

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
23rd Navajo Nation Council --- Fourth Year, 2018

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING THE
ASSIGNMENT OF THE QUESTAR SOUTHERN TRAILS PIPELINE COMPANY
RIGHT-OF-WAY TO NAVAJO TRIBAL UTILITY AUTHORITY

BE IT ENACTED:

SECTION ONE. AUTHORITY

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

SECTION TWO. FINDINGS

- A. The Navajo Nation Council created the Navajo Tribal Utility Authority (NTUA) on January 22, 1959, pursuant to Resolution CJA-14-59, by which NTUA was authorized to construct, operate and maintain utility systems throughout the Navajo Nation. NTUA is further authorized to expand and execute such extensions of existing utility systems as are efficient and feasible. See, 21 N.N.C. § 5(A)(2).
- B. On September 27, 2001, the former Resources Committee of the Navajo Nation Council approved Resolution RCS-175-01 granting a right-of-way to Questar Southern Trails Pipeline Company (Questar). The right-of-way is to expire on December 31, 2021. Resolution RCS-175-01 is attached as **Exhibit A**.
- C. On November 27, 2017, Questar and NTUA entered into an Asset Purchase Agreement. NTUA is to purchase the eastern portion of the existing Questar system and the traverse property and to operate the pipeline. Because Questar currently has the

right-of-way, NTUA is requesting that the Navajo Nation assign the right-of-way to NTUA.

- D. Pursuant to the Asset Purchase Agreement and pursuant to Sections Ten (10) and Twelve (12) of the Questar Right-of-Way Agreement, Questar is obligated to provide "payments directly to the Navajo Nation General Funds" for any and all remaining payments due or to become due through December 31, 2021.
- E. In 2022, pursuant to CFR Section 169.202, NTUA anticipates renewing the right-of-way which will be assigned by this resolution. The renewal of the right-of-way in 2022 will enable NTUA to continue service to the Navajo families. At the time of the renewal request in 2022, NTUA will request that no extra cost be assessed for the renewal because NTUA's continued service to Navajo families.
- F. The NTUA Management Board, through Resolution NTUA-48-17, has approved the Asset Purchase Agreement dated October 20, 2017. **Exhibit B.**
- G. With the assignment of the right-of-way to NTUA, NTUA will abide by all the terms and conditions of the original agreements between the Navajo Nation and Questar except the payments to the Navajo Nation. Questar will remain the responsible party to fulfill the payments described in Section Ten (10) and Twelve (12) of the original Right-of-Way Agreement between the Navajo Nation and Questar.

SECTION THREE. APPROVAL

- A. The Resources and Development Committee of the Navajo Nation Council hereby approves the assignment of Questar Southern Trails Pipeline Company's Right-of-Way to Navajo Tribal Utility Authority, with the exception that Questar Southern Trails Pipeline Company, remain the payer for the provisions stated in Sections Ten (10) and Twelve (12) of the original Right-of-Way Agreement, **Exhibit A**, until December 31, 2021, the date of the expiration of the Agreement.
- B. 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 the Navajo Nation Council Chambers, Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 4 in favor, and 0 opposed, on this 5th day of December 2018.



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

Motion: Honorable Davis Filfred

Second: Honorable Leonard Pete

Vice-Chairperson Benjamin Bennett not voting.

Exhibit "A"

RCS-175-01

RESOLUTION OF THE RESOURCES COMMITTEE OF THE NAVAJO NATION COUNCIL



Approving the Agreement for Navajo Nation Consent to Rights-of-Way Grant to Questar Southern Trails Pipeline Company

WHEREAS:

1. Pursuant to 2 N.N.C. § 691, the Resources Committee of the Navajo Nation Council is established and continued as a standing committee of the Navajo Nation Council; and

2. Pursuant to 2 N.N.C. § 695 (B) (2), the Resources Committee of the Navajo Nation Council shall give final approval of any rights-of-way or other usufructuary interests in Navajo land in accordance with applicable federal and Navajo Nation laws; and

3. Questar is an interstate natural gas transportation company that owns a pipeline and appurtenant facilities, known as the Questar Southern Trails Pipeline, currently situated on Navajo Nation lands upon rights-of-way that expire October 23, 2001; and

4. Questar wishes to secure new rights-of-way for these particular Navajo Nation lands, and to acquire an option for an additional pipeline right-of-way for purposes of commencing the operation of a natural gas transportation business for profit; and

5. The Navajo Nation and Questar have negotiated and drafted an "Agreement for Navajo Nation Consent to Rights-of-Way Grant to Questar Southern Trails Pipeline" ("Agreement"), attached hereto as Exhibit "A"; and

6. The Agreement contains certain important standard terms, conditions, and covenants regarding the Navajo Nation's governmental jurisdiction and authority, which the Resources Committee routinely inserts into rights-of-way agreements, and to which Questar is agreeable; and

7. Execution of this Agreement and the Navajo Nation's consent to the rights-of-way grant to Questar is in the best interest of the Navajo Nation, because the Navajo Nation shall receive from Questar good and adequate consideration for the use of Navajo Nation lands for operation of the Questar Southern Trails Pipeline.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Resources Committee of the Navajo Nation Council hereby approves the "Agreement for Navajo Nation Consent to Rights-of-Way Grant to Questar Southern Trails Pipeline", attached hereto as Exhibit "A".

