately 4.73 acres of potential foraging habitat. Juniper trees are present on the proposed right of way and adjacent access road. No active prairie dog mounds or other prey species are present in the project and action area. During site preparation, some shrubs and grass would be destroyed. Raptors

would avoid the project area during construction and operation due to disturbance and activity from human and vehicle presence. Indirect impacts may include a short-term change in vegetation species composition and density due to construction surface disturbance, which could affect the prey base for the raptor species. Due to the current activity (existing home site activity, livestock herding and grazing, and vehicle travel) and absence of a prey base, impacts are expected to be low.

The onsite shrub/grassland along the proposed action area would provide foraging habitat for the Ferruginous hawk, as a variety of small mammals, such as the prairie dog, black-tailed jackrabbits, desert cottontails, ground squirrels, and field mice that would inhabit the grassland. These small mammals would serve as prey for the raptor.

None of the special management NESL species were observed at the time of the environmental site visit. The proposed action alternative would have no effects on any of the identified NESL special management species or their habitat.

3.6.3 Mitigation - NESL

The single phase electrical powerline would be designed according to the Avian Power Line Interaction Committee's *Suggested Practices for Avian Protection on Power Lines*, a guideline for powerline construction. No effects to the Golden eagle are anticipated. No other direct mitigation is recommended for this species.

3.7 Migratory Birds

3.7.1 Existing Conditions

Migratory birds and their habitats are protected under the Migratory Bird Treaty Act (MBTA) (16 USC §703-712) and EO 13186. All federal agencies are required to consider management impacts to protect migratory non-game birds. Executive Order 13186 calls for increased efforts to more fully implement the MBTA. The U.S. Fish and Wildlife Service (USFWS) list of Birds of Conservation Concern (BCC) was reviewed, specifically as they pertain to the Colorado Plateau physiographic area. The list indicates there are 27 avian species occurring on the southern Rocky Mountains and Colorado Plateau. See Table 3.

Most priority bird species occur on the USFWS, Division of Migratory Bird Management "Birds of Conservation Concern 2008" (BCC 2008 list). The Service designates the Southern Rockies / Colorado Plateau region as Bird Conservation Region 16, in which the Navajo Indian Reservation and Eastern Navajo Agency are located. Although migratory birds could potentially occur in the area, none were observed during the site visit.

3.7.2 Effects

Basis of Significance. An alternative would be considered to have a significant effect on vegetation and wildlife if it would:

- 1) Result in the substantial loss or degradation of any plant community providing high quality wildlife habitat; or
- 2) Permanently displace substantial numbers of resident wildlife species or migratory bird species.

Table 3. U.S. Fish and Wildlife Service, Division of Migratory Bird Management "Bird of Conservation Concern 2008" for the Southern Rockies/ Colorado Plateau (US F&WS, 2008).

SPECIES	HABITAT ASSOCIATION	EFFECTS	EFFECT RATING
Gunnison Sage Grouse <i>Centrocercus minimus</i>	Inhabits shrub-steppe dominated by sagebrush that provide canopy cover, shelter, & forage.	No conflict anticipated. Species not present.	Zero
American Bittern <i>Botaurus lentiginosus</i>	Wading bird inhabits wetlands, usually dense marsh reeds, rushes and sedges.	No suitable habitat present. Species not present.	Zero
Bald Eagle <i>Haliaeetus leucocephalus</i>	Coast, rivers, large lakes; in migration, also mountains, open country.	No conflict anticipated.	Low
Ferruginous hawk <i>Buteo regalis</i>	Inhabits open grasslands or desert scrub ES. Nest often occurs on rock spires and butte formations. In woodland edge habitat, flat-topped junipers.	No conflict anticipated	Low
Golden Eagle <i>Aquila crysaetos</i>	Open grasslands or desert scrub, In mountainous canyon terrain. Nest on cliffs and trees	No conflict anticipated	Low
Peregrine Falcon <i>Falco peregrinus</i>	Inhabits rugged terrain with rocky cliffs and canyons 30 to 1,000 ft. high, adjacent to rivers lakes, or streams. Urban areas with towers and buildings are also inhabited	Little conflict anticipated.	Low
Prairie Falcon <i>Falco mexicanus</i>	Nests and forages in grassland, and open Juniper Savannah.	No conflict anticipated.	Low
Snowy Plover <i>Charadrius alexandrinus nivosus/tenuirostris</i>	Shore bird inhabits barren sandy beaches and flats.	Suitable habitat not present, no conflict anticipated.	Zero
Mountain Plover <i>Charadrius montanus</i>	Inhabits grassland plains; usually found on grassy or bare dirt fields.	Grass removal would reduce cover & nesting habitat.	Low
Long-billed Curlew <i>Numenius americanus</i>	Nests in wet & dry upland fields. In migration, a shore bird of wetlands and agriculture fields.	Suitable habitat not present, no conflict anticipated.	Zero
Yellow-billed Cuckoo <i>Coccyzus americanus</i>	No suitable riparian habitat present. Inhabits open woods, orchards, and streamside willow and alder groves.	No conflict anticipated. Species not present.	Zero

Flammulated Owl <i>Otus flammcolus</i>	Inhabits pine-oak woodland, ponderosa pine forest.	Suitable habitat. Species not present.	Low
Burrowing Owl <i>Athene cunicularia</i>	Inhabits grassland shrub-steppe dominated by mixed grasses, Casual vagrant to prairie dog colonies, occupying abandoned holes.	No suitable habitat available for the owl.	Zero
Lewis's Woodpecker <i>Melanerpes lewis</i>	Inhabits woodland forests of pine-oak. Nests in oak cavities and pine snags. Forages and stores acorns and insects.	Suitable habitat.	Low
Southwest Willow Flycatcher <i>Empidonax traillii</i>	Inhabits brushy habitats in wet areas; also in pastures, mountain meadows.	No suitable habitat. Species not present.	Zero
Gray Vireo <i>Vireo vicinior</i>	Inhabits semi-arid foothills in oaks, P-J woodland with scrub component. Inhabits mountains and juniper scrubland.	Suitable habitat. Little conflict anticipated.	Low
Pinyon Jay <i>Gymnprjomus cyanocephalus</i>	Savannah, P-J woodland, pine-oak ecosystems associated with high open habitats w/ openings, scattered trees or shrub components.	A multi-ecosystem inhabitant, no conflict anticipated.	Low
Juniper Titmouse <i>Baeolophus ridgwayi</i>	Inhabits pinyon-juniper woodland year around.	Suitable habitat.	Low
Veery <i>Catharus fuscescens</i>	Inhabits dense moist riparian habitat along streamside thickets. Casual in the SW.	No suitable habitat.	Zero
Bendire's Thrasher <i>Toxostoma bendirei</i>	Inhabits brushy desert shrub, especially areas of tall vegetation, cholla cactus, creosote bush and yucca.	No conflict anticipated. Species not present.	Zero
Grace's Warbler <i>Dendroica graciae</i>	Inhabits montane open, park-like forests of SW mountains, especially tall yellow pines. Usually forages high in the trees.	No suitable habitat present.	Zero
Brewer's Sparrow <i>Spizella breweri</i>	Inhabits sage steppe habitats, esp. big sage openings and sagebrush flats.	Suitable habitat present.	Low
Grasshopper Sparrow <i>Ammodramus savannarum</i>	Inhabits moderately open grassland habitats, with patchy bare ground (feeds and nests on ground). Avoids areas with extensive shrub cover.	Little conflict anticipated.	Low

Chestnut-collared Long-Spur <i>Calcarius ornatus</i>	Inhabits upland grassland, generally found in dense grass; gregarious in fall and winter.	Little conflict anticipated.	Low
Black Rosy-Finch <i>Leucosticte atrata</i>	Inhabits high mountains, rocky summits, alpine cirques and snowfields; winters in open country at lower elevations, spreading onto the plains.	No suitable habitat in the project area. Species not present.	Zero
Brown-capped Rosy Finch <i>Leucosticte australis</i>	Inhabits high mountains, rocky summits, alpine cirques and snowfields; winters in open country at lower elevations, spreading onto the plains..	No suitable habitat on the project area. Species not present.	Zero
Cassin's Finch <i>Carpodacus cassinii</i>	Species inhabits montane evergreen woodland ecosystem.	Suitable habitat in project area.	Low

No Action. This alternative would have no effect on existing vegetation and wildlife, including potential migratory birds, in the project area. The grassland savannah habitats and associated wildlife species would be expected to remain the same.

Proposed Action. This alternative would result in a short-term and small scale loss of vegetation due to future construction. The remaining project activities are expected to occur within the existing project area. No permanent loss of native vegetation is anticipated; native seed from the disturbed vegetation would also help to propagate the natural plant species. No long-term loss of vegetation or wildlife habitat is expected. As a result, the proposed action would have no significant effects on migratory bird species.

3.7.3 Mitigation

In the unlikely event that construction would occur within the breeding and nesting season, NN DF&W policy mandates that prior to construction; the proposed activity would require a pre-construction survey of potential nesting birds on the right of way tract. Any bird nests found during the survey, within the proposed project area, will be reported to the NNHP biologist for appropriate mitigation prior to construction activities.

3.8 Air Quality

3.8.1 Existing Conditions

Ambient air quality in the project area may be regarded as good. Primary pollutants in the project area is wind-blown dust from loose topsoil common during times of high wind during the spring and dust from vehicular traffic along unimproved roads in the vicinity. Total suspended particulate matter PM10 is the federal measure of air borne particulate matter; since the finer particles of dust at PM 10 has been more closely correlated to negative health effects than TSP, i.e., the finer particles inhaled by humans.

3.8.2 Effects

Air quality will be affected locally by dust and a negligible amount of hydrocarbons generated by construction equipment. These pollutants will not be generated in sufficient concentrations to produce measurable adverse effects to human health. Operational water tank and tower will not have a significant long-term effect on the ambient air quality in the project area.

3.8.3 Mitigation

Disturbed soils during any future site preparation would be dampened by watering for dust suppression and soil compaction.

3.9 Esthetics and Visual Resources

3.9.1 Existing Conditions

No visibility studies have been conducted in the project area. However, regional visibility in the project area can be considered to be good.

3.9.2 Effects

Locally, the primary ambient air pollutant in the project area is occasional wind-blown dust from loose topsoil common during times of gusting winds during the spring, and dust from vehicular traffic along unimproved roads in the area.

3.9.3 Mitigation

Disturbed soils during any future site preparation would be dampened by watering for dust suppression and soil compaction.

3.10 Cultural Resources

3.10.1 Existing Conditions

Dinetahdoo Cultural Resource Management of Farmington, New Mexico conducted the archeological survey of the site and crafted a field inventory report entitled: *A Cultural Resource Inventory of the Proposed Red Rock Phase II Power Line Extension in the Red Rock Chapter, McKinley County, New Mexico*. The compliance form indicates "No historic properties affected", NHPD-16-437 as shown in Appendix C.

3.10.2 Effects

With respect to the findings, no impacts to archaeological resources will result from the approval of this right of way. "No Historic Properties Affected" is recommended for the proposed project site.

3.10.3 Mitigation

A Cultural Resource Compliance Form, NNHPD Number HPD-16-437, has been created for this undertaking. CDECI acknowledges the following statement with respect to cultural resources during construction: *In the event of the discovery ["discovery" means any previously unidentified or incorrectly identified cultural resources; including but not limited to archaeological deposits, human remains, or locations reportedly associated with Native American religious/traditional beliefs or practices], all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department will be notified at (928) 871-7198.*

3.11 Native American Religious Concern

3.11.1 Existing Conditions

As part of the archeological inventory, interviews regarding traditional cultural properties were conducted. No sacred sites or traditional cultural resources were identified within the proposed right of way. There are several pieces of legislation or executive orders that are considered in an evaluation of Native American Religious Concerns (i.e., American Indian Religious Freedom Act

[AIRFA] of 1978, Executive Order 13007, The Native American Graves Protection and Repatriation Act [NAGPRA] of 1990, and the Archaeological Resources Protection Act [ARPA] of 1979).

Traditional Cultural Properties are a separate class of cultural resources which may occur in the project study area, which may or may not coincide with archaeological sites and artifact loci, and may fall under the purview of one or more of the cited legislation. The National Park Service has defined TCPs as follows:

A traditional cultural property can be defined generally as one (a property) that is eligible for the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community (National Register Bulletin 38).

The field survey did not identify any known TCPs on the existing right of way tract. Additionally, no traditional cultural properties have been identified by the local Native American tribes as a result of coordination efforts. Identification efforts for Native American Religious Concerns include interviews with chapter coordinators were conducted. Results of the interviews indicate there are no known traditional cultural properties within the proposed project area. There are no blessed structures, tipi grounds, or other ceremonial features associated with any in-use area.

3.11.2 Effects

Basis of Significance. An alternative would be to have a significant effect on Native American religious concerns if TCPs would have been identified or affected during the cultural resource field survey. During passage of the project resolution, no traditional cultural property issues were voiced during the community chapter meeting.

No Action. This alternative would have no effect on existing traditional cultural properties or American Indian Religion in the project area. This alternative would not prevent access to other sacred sites, nor would it interfere or otherwise hinder the performance of traditional ceremonies and rituals.

Proposed Action. This alternative would have no effect on existing traditional cultural properties or American Indian Religion in the project area. This alternative would not prevent access to other sacred sites nor would it interfere or otherwise hinder the performance of traditional ceremonies and rituals.

3.11.3 Mitigation Measures

No site specific Native American Religious Concerns have been recorded. In the event of any discoveries during project implementation, the NNHPD would be notified immediately.

4.0 CUMULATIVE IMPACTS AND CONSIDERATIONS FOR SELECTION OF THE PREFERRED ALTERNATIVE

Cumulative effects are effects of the project in consideration with other past, present, or reasonably foreseeable projects in the local area. There are no past projects that resulted in identifiable long-term effects having a cumulative relationship with the effects of the proposed project.

In the future, there are no other power line proposals planned in the reasonably foreseeable future in the area. The proposed right of way application action will not have significant impact on the human environment. The approval of the requested use area would have minimal effect on the resource use patterns in the project area. The grazing permit holder has relinquished trust land to

the development. It is the practice of the Navajo Nation to compensate the traditional land user for the grazing resource loss.

With respect to cumulative impacts on regional air quality and climate change, the lack of scientific tools designed to predict climate change on regional or local scales limits the ability to quantify potential future impacts of the proposed project. However, potential impacts to natural resources and plant and animal species due to climate change are likely to be varied, including those in the southwestern United States. For example, if global climate change results in a warmer and drier climate, increased particulate matter impacts could occur due to increased windblown dust from drier and less stable soils. Cool season plant species' spatial ranges are predicted to move north and to higher elevations, and extinction of endemic threatened/endangered plants may be accelerated.

5.0 COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS

Clean Air Act, as amended and recodified (42 U.S.C. 7401 et seq.) Compliance. The proposed project is not expected to violate any Federal air quality standards and would not degrade the attainment of air quality objectives of the air shed.

Clean Water Act § 402 Compliance. The Environmental Protection Agency administers Section 402 of the Clean Water Act (formerly the Federal Water Pollution Control Act). Operators are normally required to obtain all necessary permits and approvals for projects requiring CWA permits prior to any disturbance activities. The proposed power line would be constructed in increments of less than 4.73 acres. Surface disturbance would be at a minimum.

Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) Compliance. No Federally listed species or special management species (NESL) or their habitats have been identified in or near the project area. ESA requires all federal departments and agencies to conserve threatened and endangered species and the habitats on which they depend, and to consult with the U. S. Fish and Wildlife Service (USFWS), on all actions authorized, funded or carried out by the agency to ensure that the action will not likely jeopardize the continued existence of any threatened and endangered species or adversely modify critical habitat. At Appendix D, the operator has consulted with the Navajo Department of Fish and Wildlife, Natural Heritage Program.

Executive Order 11988, Floodplain Management Compliance. This order directs all Federal agencies to avoid to the extent possible the adverse effects associated with the modification of floodplains, and to avoid support of floodplain development wherever there is a practicable alternative. Floodplains would have no effect on the proposed project.

Executive Order 12898 Environmental Justice Compliance. The order directs all Federal agencies to identify and address disproportionate adverse effects of their programs, policies, and activities on minority and low-income populations. The proposed action will benefit all sectors of society; no minority or low income populations would be directly adversely affected from proposed action. Indirect effects could include positive effects due to overall benefit related to the proposed power line in the area. The project would increase the quality of life for the residents.

Farmland Protection Policy Act (7 U.S.C. 4201 et seq.) Compliance. There are no effects on prime farmland or farmland of statewide importance because no prime farmland exist in the project area.

Migratory Bird Treaty Act, as amended (16 U.S.C. 703 et seq.)/ EO 13186 Compliance. Migratory birds and their habitats are protected under the Migratory Bird Treaty Act (MBTA) (16 USC §703-712) and EO 13186. All federal agencies are required to consider management impacts to protect migratory non-game birds. Executive Order 13186 calls for increased efforts to more fully implement the MBTA. The proposed action would have no significant effect on the bird species or their habitat.

National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.) Compliance. The final EA and signed FONSI are in full compliance with NEPA.

National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.) Compliance. The Navajo Nation Historic Preservation Department requires NHPA compliance and consultation with all development projects on the Navajo Nation. NNHPD has determined that NHPA § 106 responsibilities are adhered to, as no historic properties would be affected. See Appendix C.

Recourse Conservation and Recovery Act (RCRA), Comprehensive Environmental Response Conservation and Liabilities Act (CERCLA), or Toxic Substance Control Act (TSCA) Compliance. There are no Recourse Conservation and Recovery Act (RCRA), Comprehensive Environmental Response Conservation and Liabilities Act (CERCLA), or Toxic Substance Control Act (TSCA) sites on the proposed right of way.

6.0 PUBLIC INVOLVEMENT

The Red Rock Chapter has passed a resolution approving the power line. See Appendix B. In the future, the Resource and Development Committee of the Navajo Nation Council, would review and consider the right of way application, and create a resolution for passage. The Division of Environmental, Cultural Resources and Safety Management of the Navajo Regional Office, BIA, would make a Finding of No Significant Impact determination as result of their review.

7.0 COORDINATION AND REVIEW OF THE EA

Dinetahdoo Cultural Resource Management of Farmington, New Mexico conducted the archeological survey of the site and crafted a field inventory report. A NHPD concurrence letter and Cultural Resource Compliance Form is created for the project.

CDECI consulted with the Navajo Department of Fish and Wildlife, Navajo Nation. The consultation would assure mandated protection of ESA threatened and endangered species and Tribal species of concern. The Navajo Department of Fish and Wildlife website was consulted for the Biological Resources Land Clearance Policy and Procedures. A Biological Resource Compliance Form was created for the project.

8.0 CONCLUSIONS

The preferred alternative is reasonable. No extraordinary environmental circumstances were noted during the reconnaissance. No significant adverse impacts to the human environment have been identified in the development of this environment assessment.

9.0 LIST OF PREPARERS / CONSULTATION AND COORDINATION

This environmental assessment was prepared by Mr. Leonard Robbins, PES, Denali Environmental Services, P. O. Box 1127, Fort Defiance, Arizona 86504.

10.0 REFERENCES

- Brown, D.E., 1994. *Biotic Communities of Southwestern United States and Northwestern Mexico*. University of Utah Press, Salt Lake City, Utah.
- Cooley, M.E, J.W. Harshbarger, J.P. Akers, and W.F. Hardt, 1969. *Regional Hydrology of the Navajo and Hopi Indian Reservations, Arizona, New Mexico, and Utah*. USGS Paper 521-A, USPO, Washington D C.
- Dinetahdoo Cultural Resource Management, 2016. *A Cultural Resource Inventory of the Proposed Red Rock Phase II Powerline Extension in the Red Rock Chapter, McKinley County, New Mexico*, Farmington, New Mexico.
- Hiel, K. D., O'Kane S. L. Jr., Reeves, L. M., & Clifford, A., 2013. *Flora of the Four Corner Region, Vascular Plants of the San Juan River Drainage- Arizona, Colorado, New Mexico, Utah*, Missouri Botanical Garden Press, St. Louis, Missouri, USA.
- NN DED/LSRI, 2004. *Navajo Nation Chapter Images*, 2004 Edition. Navajo Nation Division of Economic Development/ Edited by LSR Innovations. Window Rock, Arizona.
- U.S. ACOE, 1987. *Wetlands Delineation Manual of 1987*, U.S. Army Corps of Engineers, Washington D. C.
- USDA, NRCS, 2016. Red Rock, NM, U.S. Department of Agriculture, Natural Resource Conservation Service, Web Soil Survey activated June, 2016.
- U.S. Fish and Wildlife Service, 1983. *National Wetlands Inventory Map, Zuni, NM*, U.S. Fish and Wildlife Service, Washington D.C.
- U.S. Geological Survey, Twin Buttes, NM 1969 7.5 Minute Quadrangle, Denver, Colorado.
- Western Regional Climate Center (WRCC), 2014. Gallup, New Mexico, Period of Record Monthly Climate Summary. <http://www.wrcc.dri.edu>. accessed May 20, 2014.
- Wilks, M. E., compiler, 2005, *New Mexico Geologic Highway Map*: New Mexico Geological Society and New Mexico Bureau of Geology and Mineral Resources, Socorro, New Mexico.



NNDFW Review No. 16dan1102

**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.: Red Rock Phase II Power Line - Line A, WO#85481

DESCRIPTION: The CDEC proposes to construct, operate, and maintain one overhead distribution power line. The length of the proposed power line would be 1.96± miles with a 20-ft. wide corridor totaling 4.73± acres. Existing access roads will be used during construction.

LOCATION: Red Rock, McKinley County, New Mexico

REPRESENTATIVE: Leonard Robbins, Denali Environmental Services for Continental Divide Electrical Cooperative, Inc. (CDEC)

ACTION AGENCY: Bureau of Indian Affairs and Navajo Nation

B.R. REPORT TITLE / DATE / PREPARER: BE- Red Rock Phase II Power Line/JUN 2016/Denali Environmental Services

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA


AVOIDANCE / MITIGATION MEASURES: CDEC will schedule project construction outside the Migratory Bird breeding season of 15 MAR-15 AUG.

CONDITIONS OF COMPLIANCE*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/11 JUL 2016

COPIES TO: (add categories as necessary)

☐ _____ ☐ _____

2 NTC § 164 Recommendation: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Conditional Approval (with memo) <input type="checkbox"/> Disapproval (with memo) <input type="checkbox"/> Categorical Exclusion (with request letter) <input type="checkbox"/> None (with memo)	Signature  Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife	Date 7/12/16
--	---	------------------------

*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

**UPROOTED TREE ELECTRICAL POWER LINE EXTENSION BIOLOGICAL EVALUATION
RED ROCK PHASE II POWER LINE PROJECT, LINE "A"
RIGHT OF WAY AT 1.96 MILES TO SERVE ELEVEN HOMES
RED ROCK CHAPTER, NEW MEXICO**



**PLS: SE/4 & NE/4 Section 5 Township 13 North Range 18 West and
SW/4 Section 32 Township 14 North Range 18 West, NMPM**

UTM Z12: 703,484 m E 3,917,996 m N

Latitude & Longitude: 35° 23' 04.3" N 108° 45' 35.2" W

Prepared by

**CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.
200 East High Street / P.O. Box 1087
Grants, New Mexico 87020**

**DENALI ENVIRONMENTAL SERVICES
P.O. Box 1127
Fort Defiance, Arizona 86504**

June, 2016

**BIOLOGICAL EVALUATION
TABLE OF CONTENTS**

1.0	Introduction.....	3
2.0	Project Description and Project Location.....	3
3.0	Endangered Species Act / Navajo Species of Concern List Authority.....	4
4.0	Method of Survey.....	5
5.0	Findings and Determination of Effect / Mitigation.....	6
6.0	Conclusion / Mitigation.....	13
7.0	List of EA Document Preparers and Cooperating Entity/Agency.....	14
	References.....	14

Figure 1. Project Location Map

Table 1. Project Location Coordinates

Table 2. Navajo Endangered Species List

Table 3. Migratory Bird Treaty Act Listed Species

Table 4. Primary Contacts Made During Preparation of this Document

Appendix A Navajo Department of Fish & Wildlife Data Response Letter

CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.
RED ROCK PHASE II POWER LINE PROJECT, LINE "A" BIOLOGICAL EVALUATION
RED ROCK, MCKINLEY COUNTY, NEW MEXICO

1.0 INTRODUCTION

Continental Divide Electric Cooperative, Inc. (CDECI) of Grants, New Mexico is proposing to construct a 1.96 miles of power line in the Red Rock Community Chapter, south of Gallup, New Mexico. The propose right of way application would require an environmental document, including a biological evaluation to support the decision-making process. The propose distribution line would provide electrical service to eleven existing homes along Uprooted Tree Road.

2.0 DESCRIPTION OF THE PROPOSED ACTION AND PROJECT LOCATION

2.1 Description of the Proposed Action

The propose power line would parallel existing Uprooted Tree Road, including the power line spurs, on both sides of the road for approximately 1.96 miles total. Red Rock Electrical Power Line Extension Phase II WO# 85481 would provide electrical service to 11 homes in the Red Rock Community Chapter. CDECI proposes to tap on to an existing power line just west of State Road 602. The electrical line would be a single phase 14.4 kilo volt line approximately 1.96 miles in length, 20 feet width, encompassing 4.73 acres of land. The proposed utility line measures 10,370.23 feet (3,160.84 m). USGS topographic map entitled Twin Buttes, NM, at Figure 1, illustrates the project location.

Surface trees and shrubs would be removed along the electrical right of way. The electrical right of way will not be bladed. Trees under the line will be cut to avoid physical interference and to avoid fires during emergency situations. Construction of a new access road to the proposed project site will not be required; the existing access road will be used.