2. The Resources Committee of the Navajo Nation Council hereby authorizes and directs the President of the Navajo Nation to give the Navajo Nation's consent to the rights-of-way grant to Questar by executing the Agreement and all other necessary documents which further the intent of this resolution and this Agreement.

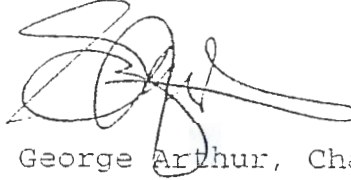
3. By approval of the Agreement, the Resources Committee of the Navajo Nation Council does not, in any manner, acknowledge or agree that the jurisdiction of the Federal Energy Regulatory Commission is the sole and exclusive authority governing interstate natural gas transportation through pipelines situated on Navajo land.

4. Since Questar has agreed to the incorporation of all provisions of the Agreement into the Secretary's rights-of-way grant, the Resources Committee of the Navajo Nation Council strongly urges the Secretary to incorporate all provisions of the Agreement in its entirety into Questar's rights-of-way grant in order to protect the interests of the Navajo Nation, and to satisfy the United States' trust obligations to the Navajo Nation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Resources Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and

that same was passed by a vote of 5 in favor, 0 opposed and 0 abstained, this 27th day of September, 2001.

A handwritten signature in black ink, appearing to be 'George Arthur', written over a horizontal line.

George Arthur, Chairperson
Resources Committee

Motion: Jones Begay
Second: Henry B. Hudson

**AGREEMENT FOR NAVAJO NATION CONSENT
TO RIGHTS-OF-WAY GRANT TO
QUESTAR SOUTHERN TRAILS PIPELINE COMPANY**

This Agreement is made and entered into by and between the Parties, namely, the Navajo Nation, a federally-recognized Indian Nation, and Questar Southern Trails Pipeline Company, a Utah corporation, whose addresses are listed as follows:

THE NAVAJO NATION
P.O. Box 9000
Window Rock, Navajo Nation (Arizona) 86515
(referred to as "Navajo Nation") ;

and,

QUESTAR SOUTHERN TRAILS PIPELINE COMPANY
180 East 100 South
P.O. Box 45360
Salt Lake City, Utah 84145-00360
(referred to as "Questar").

RECITALS

WHEREAS:

- A. Questar is an interstate natural gas transportation company regulated by the Federal Energy Regulatory Commission ("FERC").
- B. Questar owns a pipeline and appurtenant facilities which, as of the date of execution of this Agreement, are situated upon Navajo Nation Lands, which lands are more particularly described in the maps and legal descriptions attached as Exhibit NN-1.
- C. Questar wishes to secure new rights-of-way for these particular Navajo Nation Lands described in Exhibit NN-1 for purposes of commencing the operation of a natural gas transportation business for profit.
- D. Questar also wishes to secure new rights-of-way for additional appurtenant Navajo Nation Lands, which lands are more particularly described in the maps and legal descriptions attached as Exhibit NN-2, for purposes of installing new sections of natural gas pipeline to be incorporated into Questar's existing pipeline system.
- E. Upon execution of this Agreement by the Navajo Nation, Questar shall submit to the Secretary of the Interior an "Application for Grant of Rights-of-Way" ("Application")

which pertains to the lands described in Exhibit NN-1 and Exhibit NN-2. If the Secretary approves the Application, the rights-of-way shall be formally issued to Questar via a conveyance instrument entitled "Grant of Easement for Rights-of-Way."

- F. The Parties desire that said Application be approved and the proposed rights-of-way be granted to Questar by the Secretary of the Interior because the Navajo Nation shall receive good and adequate consideration, for the use of certain Navajo Nation Lands for the term of the right-of-way grant, and Questar anticipates making a profit from the operation of its natural gas transportation business on these Navajo Nation Lands.
- G. The Parties recognize that the premises covered by the proposed rights-of-way consist of Navajo Nation trust lands, and, therefore, federal law (25 U.S.C. §§ 321, 323, *et seq.*) and federal regulations (25 C.F.R. § 169, *et seq.*) require that the contemporaneous consent of the Navajo Nation must be given for any and all right-of-way grants pertaining to said trust lands.
- H. The Parties have negotiated among themselves and have agreed to address issues related to the contemporaneous consent of the Navajo Nation to the proposed rights-of-way grant to Questar in accordance with the terms, conditions, and covenants contained in this Agreement.