2.2 Purpose and Need

The proposed rights of way would provide eleven local families with electricity to their homes. The proposed initiative would also provide multimedia communication via television, telecommunication via internet, direct telephone communication with the outside world. The families would also enjoy the entertainment and news media via television. There would always be an immediate need to improve the infrastructure on the Navajo Nation. The proposed utility infrastructure would play a vital part in serving the needs and interest of the local people and community, often in remote and underserved regions of the Navajo Nation.

2.3 Project Location

The proposed right of way area is located within the Red Rock Community Chapter. Table 1 describes the coordinate locations of the ROW on the USGS topographic map entitled *Twin Buttes, NM 7.5 Minute Quadrangle*.

Table 1. USGS Map Waypoint Descriptions of the Propose CDECI Red Rock Electrical Power Line Extension Phase II WO# 85481.

Description (mile)	Public Land Survey Description	Latitude and Longitude NAD 83	UTM, Zone 12	Elevation
0.0 BOP	SE/4 Section 5 T13N R18W	35° 23' 04.3" N 108° 45' 35.2" W	703,484 m E 3,917,996 m N	7,181
0.5 mile	NE/4 Section 5 T13N R18W	35° 23' 19.4" N 108° 45' 56.9" W	702,920 m E 3,918,447 m N	7,190
1.0	SW/4 Section 32 T14N R18W	35° 23' 36.1" N 108° 45' 12.5" W	702,522 m E 3,918,950 m N	7,175
1.7 EOP	SE/4 Section 32 T14N R18W	35° 23' 41.8" N 108° 46' 31.8" W	703,023 m E 3,919,113 m N	7,148

Located on Navajo tribal trust lands, the proposed powerline extension is located in Red Rock Community Chapter, McKinley County, New Mexico, at an elevation of 7,181 ± feet above mean sea level (amsl).

3.0 ENDANGERED SPECIES ACT COORDINATION / NAVAJO SPECIES OF CONCERN LIST / MIGRATORY BIRD TREATY ACT AUTHORITIES

Under Section 7 of the Endangered Species Act of 1973 (as amended) the Navajo Nation Department of Fish & Wildlife (NNDF&W), under contract with the Bureau of Indian Affairs, is required to consult with the USFWS on any proposed action which may affect federally listed threatened or endangered species.

The Navajo Nation Department of Fish and Wildlife, Natural Heritage Program is the clearing house for endangered and threatened species on the Navajo Indian Reservation. In response to the T&E data request for a listing of species, the NNHP program compiled a T&E listing for the project area. The data request/response is compiled for field surveys and biological evaluations. The BE is reviewed by the NNDF&W for existing environment, impact analysis and mitigation measures. In the ultimate a Biological Resource Compliance Form is created for the proposed undertaking. The NNDF&W data response letter is shown at Appendix A.

3.1 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) ESA requires all federal departments and agencies to conserve threatened and endangered species and the habitats on which they depend, and to consult with the U. S. Fish and Wildlife Service (USFWS), on all actions authorized, funded or carried out by the agency to ensure that the action will not likely jeopardize

the continued existence of any threatened and endangered species or adversely modify critical habitat. Federally listed species or special management species (NESL) or their habitats have been identified in or near the project area. The Navajo Department of Fish & Wildlife-Natural Heritage Program T&E data request/response letter is enclosed at Appendix A.

3.2 Navajo Species of Concern List (NESL) The Resource Committee of the Navajo Nation Council, Resolution RCS-41-08, mandates the consideration of Navajo Endangered Species List (NESL) special management species not federally listed as threatened or endangered. The NESL species listed are specially managed in order to prevent or reduce the need to list the species as threatened or endangered in the future. The NNDF&W will actively seek information on those species to determine if they warrant inclusion in a different group or removal from the list (NN DF&W-NHP, 2008).

3.3 Migratory Bird Treaty Act, as amended (16 U.S.C. 703 et seq.)/ EO 13186 Migratory birds and their habitats are protected under the Migratory Bird Treaty Act (MBTA) (16 USC §703-712) and EO 13186. All federal agencies are required to consider management impacts to protect migratory non-game birds. Executive Order 13186 calls for increased efforts to more fully implement the MBTA.

4.0 METHOD OF SURVEY

4.1 Offsite Survey Methods On June 2, 2016 the Navajo Nation Department of Fish and Wildlife – Natural Heritage Program (NNHP) presented a listing of T&E species that would potentially occur along the proposed power line extension. The NNHP consultation did not list any Federal Endangered Species Act endangered and threatened species. However, the consultation listed Navajo Endangered Species List (NESL) two potential raptor species, the Golden Eagle and the Peregrine Falcon. See Appendix A for the NNHP data response. Via internet access, the U.S. Fish and Wildlife Service website was accessed for the Migratory Bird Treaty Act listing on the Colorado Plateau.

4.2 Onsite Survey Methods Denali conducted onsite field surveys of the propose power line right of way May 16, 2016 and May 19, 2016. The entire project area was covered during the field survey. All plant and wildlife species and signs of wildlife observed in the project area were recorded. Digital photos of the project area were taken. Binoculars were used to survey for raptors and potential nest habitat on surrounding small mesas. Onsite habitat was evaluated for all Navajo Endangered Species (NESL), and MBTA species. No extraordinary circumstances were noted during the site visit.

4.3 Action Area The action area, or zone of influence, consisted of the propose electrical line rights of way alignment and surrounding terrain, within a ¼-mile radius of the project area.

5.0 FINDING AND DETERMINATION OF EFFECTS

5.1 Land Use and Surface Disturbance

The proposed power line is located in a Pinyon-Sagebrush Ecosystem. The proposed project area is currently grazed by domestic livestock. Livestock grazing and family home sites are the dominant land uses in the proposed project area. The land is also used for recreation, family gatherings and traditional ceremonies. There are 11 homes that would benefit from the proposed power line extension. Local families have traditionally occupied the area for generations and have constructed roads, contemporary housing and hogans, livestock corrals, a water main distribution line, and water service lines to their individual home sites. The water distribution line parallels Uprooted Tree Road for approximately 1.7 miles.

The Indian Health Service constructed the 1.7 mile (approximate) water line along Uprooted Tree Road. The water pipeline right of way and operations were turned over to Navajo Tribal Utility Authority (NTUA) of Fort Defiance, Arizona. NTUA currently operates and maintains the water distribution and water service lines. An underground telecommunications line is also evident on the project east side. Near State Highway 602, on the southeast side of the project area, electrical powerlines are prevalent, with service to the local family community (clustered housing) and scattered housing in the vicinity. Existing access roads to nearby housing is present.

No known or potential threatened and endangered species were located during the field survey. There is no federally designated critical habitat along the proposed right of way. No wetland or riparian habitat occurrences. The proposed project would have no effect on threatened, endangered or any sensitive species.

5.2 Topography and Soils

The proposed project area would be located at an elevation of 7,100 feet amsl on the western flank of the Zuni Mountain Uplift. The general topography at the right of way tract is characterized as rolling hills and distant mesas. Surface runoff drains 1-2 degrees northward toward the Rio Puerco drainage. The distant Chuska Mountains are located on the north horizon.

Topography The project area is located in the USGS quadrangle map *Twin Buttes, NM*, within the Rio Puerco watershed. Surface water flows northwest to the Rio Puerco River, west of Gallup. General surface gradient of the project area slopes three to four degrees to the north. The surface topography and geology/soils along the proposed project area is not expected to present any specific problems for the project. The existing home sites are located along the ridge at elevations of 7,150 to 7,190 feet amsl.

Soils The soils of the project vicinity were formed primarily from sedimentary rock of sandstone, clay and shale. There are no alluvial sediments in the project area. Eolian material is derived from deposits from wind. Sedimentary rock parent material consists mainly of sandstone located on nearby mesas on the north and south horizons. Soil texture ranges from clay, silt and sandy loams.

Onsite, surface soil material of the A horizon are derive from sheet wash and eolian deposits, that have eroded over eons of time in the project area. The Gish-Mentmore complex, Highdye-Evpark-Bryway complex, Bryway-Glalzuni soil associations, at 1-10 percent slope, has been delineated in the project area. Soil texture ranges from loamy, sandy loam and clayey (NRCS, 2016). Soils are generally disturbed along the proposed tract and access road. Because of the linear nature of the propose project, the project would have no effect on soil conditions long term. The electrical right of way will not be bladed.

5.3 Surface Geology and Seismicity

Geology Situated on the Colorado Plateau geologic province, geologic studies indicated the general structure of the proposed project area is on the southern edge of the San Juan Basin Syncline and western flank of the Zuni Uplift. The proposed project area is situated on the Cravasse Canyon Formation of the Upper Cretaceous Era. The formation contains light to dark gray claystone and sandy loam, containing lesser amounts of tan fine grained sandstone. The formation dips at a low angle four degrees to the north (Wilks, 2005) & (Cooley, M.E, J.W. Harshbarger, J.P. Akers, and W.F. Hardt, 1969).

Seismicity No active faults or fissures have been identified. No faults have been mapped in the project area. Due to the dormancy and lack of these structures, the proposed project would have no effect on geology and seismicity (Wilks, 2005) & (Cooley, M.E, J.W. Harshbarger, J.P. Akers, and W.F. Hardt, 1969).

5.4 Biotic Communities – Pinyon/Sagebrush (Brown, D. E., 1994)

The proposed project area is part of the Great Basin Conifer Woodland Ecosystem and is located in high plateau country of northwestern New Mexico (Brown, D. E., 1994). At approximately 7,100 feet amsl, the propose right of way has been previously disturbed. See project location map at Figure 1.

The right of way tract is encompassed by pinyon and sagebrush woodland. Pinyon pine *Pinus edulis* and Juniper trees *Juniperus monosperma* are the dominant tree species in this woodland habitat type. Under natural conditions and growing amid the P-J canopy under story are shrubs, grasses, forbs and annuals. These plants form the ecological backbone of the woodland ecosystem; they provide habitat for birds, mammals, insects and reptiles.

The natural open areas are typically composed of Blue grama *Bouteloua gracilis*, Galleta *Pleuraphis jamesii*, Dropseed *Sporobolus cryptandrus*, and Indian rice grass *Oryzopsis hymenoides*, and shrubs, e.g., Sagebrush *Artemisia spp.*, Rabbitbrush *Chrysothamnus nauseosus*, Threadleaf groundsel *Senecio flaccidus*, Banana yucca *Yucca baccata*, and Broom snakeweed *Gutierrezia sarothrae* (Brown, D. E., 1994)..

Annual plants and noxious weeds, such as Cheatgrass *Bromus tectorum*, Russian thistle *Salsolia kali*, Tansy mustard *Descurainia obtusa*, Sunflower *Helianthur annus*, and Kochia weed *Bassia hyssopifolia* occur on the propose electrical right of way.

Fauna of the typical P-J Woodland habitat is somewhat diverse than that of the other habitat types. Most abundant mammals include the White-tail prairie dogs *Cynomys gunnisoni*, Blacktail jackrabbits *Lepus californicus*, Mountain cottontails *Sylvilagus nuttalli*, Pinyon mice *Peromyscus truei*, Valley gophers *Thomomys bottae*, Porcupines *Erethizon dorsatum*, Mexican woodrats *Neotoma Mexicana*, and Ord's kangaroo rats *Dipodomys ordi* (Brown, D. E., 1994).

Characteristic breeding birds of the P-J Ecosystem include the Common night hawk *Cordeiles minor*, Pinion jay *gymnorhinus cyanocephlus*, Northern flicker *Colaptes auratus*, Western kingbirds *Tyrannus verticalis*, Horned larks *Eremophila alpestris*, Loggerhead shrikes *Lanius ludovicianus*, Sparrows *Spizella spp.*, Grey-headed juncos *junco hyemalis*, and Common ravens *Corvus corax* (Brown, D. E., 1994).

Reptiles include Striped plateau lizards *Sceloporus virgatus*, Plateau whiptails *Cnemidophorus velox*, and Short-horned lizards *Phrynosoma douglassii* (Brown, D. E., 1994).

5.5 Endangered Species Act Threatened and Endangered Species

5.5.1 Existing Conditions

The NNHP does not list any Federal ESA species in the propose project area. During the field survey no ESA/USFWS listed species, known or potential species or habitats, were found in the project area. The propose power line would have no effect on the federally listed species.

5.6 Navajo Endangered Species List (NESL) Special Management Species

5.6.1 Existing Conditions

The two species were listed that warranted special management consideration by the NNHP, the Golden Eagle and Peregrine Falcon. See Table 2. If the Golden Eagle and Peregrine Falcon were present, there would be the potential for direct and short-term impacts to the foraging habitat. Given the distance of unknown hunting territories of these raptors and suitable nesting habitat from the proposed location, it is possible that these raptors specie may forage in proximity or fly through the proposed project and action areas.

Denali Environmental Services conducted an onsite reconnaissance of the project area on May 16 & 19, 2016. The entire propose right of way tract was inspected by driving and walking the propose project area and access road. Infrastructure development (road and water line) adjoins the proposed electrical right of way. Families living in the project area have acquired approved home site leases and grazing permits. The project area appears to be sterile after many generations of livestock grazing. The diversity of ground forbs and grasses are not present. Only the sagebrush shrub and P-J canopy is present. Wildlife habitat is not present and wildlife species are not likely to occur within the project area. Therefore, the proposed new powerline construction does not have the potential to significantly impact the natural environment. No extraordinary environmental circumstances were noted during the reconnaissance.

Other potential impacts during construction to the P-J fauna would include noise and increase human activity. The new activity disturbance associated with the proposed project would result in an approximate direct short-term loss of wildlife foraging during construction activities.

Table 2. Navajo Natural Heritage Program Special Management Species.

SPECIES/NESL STATUS	HABITAT ASSOCIATIONS	POTENTIAL TO OCCUR IN PROJECT OR ACTION AREA
FAUNA		
Golden Eagle (<i>Aquila chrysaetos</i>) NESL G3	Nest on steep cliffs, normally adjacent to foraging habitat of desert grasslands or desertscrub, that provide primary prey of prairie dogs, cottontail and jack rabbits.	NP The action area contains large expanses pinyon/juniper savannah & open desertshrub habitat not suitable for foraging habitat. The specie was not present during the field surveys.
Peregrine Falcon (<i>Falco peregrinus</i>) NESL G4	Foraging habitat surrounding nest site must support populations of their preferred prey. Foraging habitat includes support populations of their preferred prey: doves, pigeons, waterfowl and small birds are their preferred forage.	NP The action area contains large expanses pinyon/juniper savannah & open desertshrub habitat not suitable for foraging habitat. The specie was not present during the field surveys.
K – Known, documented observation within project area		
S – Suitable habitat 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		

5.5.2 Effects

Impacts posed by the propose powerline and existing home sites can be expected to be minimal. The proposed power line and is in a rural setting, and will not have an effect on the habitat or other elements necessary for the continued survival of T&E species, as the eagle and falcon species were not found on the project area.

Direct impacts to the Golden Eagle as a result of the proposed project would include approximately 20 acres of potential foraging habitat. Juniper trees are present on the existing tract and adjacent to the access road. No active and inactive prairie dog mounds or ground squirrels are present in the project and action area. During site preparation, shrubs and grass would be destroyed. Raptors would avoid the project area during construction and operation due to disturbance and activity from human and vehicle presence. Indirect impacts may include a short-term change in vegetation species composition and density due to construction surface disturbance, which could affect the prey base for the raptor species. Due to the current activity (existing home site activity, livestock herding and grazing, and vehicle travel) and absence of a prey base, impacts are expected to be low.

The onsite shrub/grassland along the proposed action area would provide foraging habitat for the Ferruginous hawk, as a variety of small mammals, such as the prairie dog, black-tailed jackrabbits,

desert cottontails, ground squirrels, and field mice, that would inhabit the grassland. These small mammals would serve as prey for the raptor.

None of the special management NESL species were observed at the time of the environmental site visit. The proposed action alternative would have no effects on any of the identified NESL special management species or their habitat.

5.6.3 Mitigation NESL

The single phase electrical powerline would be designed according to the Avian Power Line Interaction Committee's *Suggested Practices for Avian Protection on Power Lines*, a guideline for powerline construction. No effects to the Golden eagle are anticipated. No other direct mitigation is recommended for this species.

5.7 Migratory Bird Treaty Act Birds

5.7.1 Existing Conditions

Migratory birds and their habitats are protected under the Migratory Bird Treaty Act (MBTA) (16 USC §703-712) and EO 13186. All federal agencies are required to consider management impacts to protect migratory non-game birds. Executive Order 13186 calls for increased efforts to more fully implement the MBTA. The U.S. Fish and Wildlife Service (USFWS) list of Birds of Conservation Concern (BCC) was reviewed, specifically as they pertain to the Colorado Plateau physiographic area. The area indicates there are 27 avian species occurring on the southern Rocky Mountains and Colorado Plateau. See Table 3.

Most priority bird species occur on the USFWS, Division of Migratory Bird Management "Birds of Conservation Concern 2008", (BCC 2008 list). The Service designates the Southern Rockies / Colorado Plateau region as Bird Conservation Region (BCR) 16, which the Navajo Indian Reservation and Eastern Navajo Agency are included.

5.7.2 Effects

Although migratory birds could potentially occur in the area, none were observed during the environmental site visits on May 16 & 19, 2016. With respect to Table 3, the proposed project construction would have no significant effect on the migratory bird species or their habitat. The proposed action alternative would result in a short-term and small scale loss of vegetation due to construction. No permanent loss of native vegetation is anticipated at the project area. Eolian deposits of native seed from the undisturbed vegetation would also help to propagate native plant species.

Once the habitat has reestablished, wildlife and migratory bird species would be expected to return to the area. To avoid any potential effects to migratory bird species or migratory bird habitat, construction of the project would take place outside the nesting season. No long-term loss of vegetation or wildlife habitat is expected. As a result, the proposed replacement action would have no significant effects on migratory bird species.

Table 3. U.S. Fish and Wildlife Service, Division of Migratory Bird Management "Bird of Conservation Concern 2008" for the Southern Rockies/ Colorado Plateau (US F&WS, 2008).

SPECIES	HABITAT ASSOCIATION	EFFECTS	EFFECT RATING
1 Gunnison Sage Grouse <i>Centrocercus minimus</i>	Inhabits shrub-steppe dominated by sagebrush that provide canopy cover, shelter, & forage.	No suitable habitat.	Zero
2 American Bittern <i>Botaurus lentiginosus</i>	Wading bird inhabits wetlands, usually dense marsh reeds, rushes and sedges.	No suitable habitat present.	Zero
3 Bald Eagle <i>Haliaeetus leucocephalus</i>	Nests in old growth ponderosa pine and Douglas fir forest. Forages on fish and waterfowl. Inhabits the coast, rivers, large lakes; also mountain open country.	No suitable habitat.	Zero
4 Ferruginous hawk <i>Buteo regalis</i>	Inhabits open grasslands or desert scrub ecosystems. Nest often occurs on rock spires and butte formations. In woodland edge habitat, nests on flat-topped junipers.	Little conflict anticipated.	Low
5 Golden Eagle <i>Aquila crysaetos</i>	Nest on steep cliffs. Foraging habitat of open grasslands or desert scrub; primary prey of prairie dogs, cotton tails & jack rabbits.	Little conflict anticipated.	Low
6 Peregrine Falcon <i>Falco peregrinus</i>	Inhabits rugged terrain with rocky cliffs and canyons 30 to 1,000 ft. high, adjacent to rivers lakes, or streams. Urban areas with towers and buildings are also inhabited.	Little conflict anticipated.	Low
7 Prairie Falcon <i>Falco mexicanus</i>	Nests and forages in grassland, and open Juniper Savannah.	Little conflict anticipated.	Low
8 Snowy Plover <i>Charadrius alexandrinus nivosus/tenuirostris</i>	Shore bird inhabits barren sandy beaches and flats.	Suitable habitat not present, no conflict anticipated.	Zero
9 Mountain Plover <i>Charadrius montanus</i>	Inhabits grassland plains; usually found on grassy or bare dirt fields.	Grass removal would reduce cover & nesting habitat.	Low
10 Long-billed Curlew <i>Numenius americanus</i>	Nests in wet & dry upland fields. In migration, a shore bird of wetlands and agriculture fields.	Suitable habitat not present, no conflict anticipated.	Zero
11 Yellow-billed Cuckoo <i>Coccyzus americanus</i>	No suitable riparian habitat present. Inhabits open woods, orchards, and streamside willow and alder groves.	No conflict anticipated	Zero
12 Flammulated Owl <i>Otus flammeolus</i>	Inhabits pine-oak woodland, ponderosa pine forest.	Suitable habitat present.	Low

13 Burrowing Owl <i>Athene cunicularia</i>	Inhabits grassland shrub-steppe dominated by mixed grasses. Casual vagrant to prairie dog colonies, occupying abandoned holes.	No suitable habitat.	Zero
14 Lewis's Woodpecker <i>Melanerpes lewis</i>	Inhabits woodland forests of pine-oak. Nests in oak cavities and pine snags. Forages and stores acorns and insects.	Little conflict anticipated.	Low
15 Willow Flycatcher <i>Empidonax traillii</i>	Inhabits brushy habitats in wet areas; also in pastures, mountain meadows.	No suitable habitat.	Zero
16 Gray Vireo <i>Vireo vicinior</i>	Found in juniper savannah and open JP woodland, with scrub component. Inhabits mountains and chaparral-juniper scrubland.	No suitable habitat. Little conflict anticipated.	Low
17 Pinyon Jay <i>Gymnoprjonus cyanocephalus</i>	Juniper Savannah, woodland, pine-oak ecosystems associated with high open habitats w/ openings, scattered trees or shrub components.	A multi ecosystem inhabitant, little conflict anticipated.	Low
18 Juniper Titmouse <i>Baeolophus ridgwayi</i>	Inhabits juniper-pinyon woodland.	Little conflict anticipated.	Low
19 Veery <i>Catharus fuscescens</i>	Inhabits dense moist woodlands and streamside thickets. Casual in the Southwest.	No suitable habitat.	Zero
20 Bendire's Thrasher <i>Toxostoma bendirei</i>	Brushy desert shrub, especially areas of tall vegetation, cholla cactus, creosote bush and yucca.	Little conflict anticipated.	Low
21 Grace's Warbler <i>Dendroica graciae</i>	Inhabits coniferous or mixed forests of southwest mountains, especially yellow pines. Usually forages high in the trees.	No suitable habitat present.	Zero
22 Brewer's Sparrow <i>Spizella breweri</i>	Inhabits mountain meadows and sagebrush flats.	Little conflict anticipated.	Low
23 Grasshopper Sparrow <i>Ammodramus savannarum</i>	Inhabits moderately open grassland habitats, with patchy bare ground, and avoid areas with extensive shrub cover. Feeds and nests on ground.	Little conflict anticipated.	Low
24 Chestnut-collared Long-spur <i>Calcarius ornatus</i>	Inhabits upland grassland, generally found in dense grass; gregarious in fall and winter.	Little conflict anticipated.	Low
25 Black Rosy-Finch <i>Leucosticte atrata</i>	Inhabits high mountains, rocky summits, alpine cirques and snowfields; winters in open country at lower elevations, spreading onto the plains.	No suitable habitat on the project area.	Zero

26 Brown-capped Rosy Finch <i>Leucosticte australis</i>	Inhabits high mountains, rocky summits, alpine cirques and snowfields; winters in open country at lower elevations, spreading onto the plains.	No suitable habitat on the project area.	Zero
27 Cassin's Finch <i>Carpodacus cassinii</i>	Woodland Ecosystem. Species inhabits evergreen woodlands.	Suitable habitat in project area.	Low

5.7.3 Mitigation of Migratory Birds

With respect to Table 3, the proposed power line construction would have no significant effect on the migratory bird species or their habitat. Construction of the project would take place outside the nesting season. NNDF&W policy mandates that prior to construction the proposed activity would require a preconstruction survey of potential nesting birds on the tract, should construction occur during the breeding season. Any bird nests found within the proposed project area will be reported to the NN DF&W biologist for appropriate mitigation prior to construction activities.

The activity will minimize the possibility of unintentional take of migratory birds. The proposed construction would involve vegetative disturbance (brush and tree removal). Construction activities from May 15 to July 31 will not be permitted without a migratory bird nest survey. If any active nests are located within the proposed project area, projects activities will not be permitted until written approval by NNDF&W biologist. The operator will monitor any active nests located from a nest survey.

5.8 Wetlands and Riparian Habitat

The proposed project and action area would not traverse any wetland or riparian habitat on or adjacent to the proposed tract. There are no jurisdictional wetlands within the project area. The Gallup, New Mexico National Wetlands Map was reviewed. Nearby existing livestock watering impoundments in the vicinity do not exhibit hydric soils, nor hydrophilic vegetation, nor do they support a wetland hydrology (U.S. ACOE, 1987). There are no wetland or riparian habitat occurrences on or near the proposed project area. No mitigation measures are recommended for wetland / riparian areas.

6.0 CONCLUSIONS / MITIGATION

The proposed action should not have significant adverse impacts on the biological resource and the environment. The preferred alternative is logical and desirable. Project engineering feasibility has been considered for this power line. No significant adverse impacts to the human environment have been identified in the development of this biological evaluation. No wetland or riparian habitat occurrences. The proposed land use and permitting action should have no effect on ESA threatened and endangered species, NESL sensitive species, or MBTA species.

The proposed action alternative would result in a short-term and small scale loss of vegetation due to construction. No permanent loss of native vegetation is anticipated. Native seed from wind-blown vegetation would also help to propagate ground-level plant species.

Once the habitat has reestablished, natural vegetation and wildlife species would be expected to return to the area. To avoid any potential effects to wildlife species or associated habitat, construction of the project would take place outside the breeding and nesting season of migratory birds. No long-term loss of vegetation or wildlife habitat is expected. As a result, the proposed action would have no significant effects on vegetation or wildlife species. The proposed action would be consistent with current land uses.