NOW THEREFORE, in consideration of the terms, conditions, and covenants contained herein, the Parties hereby mutually agree as follows:

OPERATIVE PROVISIONS

1. DEFINITIONS.

"Navajo Nation Lands" means those lands held in trust by the United States for the benefit of the Navajo Nation pursuant to treaty, executive order, federal laws and/or federal regulations.

"Navajo Indian Country" means all lands within the exterior boundaries of the Navajo Indian Reservation or of the Eastern Navajo Agency, including Navajo Nation Lands, lands held in trust by the United States for the benefit of individual members of the Navajo Nation, all lands leased to the Navajo Nation by any party, and all lands within the limits of dependent Navajo Indian communities.

"Secretary" means the Secretary of the United States Department of the Interior or her/his duly authorized designee, representative, or successor.

“ROW Grant” means the formal issuance by the Secretary of rights-of-way to Questar, as the Grantee, for the premises described herein, which issuance shall be contained in the conveyance document entitled “Grant of Easement for Rights-of-Way.”

“ROW” means the particular rights-of-way described in this Agreement and Exhibits NN-1 and NN-2, in the Application, and in the Secretary’s “Grant of Easement for Rights-of-Way.”

“ROW Premises” means any and all Navajo Nation Lands to which both this Agreement and the Application pertain, and upon which the ROW shall be located, or which the ROW shall burden or occupy upon final issuance of the ROW Grant by the Secretary.

“Assign” or “Assignment” means the act of transferring, subleasing, selling, or otherwise conveying any type of legal property or interest, whether or not for any consideration, and includes a partial or total sale, buyout, takeover, merger, or any other kind of transfer of all or a portion of the shares of stock of Questar.

“Affiliate” means any entity effectively controlled by Questar Corporation, such as a branch, division, or subsidiary, in which Questar Corporation owns a majority of the voting stock, including Questar Corporation itself or any other parent corporation of Questar.

“Effective Date” is the date of execution of this Agreement by the Navajo Nation.

2. COVENANT TO CONSENT AND APPROVAL.

The Navajo Nation agrees and covenants to contemporaneously consent to a ROW Grant to enter upon, cross over, develop, use, and occupy the ROW Premises, as reasonably necessary for the limited purposes described in paragraphs 5 and 6 herein. It is understood and agreed that the Navajo Nation’s consent provided for in this Agreement applies only to Navajo Nation Lands as defined in paragraph 1 herein, and does not apply to any lands held in trust by the United States for the benefit of individual members of the Navajo Nation, nor to Navajo Nation-owned fee lands.

3. FURTHER ASSURANCES.

The Navajo Nation hereby agrees and covenants to take such further actions and execute such additional documents as may reasonably be necessary or convenient to fully implement and carry out the intent and purpose of this Agreement, including the execution of a concurrence or consent clause contained in the ROW Grant.

4. NATURE OF ROW INTEREST.

By execution of this Agreement, and by acceptance of the ROW Grant, Questar shall obtain rights to Navajo Nation Lands in the nature of an easement only; i.e., a right to pass over, occupy, and reasonably use and occupy the ROW Premises for the particular purposes described herein, with limited rights of ingress and egress via those particular access roads described in

Exhibits NN-1 and NN-2 that are in existence and useable at the time of execution of this Agreement. Such easement shall be a limited term usufructuary interest consistent with all general property rights flowing from beneficial ownership of Navajo Nation Lands, with no subsurface rights to any minerals or other natural resources located on or within the ROW Premises. This Agreement and/or the ROW Grant, under no circumstances or rule of law, shall be interpreted as granting a fee simple interest or creating any greater property right possessed by Questar other than the limited easement described herein.

5. LIMITED USE.

The use of the ROW Premises shall be strictly limited to the transportation of natural gas via a single pipeline system, and to the operation, use, construction, repair, replacement, maintenance, inspection, and survey of existing and future natural gas pipelines, compressor stations, microwave stations, and related facilities as described in Exhibits NN-1 and NN-2. It is understood that Exhibits NN-1 and NN-2 consist of design drawings at the time of execution of this Agreement and will later be replaced with as-built drawings and/or photographs of the pipelines and related facilities when they become available. Any other use of the ROW Premises, including but not limited to, the transportation via pipeline of any product or material other than natural gas, shall require the express written consent of the Navajo Nation, and may require additional consideration. The consent of the Navajo Nation may be given, given upon conditions, or denied in the sole discretion of the Navajo Nation.

6. LIMITED OPTION.

A. 20-inch line only.

At its sole discretion, Questar shall have the option to construct and install a single 20-inch diameter pipeline within the ROW Premises next to and along its existing 12-inch diameter pipeline running northwest from Bisti, New Mexico to its Red Mesa compressor station in Utah. Additional consideration to the Navajo Nation shall not be required if Questar should exercise this limited option as provided in paragraphs 6B and 6C. However, any other additional construction or installation of any other pipelines or facilities, or other system expansion of any kind, except as specifically designated in Exhibits NN-1 and NN-2, shall require the prior express written consent of the Navajo Nation, and may require additional consideration. The consent of the Navajo Nation may be given, given upon conditions, or denied in the sole discretion of the Navajo Nation.

B. Expiration of option and governing provisions.

This option shall expire ten (10) years from the Effective Date. Further, Questar hereby acknowledges, accepts, and agrees that, in the event Questar exercises this option, the 20-inch diameter pipeline and all of Questar's related activities occurring within or conducted upon the ROW Premises and/or Navajo Indian Country, shall be governed by all provisions of this Agreement in its entirety and by the ROW Grant, including all termination and expiration

provisions, to the same extent as all other pipelines and facilities covered by this Agreement and the ROW Grant.

C. Non-use of 12-inch line.

If Questar should exercise this option, the 12-inch pipeline shall be shut down and capped on or before 180 days following the commencement of operation of the 20-inch diameter pipeline, and the 12-inch diameter pipeline running northwest from Bisti, New Mexico to its Red Mesa compressor station in Utah shall forever thereafter remain unused. If Questar wishes to operate both lines at any time after said 180-day period, separate written consent to do so from the Navajo Nation and/or the Secretary shall be required. Formal abandonment of the 12-inch line shall be performed in accordance with applicable federal laws and regulations and Navajo Nation laws and regulations. Upon said abandonment and certification by the NNEPA pursuant to paragraph 14C herein, Questar shall no longer have ownership or liability for the 12-inch line.

7. NAVAJO NATION RIGHTS TO ROW PREMISES.

A. Inspection.

The Navajo Nation and the Secretary shall have the right, at any reasonable time during the term of this Agreement, to enter upon the ROW Premises, or any part thereof, to inspect the same and any improvements erected or placed thereon, for purposes of determining compliance with applicable Navajo Nation and federal laws and regulations, and/or any provisions of this Agreement.

B. Other uses.

The Navajo Nation shall be under no obligation to forego the use of the ROW Premises or any portion or lands burdened by the ROW Premises, or to refrain from authorizing any use of said lands by any third party, including but not limited to, the exploration for and development of coal, oil, gas, or other natural resources located within or beneath said lands, except as such use physically interferes with the purposes of the ROW Grant.

C. Use by third party.

Upon the Navajo Nation's proposed authorization of use of the ROW Premises by any third party, which new use may occupy the ROW Premises or otherwise burden the ROW or in any way endanger the operation of Questar's pipelines or other facilities situated upon the ROW Premises, the Navajo Nation agrees to notify Questar and commence good faith consultation with Questar prior to the Navajo Nation's final approval of said third party use. Additionally, the Navajo Nation shall require the third party to enter into an agreement with Questar to indemnify, defend, and hold harmless Questar from any and all liability arising from the third party's activities within the ROW Premises.

8. QUESTAR RIGHT OF CANCELLATION.

Questar may cancel this Agreement at any time within one year of the Effective Date upon prior written notice to the Navajo Nation and, except as provided for in paragraph 10B herein, shall have no further obligations to the Navajo Nation pursuant to this Agreement, including but not limited to obligations for future payments and/or any liabilities.

9. CONSIDERATION.

For the entire 20-year term of the ROW, Questar shall pay the Navajo Nation consideration in the amount of \$33,180,800.00 (thirty-three million, one-hundred-eighty thousand, eight-hundred dollars) for the use and enjoyment of the ROW Premises. This consideration shall be made in a series of twenty (20) separate payments for each year, with all payments except the first adjusted by the provisions of paragraph 10C(1) below.

10. METHOD OF PAYMENT.

A. Annual payment amount.

Questar shall pay to the Navajo Nation, annually in advance for each year of the term of the ROW, a payment in the amount of \$1,659,040.00 (one-million, six-hundred-fifty-nine thousand, forty dollars) as provided for in paragraphs 10B and 10C(1) herein.