Environmental Mitigation Measures

During the proposed power line construction, the CDCEI will contract their haulage and disposal of solid waste on a periodic basis. Solid waste would be placed in dumpsters to be disposed of at a licensed landfill by the contractor. Contracted portable toilet also would be serviced weekly by the contractor.

The proposed construction would be carried out within the existing project area, generally in an undeveloped setting. There are no Recourse Conservation and Recovery Act (RCRA) sites, no Comprehensive Environmental Response Conservation and Liabilities Act (CERCLA) sites, or Toxic Substance Control Act (TSCA) sites on or near the proposed project area.

All areas of proposed surface disturbance were inspected in the field to ensure that potential impacts to natural resources would be minimized through the implementation of the proposed action and regulative requirements. Possible environmental consequences to the natural and human environment (land, air, water, fauna and flora), social, and cultural resources would not be significantly altered.

7.0 LIST OF EA DOCUMENT PREPARERS AND COOPERATING ENTITY/AGENCY

Table 4. Primary Contacts Made During Preparation of this Document.

PUBLIC CONTACT	TITLE	ORGANIZATION	PRESENT AT ONSITE ?
Leonard Robbins	Environmental Specialist	Denali Environmental Services	Yes
Pam Kyselka	T&E Wildlife Biologist	NNDF&W-NHP	No
Dexter Prall	GIS Technician	NNDF&W-NHP	No

REFERENCES

Alden, P., Friederici, P., 1999. Field Guide to the Southwestern States Arizona, Nevada, New Mexico, Utah, National Audubon Society, Alfred A. Knopf, New York.

Brown, D.E., 1994. *Biotic Communities of Southwestern United States and Northwestern Mexico*. University of Utah Press, Salt Lake City, Utah.

Cooley, M.E, J.W. Harshbarger, J.P. Akers, and W.F. Hardt, 1969. *Regional Hydrology of the Navajo and Hopi Indian Reservations, Arizona, New Mexico, and Utah*. USGS Paper 521-A, USPO, Washington D C.

DeBano, L. F., D. G. Neary, & P. F. Ffolliott, 2008. *Natural Environment of Arizona: from Deserts to Mountains, Soil and Water Resources*, The University of Arizona Press, Tucson.

Hiel, K. D., O'Kane S. L. Jr., Reeves, L. M., & Clifford, A., 2013. *Flora of the Four Corner Region, Vascular Plants of the San Juan River Drainage- Arizona, Colorado, New Mexico, Utah*, Missouri Botanical Garden Press, St. Louis, Missouri, USA.

Navajo Nation Department of Fish and Wildlife, Natural Heritage Program (NNDF&W-NHP), 2008. *Navajo Nation Endangered Species List, Species Account*, Navajo Department of Fish and Wildlife, Natural Heritage Program, Window Rock, Arizona.

US ACOE, 1987. *Wetlands Delineation Manual of 1987*, U.S. Army Corps of Engineers, Washington DC.

U.S. Fish and Wildlife Service, 1984. *Gallup, New Mexico National Wetlands Inventory Map*, U.S. Department of the Interior, Fish and Wildlife Service, Washington D.C.

U.S. Fish and Wildlife Service (US F&WS), 2008. *Birds of Conservation Concern* USFWS, Division of Migratory Bird Management "Birds of Conservation Concern 2008", (BCC 2008 list). Division of Migratory Bird Management, U.S. Department of the Interior, Fish and Wildlife Services, Arlington, Virginia.

U.S Natural Resource Conservation Services, Web Soil Survey activated June 8, 2016.

Wilks, Maureen E., compiler, 2005, *New Mexico Geologic Highway Map: New Mexico Geological Society and New Mexico Bureau of Geology and Mineral Resources*, Socorro, New Mexico.

ARCHAEOLOGICAL INVENTORY REPORT (AIRs) DOCUMENTATION PAGE

1. HPD REPORT NO:	2. (FOR HPD USE ONLY)	3. RECIPIENT'S ACCESSION NO.
4. TITLE OF REPORT: A Cultural Resources Inventory of the Proposed Red Rock Phase II Powerline Extension in the Red Rock Chapter, McKinley County, New Mexico.		5. FIELDWORK DATES: April 4, 2016
Author (s): Jeffrey Begay and Jeremy Begay		6. REPORT DATE: May 18, 2016
7. CONSULTANT'S NAME AND ADDRESS: Gen. Charge: Rena Martin, Anthropologist Org. Name: Dinétahd66 CRM LLC. Org. Address: P.O. Box 2012 Farmington, NM 87499 Phone: (505) 960-9478 Fax: (505) 960-9749		8. PERMIT NO.: B16164
		9. CONSULTANT'S REPORT NO.: DCRM 2016-13
10. SPONSOR'S NAME AND ADDRESS: Ind. Responsible: Steven Morales, GIS Analyst / ROW Org. Name: Continental Divide Electric Cooperative, Inc. Org. Address: P. O. Box 1087 Grants, New Mexico 87020 Phone: (505) 285-6656 ext. 1021		11. SPONSOR'S PROJECT NO.: Work Order No. 85481
		12. AREA OF EFFECT: 4.73 ac. (1.91ha.) AREA SURVEYED: 21.42 ac. (8.67 ha.)
13. LOCATION (MAP ATTACHED)		
a. Chapter: Red Rock b. Agency: Eastern Navajo c. County: McKinley d. State: NM		e. Land Status: Navajo Tribal Trust f. UTM: See Table 2. g. Legal Description: See Table 2. h. USGS 7.5' Map: Twin Buttes, N. Mex. P.R. 1979 i. Lead Agency: Navajo Nation
14. REPORT a. Description of Undertaking: See Supplemental Sheet b. Existing Data Review: See Supplemental Sheet c. Area of Environmental & Cultural Setting: See Supplemental Sheet d. Field Methods: See Supplemental Sheet		
15. CULTURAL RESOURCE FINDINGS: a. Location/Identification of Each Resource: Eleven in-use-sites, one previously identified archaeological site. b. Evaluation of Significance of Each Resource: See supplemental sheet.		
16. MANAGEMENT SUMMARY (RECOMMENDATION): See supplemental sheet.		
17. CERTIFICATION:		
SIGNATURE: <u>Rena Martin</u> General Charge Name: <u>Rena Martin, Archaeologist</u>		Date: <u>5/18/16</u>
SIGNATURE: <u>Jeremy Begay</u> Direct Charge Name: <u>Jeremy Begay, Archaeologist</u>		Date: <u>5-18-16</u>

CRID Supplemental Sheet:

13. LOCATION

Table 1. UTM Coordinates, Legal Descriptions, and USGS 7.5 Min Quadrangular Names.

Designation	UTM Coordinates Zone 12 (NAD 83)		Legal Descriptions						USGS Map Name (7.5' Quadrangle)
	Northing	Easting	¼	¼	¼	Sec.	T	R	
Line A									
BOL	3917346	0703466	SE	SE	SE	5	13N	18W	
B1	3917831	0703466	SE	NE	SE	5	13N	18W	
B2	3917930	0703474	SE	NE	SE	5	13N	18W	
B3	3917958	0703356	NE	NE	SE	5	13N	18W	
B4	3917912	0703121	SW	NE	SW	5	13N	18W	
B5	3918004	0703122	NW	NE	NW	5	13N	18W	
B6	3918961	0702620	SE	SE	SW	32	14N	18W	
B7	3918889	0702473	NE	NE	NW	5	13N	18W	
EOL	3919041	0702577	SE	SW	SW	32	14N	18W	
Tap A-1									
BOL	3917930	0703474	SE	NE	SE	5	13N	18W	
EOL	3917966	0703478	NE	NE	NE	5	13N	18W	
Tap A-2									
BOL	3918961	0702620	SE	SE	SW	32	14N	18W	
EOL	3919041	0702577	SE	SE	SW	32	14N	18W	
Tap A-3									
BOL	3918961	0702620	SE	SE	SW	32	14N	18W	
EOL	3919018	0702735	SW	SW	SE	32	14N	18W	

TWIN BUTTES, N. MEX.,
P.R. 1979

* BOL indicates Beginning of Line

EOL indicates End of Line

B indicates Bend

14. REPORT:

- a. **Description of Undertaking:** Continental Divide Electric Coop. proposes to construct, operate and maintain a distribution powerline with extensions to serve eleven clients within the Red Rock Chapter in McKinley County, New Mexico. Construction will consist of vehicle / heavy equipment traffic within the right-of-ways (ROW), clearing the ROW, drilling, setting, backfilling post holes; the stringing of utility lines, and the installation of associated equipment. The proposed utility line measures 10,370.23 feet (3,160.84 m, 1.96 miles) in length with a right-of-way measuring 20 feet-wide (6.09 m). The area-of-effect equals 4.73 acres (1.91 ha).
- b. **Existing Data Review:** Prior to field work, a records check was conducted at the Navajo Nation Historic Preservation Department's (NNHPD) office, located in Window Rock, Arizona. The records indicated that numerous previous surveys have been conducted within a 300 ft (91 m) radius of the project area. As a result of these surveys, one previously documented archaeological site was located within 300-feet of the project area. Archaeological site NM-Q-34-18, a historic Navajo habitation, was reassessed in conjunction with the current inventory which can be found below.

The NNHPD-TCP records search indicated that no sacred sites are within 1-mile of the proposed project area.

A check of Van Valkenburg's sacred places indicated, *Tse in desgizh* / ("Gapped Rock"), more commonly known as Twin Buttes is located 7.702 miles (12.396 km) northwest of the project area.

Red Rock Phase II Powerline

EOL Line A
IUS 9-11

EOL Tap A-2
IUS 6-8

EOL Tap A-3
IUS 1-5

NM-Q-34-18

B7 B6

BOL Tap A-2 & A-3

B5 B3

EOL Tap A-1

B4 B1

B2/BOL Tap A-1

BOL Line A



Copyright © 2013 National Geographic Society, i-cubed

TWIN BUTTES, N. MEX., PR 1979
SCALE: 1 Inch = 2,000 ft.

Pg. 3



Figure 1: Map showing project area and identified cultural resources, (DCRM 2016-13).

- c. **Area of Environmental & Cultural Setting:** The project area is located on the Zuni Uplift, a large sedimentary landmass that was uplifted during the onset of the Laramide Orogeny during the Cretaceous-Tertiary transition. A considerable amount of tectonic activity during this time is responsible for exposing numerous geologic facies ranging in age from the Neogene Period to the Precambrian. Erosion of the numerous facies have produced a multitude of geographic features and geologic structures such as the Hogback, Fenced Up Horse Canyon, Zuni Mountains, Oso Ridge, and the Malpais badlands. Within the uplift, strata representing marine transgressive and nonmarine regressive cycles have been exposed as well as Precambrian basement rock which have produced redeposited packages of fine to coarse grained alluvial, fluvial, colluvial, residual, and aeolian sand, silt, clay, and multi-lithic sand. Outcrops of sedimentary, metamorphic, and igneous bedrock as well as pebble to boulder sized clasts derived from these outcrops are scattered throughout the region. Situated in the mixed conifer environ, the Zuni Uplift supports flora such as; Ponderosa and pinion pine, juniper, gambel oak, Aspen, green ephedra, sagebrush, Indian rice grass, ring muhly, blazing star, alkali sacaton, amaranth, drop seed, narrow and broad leaf yucca, prickly pear and cholla cacti, and Russian thistle.

The Navajo name for Red Rock is Tse' lichii, which, when translated, means Red Rock. Red Rock Chapter is continuing to pursue development of its basic infrastructure. Currently, Red Rock is assessing its community issues and implications of programs and how they impact the community. The chapter intends to prepare long range strategic and comprehensive community development plans to realize the needs of the community. Local planning is important since it represents the wishes of community members (LSR Innovations: 2004).

- d. **Field Methods:** On April 04, 2016, Clifford Werito and Jeffrey Begay, archaeologists with DCRM, conducted the cultural resources inventory of the proposed powerline extensions. The project areas were surveyed by walking parallel transects spaced no more than 10 m apart on either side of the center line, with a 35-foot buffer zone added to the each side of the right-of-way. In all, a total of 21.42 acres (8.67 ha.) were surveyed in conjunction with this project. Notes were taken on the environment, the IUS's, and any interview information collected with the residents.

In accordance with NNHPD guidelines, the project archaeologists made an effort to interview the clients or nearby residents to obtain information regarding local traditional cultural properties (TCPs) and unmarked burials in the area. The results of the interviews as well as information regarding occupation dates can be found below.

15. CULTURAL RESOURCE FINDINGS:

- a. **Location/Identification of Each Resource:** One previously identified archaeological site and eleven currently in-use sites (IUS) were identified during the survey. A description of the identified cultural resources can be found below.

Site Number: NM-Q-34-18 (previously recorded)
USGS Map Reference: Twin Buttes, N. Mex., P.R. 1979
Legal Description: SW, SE, SW, Sec 32, T14N, 18W
UTM Coordinates: NAD 83; Zone 12, 3918956 Northing, 0702383 Easting
Land Status: Tribal Trust
Site Type: Historic Navajo Habitation
Site Size: 160 x 110m (original recording)
Site Setting: NM-Q-34-18 is located on an isolated hillside overlooking a valley.

Site Description: NM-Q-34-18 was originally recorded in 1993 by Navajo Nation Archaeology Department (NNAD) archaeologists in conjunction with a waterline project (HPD-94-429). During the 1993 survey, NNAD archaeologists recorded eleven features to include a house foundation, wood chopping areas, refuse areas, ash piles, and livestock corrals. During the current survey, DCRM archaeologists resurveyed the site area and determined that NM-Q-34-18 is in the original condition as recorded in 1993 with the addition of a new feature, a corral located in the eastern sector of the site area. Ethnographic interviews with a nearby resident revealed that NM-Q-34-18 was abandoned in 1988 and that the family does not object to the powerline being constructed within the site boundaries.

NM-Q-34-18

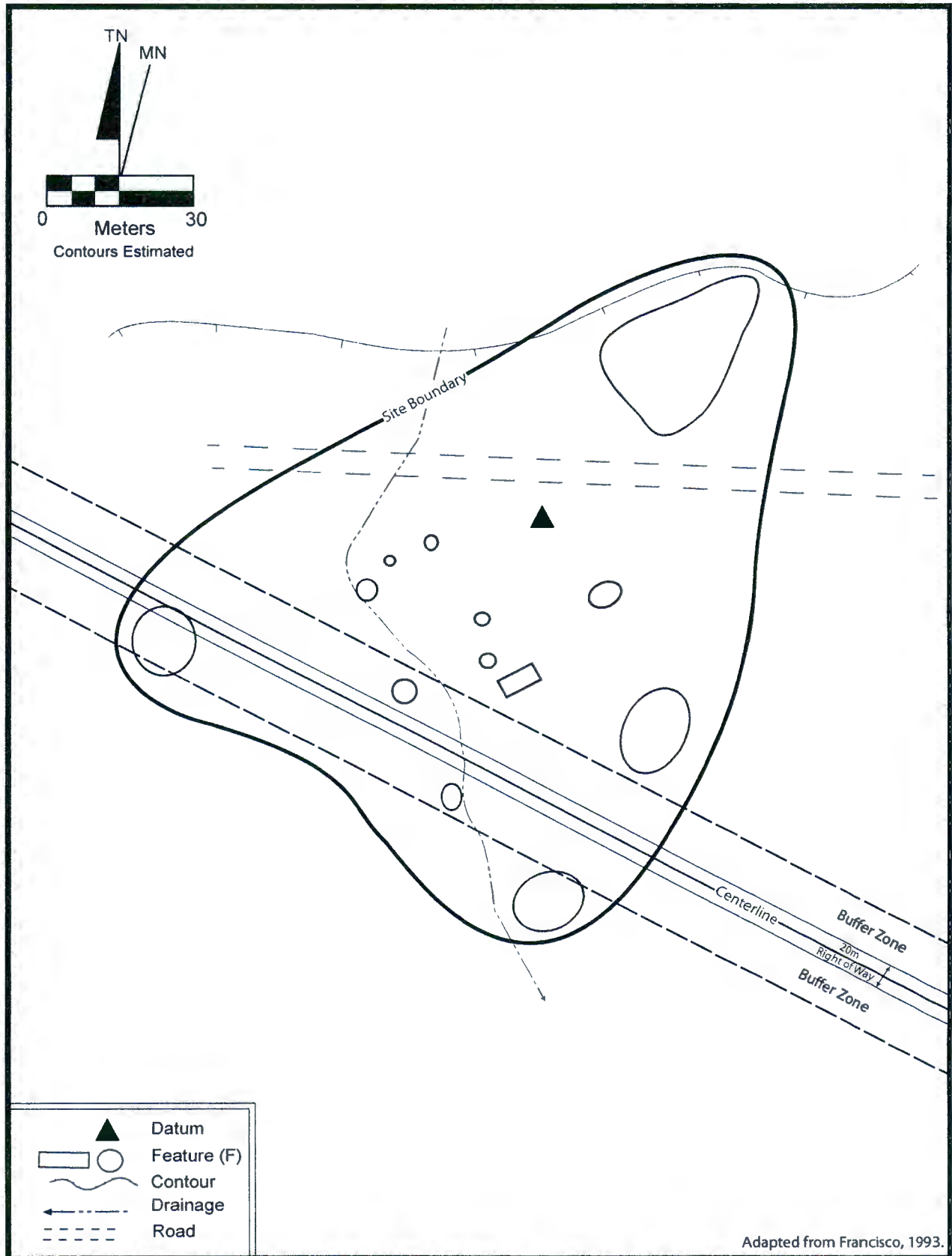


Figure 2. Revised Site Map of NM-Q-34-18, (DCRM 2016-13).

Table 2. In-Use Site (IUS)

IUS # and Client (s) Name	Description	Contact Person	Interview Results/ Date of Occupation
IUS 1. Annie / Rex Toledo	1 house and associated features	Mrs. Annie Toledo	No TCP/burials; 1996 to present.
IUS 2. Carol Toledo	1 house and associated features	No Contact	Unknown TCPs or burials; 1990s to present.
IUS 3. Raymond Toledo	1 house and associated features	No Contact	Unknown TCPs or burials; 1990s to present.
IUS 4. Dean Martin	1 house and associated features	No Contact	Unknown TCPs or burials; 1990s to present.
IUS 5. Dean Martins Daughter	1 house and associated features	No Contact	Unknown TCPs or burials; 1990s to present.
IUS 6. Cassandra Martin	1 house and associated features	No Contact	Unknown TCPs or burials; 1990s to present.
IUS 7. Myron Martin	1 house and associated features	No Contact	Unknown TCPs or burials; 1990s to present.
IUS 8. Andrew Toledo	1 mobile home and associated features	Mr. Donavan Toledo	No TCPs or Burials; 2010 to present
IUS 9. Bee Jim	1 mobile home	Mr. Bee Jim	No TCPs or Burials; 2000 to present
IUS 10. Gary Jim	1 house and associated features	Mr. Gary and Tito Jim	No TCPs or Burials; 2000 to present
IUS 11. Nellie Jim	1 hogan and associated features	Mr. Gary and Tito Jim	No TCPs or Burials; 1960s to present

b. Table 3: Evaluation of Significance for Each Resource:

Designation/Location	Description	Evaluation	
NM-Q-34-18(Within ROW extending beyond both buffer zones)	Historic Navajo Habitation	NRHP	Is Not Eligible 1. 50-year guideline not met 2. Retains integrity of location, setting, association, and materials. 3. Does meet criteria a-d.
		ARPA	Is Not Eligible 1. 100-year guideline not met 2. Is not of archaeological interest
		AIRFA	Does not merit consideration
		NAGPRA	Does not merit consideration
In-Use Sites 1- 11	Navajo homesteads 1960s to present.	NRHP	Not eligible
		ARPA	1. 100-year guideline not met 2. Not of archaeological interest
		AIRFA	Does not merit protection
		NAGPRA	Does not merit protection

RECOMMENDATIONS:

Archaeological clearance is recommended for the proposed undertaking with the following stipulations:

(1) All construction equipment and activities must be restricted to the ROW; and (2) any discoveries must be reported to the NNHPD and all activities must be halted within 50 feet of the discoveries.

NM-Q-34-18:

No further treatments are recommended as the site is not eligible for protection and the past occupants do not object to the proposed powerline to be constructed within the site boundaries.

REFERENCES:

Francisco, Aldon

- 1993 An Archaeological Survey of 85 Scattered Homes and Water Line Extensions on the Red Rock South Water System, Phase II, near Red Rock, McKinley County, New Mexico. NNHPD-94-429.

LSR Innovations Research & Planning

- 2004 Chapter Images: 2004 Edition; edited by LSR Innovations for the Division of Community Development. Window Rock, Arizona.

Van Valkenburgh, Richard F.

- 1974 Navajo Sacred Places. *In Navajo Indians III*, edited C. Kluckhohn, pp. 9-99. Garland Publishing New York, New York.

Dinétahdóó Cultural Resources Management LLC.
Site Survey and Management Update Form

Site Number: NM-Q-34-18

Original Site Number: NM-Q-34-18

Date: April 7, 2016

Current Project Number and Name: DCRM 2016-13, A Cultural Resources Inventory of the Proposed Red Rock Phase II Powerline Extension in the Red Rock Chapter, McKinley County, New Mexico.

Update by: Clifford Werito

New Location Information:

Legal Description: SW, SE, SW, Sec 32, T14N, 18W

UTM Coordinates: NAD 83, 12, 3918956N, 0702383E

Other: NA

Location of Site Relative to Current Project Area: The proposed powerline right-of-way and buffer zones are located within the southern portion of the site.

Additional Description (including current condition of site): The site appears to be in the same condition as recorded by NNAD in 1993.

Site Assessment (indicate any changes from original evaluation): No changes were made to the condition of NM-Q-34-18. New ethnographic data was gathered from two local Navajo residents; interviews were conducted by Mr. Clifford Werito, the project archaeologist, in Navajo.

1) On April 4, 2016, Mr. B.B. Jim, a local resident, was interviewed regarding the history of NM-Q-34-18 by the project archaeologist. Mr. Jim said that the late Helen Smith and her family occupied the site and then move to the top of a ridge to the east. Mr. Jim then referred the project archaeologist to the Toledo Family. The project archaeologist asked Mr. Jim if he knew of any unmarked Navajo burials or TCPs within or near the site area. Mr. Jim responded that he grew up in the area and was not aware of any TCPs or unmarked burials.

2) On April 6, 2016, the project archaeologist returned to the project area to interview residents at the Toledo homestead regarding the history of NM-Q-34-18. The project archaeologist met with Mr. Raymond Toledo at his residence and informed him of the proposed powerline project and of the nature of his visit.

Mr. Toledo said that his grandmother Helen Smith moved her family to the location Ca. 1988; prior to the move they lived 6 miles to the west. Mr. Toledo said no death or bad things occurred at the site which consisted of 3 or 4 corral, 2 houses, several storages, and several associated features. Mr. Toledo said his grandmother moved to a nursing home around 2000 and passed away in 2009. After his grandmother's move to the nursing home, his parents Annie and Gilbert Toledo moved to the current location. Mr. Toledo does not recall his grandmother or his mother mentioning any TCPs or burials within or near NM-Q-34-18 or the proposed powerline.

36 CFR 60.4 (National Register of Historic Places): The site currently possesses integrity of location, setting, association, and materials. The site does not meet the required 50 year guideline for nomination to the NRHP and does not meet criteria a-d;

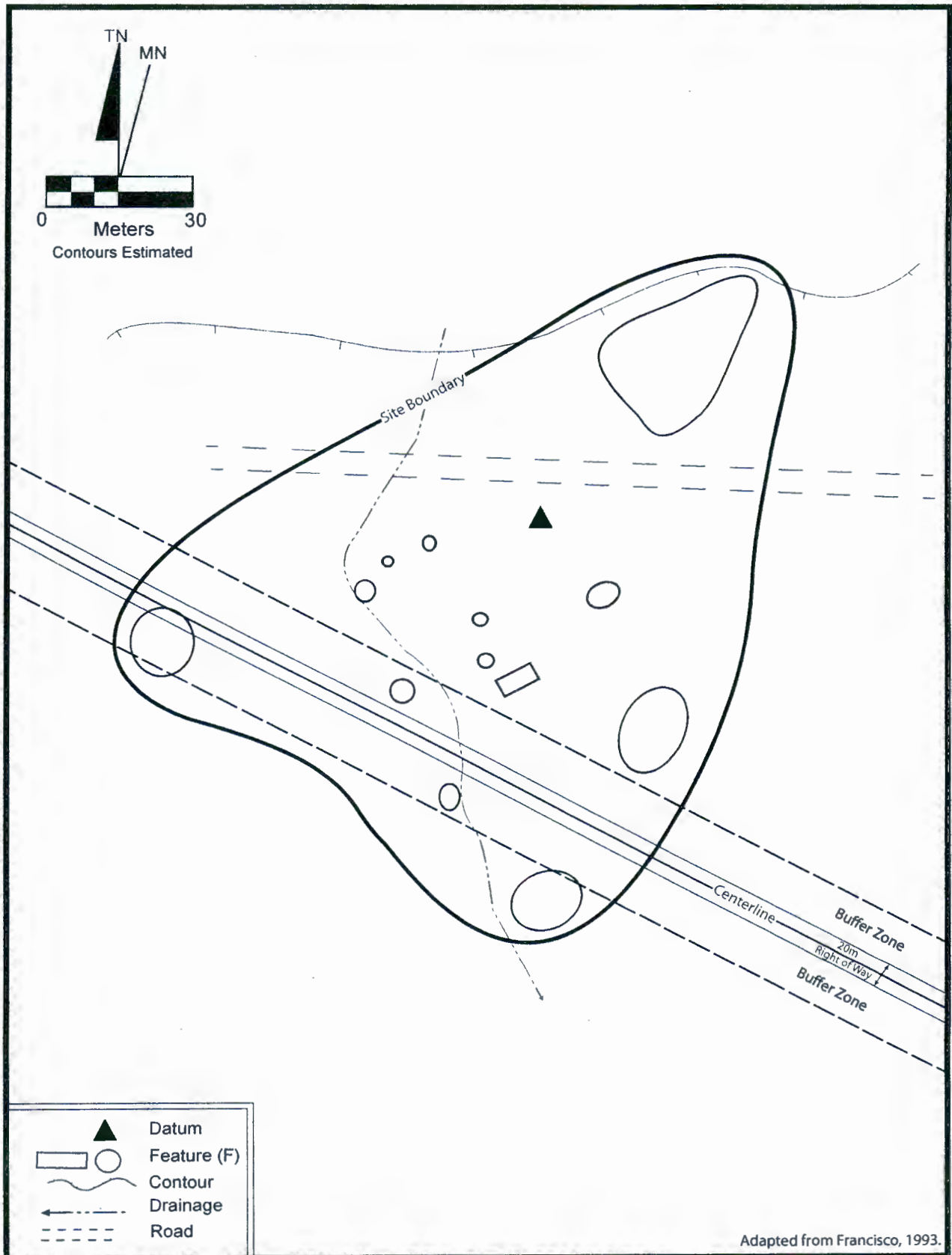
Archaeological Resources Protection Act (ARPA): Does not merit protection

American Indian Religious Freedom Act (AIRFA): Does not merit protection under AIRFA.