B. First annual payment.

Within ten (10) days of the Effective Date, Questar shall deposit the first annual payment of \$1,659,040.00 into an escrow account at Wells Fargo Bank, N.A., Window Rock, Navajo Nation (Arizona) Branch. Upon issuance of the ROW Grant, the principal amount deposited plus any accrued interest thereon shall be released to the Navajo Nation. If the ROW Grant is not issued on or before one-hundred-twenty (120) calendar days following the Effective Date for any reason whatsoever, other than a claim of force majeure, Questar shall have the option of either (1) on or before ten (10) days following the expiration of the 120-day period or following the date of notification that the ROW Grant will not be issued, whichever is the case, withdrawing the Application and paying all accrued interest in the escrow account to the Navajo Nation while retaining the principal amount deposited; or, (2) on or before ten (10) days following the expiration of the 120-day period or following the date of notification that the ROW Grant will not be issued, whichever is the case, paying to the Navajo Nation the entire amount in the escrow account, interest and principal. In the event that Questar exercises option (2) described above, the Navajo Nation's covenant to consent to the ROW Grant, as detailed in this Agreement, shall remain effective an additional two-hundred forty-five calendar days thereafter.

In the event that Questar chooses not to pursue the ROW Grant at any time within the 120-day period, solely due to a claim of force majeure, Questar hereby agrees to immediately notify the Navajo Nation and the Secretary in writing of such determination and to immediately withdraw the Application, whereupon all accrued interest amounts in the escrow account shall be

paid to the Navajo Nation within ten (10) days of said written notification, and the principal shall be released to Questar.

In the event that Questar chooses not to pursue the ROW Grant at any time on or before one-hundred twenty (120) calendar days following the Effective Date for any reason whatsoever, other than a claim of force majeure and withdraws the Application, the Navajo Nation shall be entitled to the entire amount in the escrow account, including accrued interest. Nothing in this paragraph is intended to alter Questar's rights as provided for in the first paragraph of subparagraph 10B. The Navajo Nation agrees that it will not rescind its consent to the ROW Grant during the 120-day period, as provided for in paragraph 10-B, while Questar is waiting for final approval of the ROW Grant from the Secretary.

C. Subsequent payments/adjustments.

(1) Consumer Price Index.

Beginning with the second annual payment, each of the annual payments provided for in paragraph 10A shall be adjusted annually using the December 2000 Consumer Price Index (CPI), of 174.0, as the base for the adjustments. The U.S. Department of Labor, Bureau of Labor Statistics, CPI, All Urban Consumers U.S. City Average, shall be used to calculate the adjustments with the following formula:

$$\begin{array}{rcl} \text{ANNUAL} & & \text{CPI FOR THE MONTH IMMEDIATELY PRIOR TO} \\ \text{PAYMENT} & \times & \text{THE MONTH IN WHICH THE PAYMENT IS MADE} \\ & & \text{CPI FOR DECEMBER, 2000 (174.0)} \end{array}$$

In the event that the CPI is discontinued or terminated for any reason, a comparable adjustment calculation method shall be used.

(2) Due dates.

Beginning with the second annual payment, each of the annual payments shall be due on or before the anniversary of the Effective Date of the Agreement.

D. Option for lump-sum payment.

At any time during the term of the ROW Grant, Questar shall have the option of paying to the Navajo Nation a lump-sum payment, in the dollar value of the year in which such lump-sum payment is made, in the amount necessary to satisfy and retire any consideration due for the remaining years of the ROW Grant. At the time of such lump-sum payment, the balance owed to the Navajo Nation shall be calculated using the annual consideration amount provided for in paragraph 10A, as adjusted by the provisions of paragraph 10C(1), multiplied by the number of annual payments still unpaid for the remaining term of the ROW Grant.

11. NAVAJO-HOPI DISPUTED LANDS.

A. Adjustment for land status change.

The calculation for the amount of consideration paid to the Navajo Nation pursuant to paragraphs 9 and 10 above shall be adjusted as necessary upon the issuance of a final and unappealable ruling from a court of competent jurisdiction which alters the amount of Navajo Nation Lands upon which the ROW is situated, so that all subsequent payments provided for in paragraph 10C will accurately reflect the actual amount of Navajo Nation Lands occupied by the ROW. The remaining subsequent payments shall be calculated as follows:

adjusted number of rods divided by the original number of rods,
multiplied by the annual payment provided for in paragraph 10A,
as adjusted for CPI pursuant to in paragraph 10C(1).

B. Prospective adjustment only.

Any adjustment in annual payments that becomes necessary after said final ruling shall be applied only to prospective payments not yet paid to the Navajo Nation as of the date said final ruling. The Navajo Nation shall be under no obligation to retroactively account for any diminishment of Navajo Nation Lands by refunding all or any portion of payments already received by the Navajo Nation, likewise, Questar shall be under no obligation to retroactively account for any increase of Navajo Nation Lands by supplementing all or any portion of payments already paid to the Navajo Nation.