Recommendations: Mr. Toledo does not regard NM-Q-34-18 as an archaeological site as his family moved from the area in 1988 and do not believe the site to be significant. He recommended the powerline project be constructed thru the old family home stead (NM-Q-34-18).

No further treatments are recommended as the site is not eligible for protection and the past occupants do not object to the proposed powerline to be constructed within the site boundaries.

NM-Q-34-18



Revised Site Map of NM-Q-34-18, (DCRM 2016-13).



TRADITIONAL CULTURAL PROPERTY (TCP) RECORD
SEARCH VERIFICATION FORM

****TCP WILL NOT SIGN/APPROVE IF THIS PORTION IS
LEFT BLANK****

Project Information:	
DATE	March 31, 2016
RESEARCHER & COMPANY	R. Martin, J. Begay, C. Werito, S. Wero, M. Martin, T. Moone, A. Werito, J.C. Begay / Dinetahdoo CRM.
PROJECT NAME	Red Rock Phase II Powerline
PROJECT/PERMIT NUMBER	DCRM 2016-13 / B16164
PROJECT LOCATION	Project is located within Red Rock Chapter, McKinley County, New Mexico

*****TO BE FILLED OUT & SIGNED BY AUTHORIZED
NNHPD STAFF ONLY*****

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

NNHPD/TCP Program Reviewer:		Date: 4/1/16
-----------------------------	---	--------------

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

Note: In addition to the TCP Record search, the consultant must demonstrate that a good-faith effort to consult with 1.)



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

CULTURAL RESOURCES COMPLIANCE FORM

EXHIBIT

I

ROUTE COPIES TO:

NNHPD NO.: HPD-16-437

☒ DCRM

OTHER PROJECT NO.: DCRM 2016-13

PROJECT TITLE: A Cultural Resource Inventory of the Proposed Red Rock Phase II Powerline Extension in the Red Rock Chapter, McKinley County, New Mexico

LEAD AGENCY: BIA/NR

SPONSOR: Steven Morales, GIS Analyst/ROW, Continental Divide Electric Cooperative, Inc., P.O. Box 1087, Grants, Arizona 87020

PROJECT DESCRIPTION: The proposed undertaking will involve the construction, operating & maintenance of a distribution line with extensions to serve eleven homes. The distribution line measures 10,370.23-ft with a 20-ft wide right-of-way. The area of effect is therefore 4.73-acres. Ground disturbing activities will be intensive and extensive with the use of heavy equipment.

LAND STATUS:	Navajo Tribal Trust
CHAPTER:	Red Rock
LOCATION:	Powerlines are located on the Twin Buttes Quadrangle, McKinley County, New Mexico NMPM
T. 13 N., R. 18 W- Sec. 05:	
T. 14 N., R. 18 W- Sec. 32:	
PROJECT ARCHAEOLOGIST:	Jeffrey Begay and Jeremy Begay
NAVAJO ANTIQUITIES PERMIT NO.:	B16164
DATE INSPECTED:	4/04/2016
DATE OF REPORT:	5/18/2016
TOTAL ACREAGE INSPECTED:	21.42 - ac
METHOD OF INVESTIGATION:	Class III pedestrian inventory with transects spaced 10-12 m apart.
LIST OF CULTURAL RESOURCES FOUND:	(1) Site (NM-Q-34-18); (11) In-Use Sites (IUS)
LIST OF ELIGIBLE PROPERTIES:	None
LIST OF NON-ELIGIBLE PROPERTIES:	(1) Site (NM-Q-34-18); (11) In-Use Sites (IUS)
LIST OF ARCHAEOLOGICAL RESOURCES:	None

EFFECT/CONDITIONS OF COMPLIANCE: No historic properties affected.

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

FORM PREPARED BY: **Tamara Billie**

FINALIZED: July 19, 2016

Notification to Proceed
Recommended
Conditions:

☒ Yes ☐ No
☐ Yes ☒ No


The Navajo Nation
Historic Preservation Office

7/20/16
Date

Navajo Region Approval

☒ Yes ☐ No


Acting BIA - Navajo Regional Office

8-29-16
Date



NAVAJO TRIBAL UTILITY AUTHORITY

AN ENTERPRISE OF THE NAVAJO NATION

November 9, 2016

Debbie Olivar
Continental Divide Electric Cooperative, Inc.
200 E. High Street
P.O. Box 1087
Grants, New Mexico 87020

RE: Utility Encroachment Permission for Red Rock Chapter Phase II

Dear Ms. Olivar:

The Navajo Tribal Utility Authority (NTUA) received your request for permission to cross existing waterlines in Township 13,14 North, Range 18 West, Sections 5 and 32, NMPM Red Rock, McKinley County, New Mexico. Permission is hereby granted with the acceptance of the specifications and conditions of NTUA:

1. All proposed utilities crossing NTUA's existing waterline, shall cross perpendicularly through the centerline Right-of-Way.
2. No physical improvements are allowed.
3. The Permittee shall be responsible for any and all damages to NTUA water lines during the construction work.
4. Minimum separation of water line crossing is 18" vertical clearance and 15 feet minimum horizontal clearance from other underground pipelines. Minimum vertical clearance for all overhead powerline shall have a minimum of 18 feet clearance.
5. Install Tee Post at utilities intersection and at any vertical visibility separations.
6. The existing waterline shall not cross between the power line and down guy/anchors.
7. The Permittee must apply for a new permit crossing for any new encroachments, crossing or construction.

Please notify the Water/Wastewater Department three days prior to construction at (928) 729-6114.

Sincerely,

Gregory Bahe, Supervisor
Water/Wastewater Department

XC: Thomas Bayless, Water/Wastewater Manager
Project File

Home Office:
P.O. BOX 170
FT. DEFANCE, AZ 86504

KAYENTA
P.O. BOX 37
KAYENTA, AZ 86033

TUBA CITY
P.O. BOX 388
TUBA CITY, AZ 86045

SHIPROCK
P.O. BOX 1749
SHIPROCK, NM 87420

CHINLE
P.O. BOX 549
CHINLE, AZ 86503

FORT DEFANCE
P.O. BOX 587
FT. DEFANCE, AZ 86504

DILCON
HC 63 BOX D
WINSLOW, AZ 86047

CROWNPOINT
P.O. BOX 1625
CROWNPOINT, NM 87313

CALL 800-528-5011 OR 928-729-5721 FOR ALL OFFICES.



In Reply, Refer to:
4N420 - Real Estate Services
Rights of Way

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



MAR 02 2016

Rec 3/7/16

Debbie Olivar, ROW/Technical Engineer
Continental Divide Electric Cooperative, Inc.
P.O. Box 1087
Grant, New Mexico 87020

Dear Ms. Olivar:

Reference is made to the receipt of the Tribal Consent received February 25, 2016, for permission to survey includes surveys for mapping, archaeological, ethnographic surveys & studies for Work Order No. 85481 Red Rock Phase II Power Line, within Red Rock, McKinley County, New Mexico.

The Navajo Nation has given its concurrence to the survey for tribal trust lands, as contained in the letter from the Navajo Land Department, dated February 24, 2016. Prior to entry upon or across allotted land, consent from Indian land owners is required.

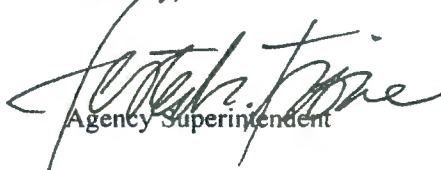
Subject to any prior rights or adverse claims and to all applicable regulations of 25 CFR 169, authorization is hereby granted to proceed with the necessary survey subject to the following terms and conditions of the Navajo Nation:

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

This authorization is for SURVEY ONLY on Tribal Trust Lands, according to the Tribal Consent received on February 25, 2016.

If you have any questions, please contact our Rights-of-Way Section at (505) 786-6123.

Sincerely,


Agency Superintendent



THE NAVAJO NATION

RUSSELL BEGAYE
JONATHAN NEZ

February 24, 2016

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

Dear Ms. Olivar:

RE: Permission to Survey on Trust Lands

Your request for permission to survey two electric power line projects in Red Rock Chapter area known as Phase I and Phase II is hereby granted. The survey will be conducted in Sections 2, 11, 12 of T13N, R19W and Sections 5, 32 of T13N, R18W in McKinley County.

Permission to survey includes surveys for mapping, archaeological, ethnographic surveys & studies and is subject to the following terms and conditions:

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

Sincerely,

Howard Draper
Program & Project Specialist
Navajo Land Department/DNR

CC: Red Rock Chapter
Project File



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



DOJ
02/06/17 427
DATE / TIME
<input type="checkbox"/> 7 Day Deadline
DOC #: 007358
SAS #:
UNIT: JRU

☐ RESUBMITTAL

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

CLIENT TO COMPLETE			
DATE OF REQUEST: Feb 6, 2017	ENTITY/DIVISION: DNR		
CONTACT NAME: Michelle Hoskie	DEPARTMENT: GLDD		
PHONE NUMBER: x6447	E-MAIL: michellehoskie@frontier.com		
TITLE OF DOCUMENT: CDEC ROW Red Rock Chpt. Pjt Phase II			
DOJ SECRETARY TO COMPLETE			
DATE/TIME IN UNIT: 2/7/17 8:15am	REVIEWING ATTORNEY/ADVOCATE: Irvin Chee		
DATE/TIME OUT OF UNIT:			
DOJ ATTORNEY / ADVOCATE COMMENTS			
Wrong Terms & Conditions. Rtd. doc. to GLDD to insert the right Terms & Conditions which should be dated 7-21-15			
REVIEWED BY: (PRINT) JIMME CHEE	DATE / TIME 2/15/17	SURNAMED BY: (PRINT)	DATE / TIME
DOJ Secretary Called:	for Document Pick Up on	at	By:
PICKED UP BY: (PRINT)	DATE / TIME:		

NNDJ/DRRF-July 2013

↓ For Trust Land. Rtd. doc. to DOJ after corrections are made so DOJ can complete its review.
Thx. - ic

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE II
POWER LINE PROJECT
LINE "A"
RED ROCK, MCKINLEY COUNTY, NEW MEXICO
CDEC WORK ORDER NUMBER 85481**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Red Rock Phase II Power Line Project, Line "A", located within section 5, Township 13 North, Range 18 West, and section 32, Township 14 North, Range 18 West, New Mexico Principal Meridian, Navajo Tribal Trust Land, Red Rock Chapter, McKinley County, State of New Mexico, and being more particularly described as follows:

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

BEGINNING at B.O.P. Station 0+00, at a point where the existing powerline enters section 5, T13N, R18W, NMPM, said parcel being Navajo Tribal Trust Land, and from which point the found BLM brass cap for the northwest corner of section 5, T13N, R18W, NMPM bears N43°20'47"W a distance of 7,339.30 feet,

Thence N01°50'49"E a distance of 1,506.27 feet along an existing line to P.O.T. Station 15+06.27 at which point the centerline of the easement crosses a fence,

Thence continuing N01°50'49"E a distance of 64.16 feet along the existing line to P.I. Station 15+70.43,

Thence N07°00'52"E a distance of 319.28 feet along the existing line to P.I. Station 18+89.71,

Thence N74°38'48"W a distance of 398.43 feet along the existing line to P.I. Station 22+88.14,

Thence S80°15'13"W a distance of 198.76 feet along the existing line to P.O.T. Station 24+86.90 at which point the centerline of the easement crosses a water line,

Thence continuing S80°15'13"W a distance of 99.47 feet along the existing line to P.O.T. Station 25+86.37, said point being existing pole no. 79378, the beginning of new construction,

Thence S80°15'13"W a distance of 492.03 feet to P.I. Station 30+78.40, from which point the Base Station, having true New Mexico State Plane West, NAD83, US survey feet coordinates of: N 1597986.90, E 2445116.51, Latitude 35°23'18", Longitude -108°45'57" bears N21°06'15"W a distance of 1,781.21 feet,

Thence N02°42'27"E a distance of 310.10 feet to P.I. Station 33+88.50,

Thence N25°48'08"W a distance of 260.16 feet to P.O.T. Station 36+48.66 at which point the centerline of the easement crosses a water line,

Thence continuing N25°48'08"W a distance of 3,220.21 feet to P.O.T. Station 68+68.87 at which point the centerline of the easement enters section 32, T14N, R18W, NMPM, and from which point the found BLM brass cap for the northeast corner of section 5, T13N, R18W, NMPM bears S89°10'07"E a distance of 2,834.71 feet,

Thence continuing N25°48'08"W a distance of 65.08 feet to P.I. Station 69+33.95,

Thence S65°13'28"W a distance of 134.58 feet to P.O.T. Station 70+68.53 at which point the centerline of the easement enters section 5, T13N, R18W, NMPM, and from which point the found BLM brass cap for the northwest corner of section 5, T13N, R18W, NMPM bears N89°09'46"W a distance of 2,313.79 feet,

Thence continuing S65°13'28"W a distance of 401.99 feet to P.I. Station 74+70.52,

Thence N60°59'02"W a distance of 367.97 feet to P.O.T. Station 78+38.49 at which point the centerline of the easement enters section 32, T14N, R18W, NMPM, and from which point the found BLM brass cap for the northwest corner of section 5, T13N, R18W, NMPM bears N89°09'43"W a distance of 1,626.95 feet,

Thence continuing N60°59'02"W a distance of 362.30 feet to P.O.T. Station 82+00.79 at which point the centerline of the easement crosses a water line,

Thence continuing N60°59'02"W a distance of 776.32 feet to E.O.P. Station 89+77.11, the terminus for the above described centerline for Line "A", from which point the found BLM brass cap for the northwest corner of section 5, T13N, R18W, NMPM bears S50°03'16"W a distance of 823.14 feet.

The above described right-of-way easement contains 4.12 acres, more or less, in area. The right-of-way easement is 1.70 miles in length.

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE II
POWER LINE PROJECT
TAP "A-1"
RED ROCK, MCKINLEY COUNTY, NEW MEXICO**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Red Rock Phase II Power Line Project, Tap "A-1" an existing line, located within section 5, Township 13 North, Range 18 West, New Mexico Principal Meridian, Navajo Tribal Trust Land, Red Rock, McKinley County, State of New Mexico, and being more particularly described as follows:

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

Beginning at P.I. Station 18+89.71 of Line "A" said point being B.O.P. Station 0+00 for Tap "A-1", located in section 5, T13N, R18W, NMPM, said parcel being Navajo Tribal Trust Land,

Thence N07°00'52"E a distance of 123.12 feet along an existing line to E.O.P. Station 1+23.12, the terminus for the above described centerline for Tap "A-1".

The above described right-of-way easement contains 0.06 acres, more or less, in area. The right-of-way easement is 0.02 miles in length.

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE II
POWER LINE PROJECT
TAP "A-2"
RED ROCK, MCKINLEY COUNTY, NEW MEXICO
CDEC WORK ORDER NUMBER 85481**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Red Rock Phase II Power Line Project, Tap "A-2", located within section 32, Township 14 North, Range 18 West, New Mexico Principal Meridian, Navajo Tribal Trust Land, Red Rock, McKinley County, State of New Mexico, and being more particularly described as follows:

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

Beginning at P.I. Station 69+33.95 of Line "A", said point being B.O.P. Station 0+00 for Tap "A-2", located in section 32, T14N, R18W, NMPM, said parcel being Navajo Tribal Trust Land,

Thence N25°48'08"W a distance of 111.27 feet to P.O.T. Station 1+11.27 at which point the centerline of the easement crosses a water line,

Thence continuing N25°48'08"W a distance of 188.69 feet to E.O.P. Station 2+99.96, the terminus for the above described centerline for Tap "A-2".

The above described right-of-way easement contains 0.14 acres, more or less, in area. The right-of-way easement is 0.06 miles in length.

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE II
POWER LINE PROJECT
TAP "A-3"
RED ROCK, MCKINLEY COUNTY, NEW MEXICO
CDEC WORK ORDER NUMBER 85481**

SURVEYOR'S DESCRIPTION of a right-of-way easement for the Continental Divide Electric Cooperative Inc.'s Red Rock Phase II Power Line Project, Tap "A-3", located within section 32, Township 14 North, Range 18 West, New Mexico Principal Meridian, Navajo Tribal Trust Land, Red Rock, McKinley County, State of New Mexico, and being more particularly described as follows:

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

Beginning at P.I. Station 69+33.95 of Line "A", said point being B.O.P. Station 0+00 for Tap "A-3", located in section 32, T14N, R18W, NMPM, said parcel being Navajo Tribal Trust Land,

Thence N65°13'28"E a distance of 22.99 feet to P.O.T. Station 0+22.99 at which point the centerline of the easement crosses a water line,

Thence continuing N65°13'28"E a distance of 397.05 feet to E.O.P. Station 4+20.04, the terminus for the above described centerline for Tap "A-3".

The above described right-of-way easement contains 0.19 acres, more or less, in area. The right-of-way easement is 0.08 miles in length.

**RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE II
POWER LINE PROJECT
RED ROCK, MCKINLEY COUNTY, NEW MEXICO
CDEC WORK ORDER NUMBER 85481**

GUY EASEMENT DESCRIPTION

<u>GUY NO.</u>	<u>STATION</u>	<u>BEARING</u>	<u>LENGTH</u>	<u>WIDTH</u>	<u>ACREAGE</u>
LINE A					
1	15+70.43	N85°34'10"W	50'	20'	0.02
2	18+89.71	S74°38'48"E	50'	20'	0.02
3	22+88.14	N02°48'00"E	50'	20'	0.02
4	30+78.40	S80°15'13"W	50'	20'	0.02
5	30+78.40	S02°42'27"W	50'	20'	0.02
6	33+88.50	N78°27'09"E	50'	20'	0.02
7	74+70.52	S02°07'13"W	50'	20'	0.02
8	89+77.11	N60°59'02"W	50'	20'	0.02
TAP A-1					
9	1+23.12	N07°00'52"E	50'	20'	0.02
TAP A-2					
10	2+99.96	N25°48'08"W	50'	20'	0.02
TAP A-3					
11	4+20.04	N65°13'28"E	50'	20'	0.02
TOTAL			550'		0.22

TOTAL 11 GUYS

11 Guys X 0.02 acres = 0.22 ACRES

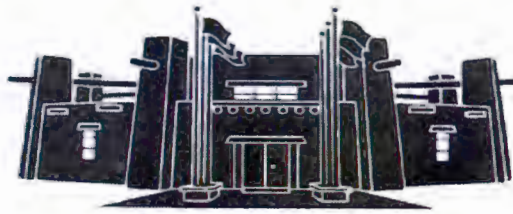
SUMMARY DESCRIPTION

<u>SEGMENT</u>	<u>LENGTH</u>	<u>MILES</u>	<u>WIDTH</u>	<u>ACREAGE</u>
LINE "A"	8,977.11'	1.70	20'	4.12
TAP "A-1"	123.12'	0.02	20'	0.06
TAP "A-2"	299.96'	0.06	20'	0.14
TAP "A-3"	420.04'	0.08	20'	0.19
SUBTOTAL	9,820.23'	1.86		4.51
GUY EASEMENTS	550.00'	0.10	20'	0.22
TOTAL	10,370.23'	1.96		4.73

RIGHT OF WAY EASEMENT FOR
CDEC'S RED ROCK PHASE II
POWER LINE PROJECT
RED ROCK, MCKINLEY COUNTY, NEW MEXICO
CDEC WORK ORDER NUMBER 85481

SECTION SUMMARY

<u>LAND STATUS</u>	<u>POWER LINE FOOTAGE</u>	<u>POWER LINE MILEAGE</u>	<u>ACREAGE</u>	<u>GUY FOOTAGE</u>	<u>GUY ACREAGE</u>	<u>TOTAL FOOTAGE</u>	<u>TOTAL ACREAGE</u>
<u>T13N R18W</u>							
Section 5	7,761.95'	1.47	3.56	400.00'	0.16	8,161.95'	3.72
<u>T14N R18W</u>							
Section 32	2,058.28'	0.39	0.95	150.00'	0.06	2,208.28'	1.01
TOTAL	9,820.23'	1.86	4.51	550.00'	0.22	10,370.23'	4.73



MEMORANDUM

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

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

Date : April 3, 2017

Re : PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF RIGHT-OF-WAY TO CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC., LOCATED ON NAVAJO NATION TRUST LANDS IN RED ROCK CHAPTER, NAVAJO NATION (MCKINLEY COUNTY, NEW MEXICO) FOR CONSTRUCTING AND MAINTAINING ELECTRICAL DISTRIBUTION LINE

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

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

17-205-1

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0123-17_____

SPONSOR: Seth Damon

TITLE: An Action Relating To Resources And Development; Approving The Grant Of Right-Of-Way To Continental Divide Electrical Cooperative, Inc., Located On Navajo Nation Trust Lands In Red Rock Chapter, Navajo Nation (McKinley County, New Mexico) For Construction And Maintaining Electrical Distribution Line

Date posted: April 5, 2017 at 3:55pm

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

**Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7590**

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

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

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

LEGISLATION NO.: 0123-17

SPONSOR: Honorable Seth Damon

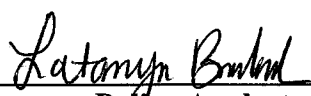
TITLE: An Action Relating To Resources And Development; Approving The Grant Of Right-Of-Way To Continental Divide Electrical Cooperative, Inc., Located On Navajo Nation Trust Lands In Red Rock Chapter, Navajo Nation (McKinley County, New Mexico) For Construction And Maintaining Electrical Distribution Line

Posted: April 5, 2017 at 3:55 PM

5 DAY Comment Period Ended: April 10, 2017

Digital Comments received:

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



**Policy Analyst
Office of Legislative Services**

4/11/17 8:00am

Date/Time

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

THIRD YEAR 2017

COMMITTEE REPORT

Mr. Speaker,

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

Legislation # 0123-17: An Action Relating to Resources; Approving the Grant of Right-of-Way To Continental Divide Electrical Cooperative, Inc., Located on Navajo Nation Trust Lands in Red Rock Chapter, Navajo Nation (McKinley County, New Mexico) For Construction and Maintaining Electrical Distribution Line. *Sponsor: Honorable Seth Damon*

Has had it under consideration and report the same the following amendment:

AMENDMENT # 1: On Page 2, Line 25, add a new Paragraph C and thereafter renumber paragraphs according: "C. The Resources and Development Committee of the Navajo Nation Council hereby approves the right-of-way for a term of 40 years."

And on Page 2, Line 25, with regards to the Exhibit "D", the revised "Exhibit D should show the 40 year terms and twofold the \$68,580.36 assessed fee to show the new rate as \$137,160.72.

(MOTION: Jonathan Perry SECOND: Benjamin Bennett VOTE: 4-1-1 (CNV))

And thereafter the legislation was approved with the directive to staff to ensure the new Exhibit D" is incorporated accordingly into the final resolution packet.

Respectfully submitted,



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

Date: April 11, 2017
Main Motion: Honorable Jonathan Perry
Second: Honorable Benjamin Bennett
Vote: 5---0-1 (CNV)



EXHIBIT "D"

**NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS
CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC. (GRANTEE)
(14.4 vK Electrical distribution Line for the Red Rock Chapter Project; Phase II, WO#85451)**

1. The term of the right-of-way shall be for forty (40) years, beginning on the date the right-of-way is granted by the Secretary of the Interior.
2. Consideration for the right-of-way is assessed at \$137,160.72, and has been waived, the Navajo Nation contributes the amount listed above to the project because the project serves a public purpose and will benefit Navajo residents.
3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of constructing and maintaining electrical distribution line. The Grantee may not develop, use or occupy the right-of-way for any other purpose, now allow others to use or occupy the right-of-way for any other purpose, without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation. The Grantee may not develop, use or occupy the right-of-way for any unlawful purpose.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
 - a. Title 25, Code of Federal Regulations, Part 169; subject to the terms of this right-of-way;
 - b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archaeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices;
 - c. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., and the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq.; and
 - d. The Navajo Nation Water Code, 22 N.N.C. §§ 1101 et seq., Grantee shall apply for and submit_all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.
6. The Grantee shall clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uprooted or otherwise accumulated during any surface disturbance activities.

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

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