12. SCHOLARSHIP PAYMENTS.

Questar shall pay to the Navajo Nation Scholarship Program the sum of \$50,000.00 (fifty-thousand dollars) annually for each year of the term of the ROW Grant and this Agreement. The first payment shall be due within ten (10) days of the final issuance of the ROW Grant. Beginning with the second annual scholarship payment, and so long as the ROW Grant remains in effect and Questar continues to transport natural gas within the ROW Premises, each payment shall be due on or before the anniversary of the Effective Date.

13. TAPS.

Questar shall construct, install and maintain at its own expense, for so long as the ROW Grant remains in effect and Questar continues to transport natural gas within the ROW Premises, up to six natural gas taps along its pipelines at different locations to be designated within the ROW Premises by the Executive Director of the Division of Natural Resources of the Navajo Nation, or his/her successor officer or designee. With regard to these taps, the location, construction, conditions of transportation service, the volume of natural gas to be transported, and charges therefor, shall be subject to applicable FERC tariff regulations and shall be governed by a separate agreement negotiated in good faith between Questar and the Navajo Tribal Utility Authority ("NTUA"). Within ninety (90) days following the designation of tap sites, Questar

shall prepare, submit, and support any required application for authorization from the FERC to transport natural gas for residential use on lands within Navajo Indian Country, for a time period coextensive with the ROW Grant.

14. OWNERSHIP OF FACILITIES.

A. Ownership.

Notwithstanding the termination of this Agreement pursuant to paragraph 21 herein, all pipelines, equipment, compressor stations, towers or other structures, related facilities, real and personal property, and any other improvements located or installed upon the ROW Premises, shall remain the property and responsibility of Questar for so long as the ROW Grant remains in effect, and shall remain the property and legal responsibility of Questar unless and until Questar obtains final certification by the Navajo Nation Environmental Protection Agency ("NNEPA") pursuant to paragraph 14C below.

B. Pre-abandonment requirements.

Upon expiration of the ROW Grant at the end of its 20-year term, upon cancellation or termination of the ROW Grant by the Secretary, upon cancellation of this Agreement by Questar pursuant to paragraph 8 herein, abandonment of all pipelines, equipment, compressor stations, towers or other structures, related facilities, real and personal property, and any other improvements located or installed upon the ROW Premises shall be performed by Questar in accordance with applicable federal and Navajo Nation laws and regulations pertaining to abandonment of natural gas pipelines and appurtenant above-ground facilities. In addition, Questar shall also remove all natural gas from the entire length of the pipeline and all above-ground facilities within Navajo Indian Country and ensure that six-foot-high fencing with highly visible identification/warning signs posted on such fencing around all above-ground facilities and structures remain intact and in good repair prior to abandonment.

C. Final certification/transfer of responsibility.

Questar shall have ninety (90) days from the date of expiration of the ROW Grant at the end of its 20-year term, upon cancellation or termination of the ROW Grant by the Secretary, upon cancellation of this Agreement by Questar pursuant to paragraph 8 herein, to obtain final certification from the Executive Director of the NNEPA before abandonment is permitted. Said certification shall result from a determination that all appropriate pre-abandonment actions have been satisfactorily completed and Questar's pipelines and all above-ground structures and facilities do not pose a safety hazard to humans or livestock, or do not pose an attractive nuisance within the area. Upon final certification, Questar shall no longer have ownership or liability for any pipelines or facilities situated within the ROW Premises.

15. MAINTENANCE, RECLAMATION AND SAFETY.

A. Minimum depth and markings.

Questar shall maintain, construct and install where applicable, all of its pipelines at a depth consistent with the minimum required depth provided for by applicable federal laws and regulations and to place surface markings and signs over its pipelines as provided for by applicable federal laws and regulations.

B. Land Clearance.

The ROW Premises and all lands burdened thereby shall be kept clear to the extent compatible with the purpose(s) of the ROW Grant, and all vegetation and any other materials cut, uprooted, or otherwise accumulated during Questar's activities under this Agreement or the ROW Grant shall be promptly disposed of in a safe manner, or used in an environmentally compatible manner, according to applicable Navajo Nation and/or federal laws and regulations.

C. Bonding and reclamation.

Prior to any initial surface disturbances authorized by this Agreement, Questar shall post a reclamation bond in the amount of \$1,000,000.00 (one-million dollars) with the Navajo Nation for Questar's disturbance activities relating to the existing 12-inch diameter and 16-inch diameter lines, and for construction and repair of the proposed new 20-inch line. Further, Questar shall consult with the NNEPA to secure approval for a restoration and revegetation plan. Upon completion of any construction, repair, maintenance, or other activities undertaken pursuant to the authorizations contained in this Agreement or the ROW Grant, all lands disturbed shall be reclaimed according to said plan and Questar shall comply with all provisions of the plan. The disturbed lands shall be restored as completely and promptly as is reasonably possible to their original condition, consistent with the purposes of the ROW. Questar shall notify the Executive Director of the NNEPA immediately upon completion of the surface disturbance activities so that a site inspection can be performed by the NNEPA or other appropriate Navajo Nation departments.

D. Property and Improvements.

Questar agrees, at all times during the term of the ROW, at Questar's sole expense, to construct and maintain the ROW Premises and any pipelines, related facilities or structures, and equipment or improvements of any kind situated thereon, in a safe and workmanlike manner, and to make all necessary and reasonable repairs as soon as reasonably possible to ensure the safety of such improvements, the ROW Premises and all lands burdened thereby and the surrounding area.

E. Roads and trails.

Questar agrees to reconstruct or repair any roads, fences, and trails as may be destroyed or damaged by Questar's activities under this Agreement or the ROW Grant, and to build and maintain, for so long as the ROW Grant remains in effect, any necessary, safe, and suitable vehicle, pedestrian, and livestock crossings (including cattleguards) for all existing roads and trails intersecting its facilities and all roads and trails newly constructed by Questar that intersect its facilities.

F. Erosion.

Questar agrees that where soil deterioration or erosion is caused by its activities under this Agreement or the ROW Grant, it will promptly take all necessary action as shall be required by applicable federal or Navajo Nation laws or regulations to correct, repair, and mitigate hazards of such deterioration and/or erosion.

G. Compliance with FERC certificate requirements.

Questar agrees to comply with all provisions recommended by the NNEPA as set forth in the appendix of the FERC certificate, Docket Numbers CP-163-001, CP 99-165-001, and CP 99-166-001, issued on July 28, 2000, as may be amended by FERC.

16. INDEMNIFICATION.

Questar shall indemnify and hold harmless the Navajo Nation and its authorized agents, employees, landusers and occupants, against any liability or claims for loss of life, personal injury and/or property damage, including but not limited to damage to or loss of property of Questar, which arises directly or indirectly from Questar's development, disturbance, use, enjoyment, or occupancy of all lands within Navajo Indian Country. In no event shall Questar be liable for acts of third parties or acts of the Navajo Nation and/or its authorized agents, employees, landusers and occupants, so long as all of Questar's underground facilities situated within Navajo Indian Country are marked with appropriate signage in accordance with applicable federal laws and regulations.

17. SURFACE AND OTHER DAMAGES.

Questar shall be responsible for and shall promptly pay all surface damages to appropriate landusers, occupants, lessees, permittees, or other right-of-way grantees in the event that Questar's activities pursuant to this Agreement or the ROW Grant involve the disturbance of any lands or surface interests. Questar shall also be responsible for and shall promptly pay to the appropriate landusers, occupants, lessees, permittees, or other right-of-way grantees any and all actual damages sustained as a result of the destruction, diminishment, or impairment of lands, improvements, or other property, that are proximately caused by Questar's activities under this Agreement and/or the ROW Grant. In the event that the amount of actual damages cannot be

agreed upon by Questar, the amount of damages shall be determined according to 16 N.N.C. § 1401 D.

18. ASSIGNMENT RESTRICTED.

A. Consent required.

Except as provided in paragraph 18B, Questar shall not Assign any rights or interest in this Agreement, to the ROW Grant, or any rights to any of the real property improvements affixed on or to the ROW Premises as of the date of termination or expiration of this Agreement or the ROW Grant, without the prior written consent of the Navajo Nation. Any such attempted Assignment 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 its sole discretion.

B. Affiliates.

Notwithstanding paragraph 18A, the Navajo Nation covenants to give its future consent for any Assignment by Questar to an Affiliate of Questar, and such Assignment shall not require payment of any additional consideration, *provided* that Questar notify the Navajo Nation of any Assignment(s) to its Affiliate(s) no later than thirty (30) days prior to the effective date of such Assignment(s). Before granting its consent, the Navajo Nation reserves its right to conduct reasonable inquiry to confirm the relationship between Questar and its Affiliate(s), and Questar hereby agrees to cooperate with such inquiry by providing to the Navajo Nation all necessary documents and other reasonably required information.

C. Other entities.

Assignment to any entity other than an Affiliate of Questar shall require the separate written consent of the Navajo Nation, which shall not be unreasonably withheld. Questar shall be responsible for any administrative and/or processing fees, and/or separate consideration required at the time of such Assignment.

19. NO ENCUMBRANCE.

Questar shall not pledge, mortgage, or otherwise encumber the ROW, the ROW Grant, this Agreement, or any interest therein, including any of its personal property situated within the ROW whether or not affixed to the ROW Premises, in order to secure loans or otherwise finance its business and operations or those of its subsidiaries, affiliates, or other related persons or entities.

20. ADDITION TO THE GRANT.

At the written request of Questar, the Navajo Nation and Questar will enter into good faith negotiations for a separate agreement effecting the Navajo Nation's covenant for contemporaneous consent to a new right-of-way grant that will circumvent the Hopi Reservation.

The parties hereby agree, accept, and acknowledge that the consideration for the Nation's additional consent for said new right-of-way grant shall be in the same amount, on a per rod basis, as the payment provided for in paragraph 10A, and that the new right-of-way grant, if any, shall be governed by the same terms, conditions, and covenants contained in this Agreement.

21. TERMINATION.

A. Decision by Navajo Nation.

Pursuant to 2 N.N.C. § 695, the Resources Committee of the Navajo Nation may, by duly adopted resolution, issue a preliminary non-binding decision to terminate this Agreement for any material violation(s) of, or noncompliance with, any of the terms, conditions, and covenants provided for herein. Within 10 (ten) days of such decision by the Resources Committee, the Director of the Navajo Nation Division of Natural Resources shall notify Questar of the preliminary termination.

B. Opportunity to cure.

Questar shall have ninety (90) days following the date of its receipt of notification of preliminary termination to cure or otherwise resolve the alleged violation(s) or noncompliance. If within this 90-day period, the alleged violation(s) or noncompliance is not cured or otherwise resolved, the Director of the Navajo Nation Division of Natural Resources may thereafter issue a formal "Notice of Termination" to Questar indicating the effective date of the termination. The "Notice of Termination" shall constitute final termination of this Agreement and shall be appealable according to the provisions of 1 N.N.C. § 554G.

C. Continued payments.

Notwithstanding the final termination of this Agreement by the Navajo Nation as described in paragraphs 21A and 21B, so long as the ROW Grant remains in effect and Questar continues to transport natural gas across the ROW Premises, Questar shall continue to pay all payments as provided for in paragraphs 9, 10, 11 and 12.

D. Petition for cancellation of ROW Grant.

Upon termination of this Agreement pursuant to paragraph 21B, the Navajo Nation may, in its discretion, immediately petition the Secretary for cancellation or revocation of the ROW Grant.

E. Judicial action.

At any time following termination pursuant to paragraph 21B, and notwithstanding such termination, the Navajo Nation may commence action(s) in the appropriate administrative or judicial tribunal(s) against Questar for any act or omission that allegedly constitutes a material breach of any of the terms, conditions, or covenants contained in this Agreement. Further, said

action(s) may be commenced notwithstanding any rights under the ROW Grant that Questar may retain after such termination. Except as expressly prohibited by applicable federal law, monetary damages, injunctive relief, and/or specific performance of the terms, conditions, or covenants contained in this Agreement shall be the remedies available in such action.

F. Subsequent obligations.

In the event that the ROW Grant is lawfully terminated, cancelled, or revoked by the Secretary at any time during the term of the ROW Grant, all obligations under this Agreement and/or the ROW Grant for payments to the Navajo Nation by Questar will cease.

22. PROCEDURE UPON EXPIRATION.

A. Renewal.

At the written request of Questar, on or before one calendar year before the expiration date of the ROW Grant, the Parties shall commence good faith negotiations for extension of the terms of this Agreement and renewal of the ROW Grant.

B. Delivery of ROW.

Upon expiration of this Agreement, or upon cancellation or revocation of the ROW Grant by the Secretary, Questar shall have ninety (90) days to peaceably and without legal process deliver the possession of the ROW Premises, in good condition, usual wear and tear excepted. The delivery by Questar of the ROW Premises shall include delivery of any pipelines, compressor stations, microwave stations, and related facilities as described in Exhibits NN-1 and NN-2 that are affixed to the real property within the ROW Premises. Upon the written request of the Navajo Nation, Questar shall provide the Navajo Nation, at Questar's sole cost and expense, with an environmental audit assessment of the ROW Premises at least thirty (30) days prior to delivery of the ROW Premises. If delivery cannot be performed on or before such 90-day period, the Parties shall commence good faith negotiations for compensation, fees, or damages to be paid to the Navajo Nation for prospective periods of occupation, use, or burden of the ROW Premises.

C. Holding over.

Holding over by Questar after the expiration of the ROW, or after cancellation or revocation of the ROW Grant by the Secretary, shall not constitute a renewal or extension thereof, or give Questar any rights in or to the ROW Premises. Holding over after termination of this Agreement pursuant to paragraph 21B shall not give Questar any rights via this Agreement in or to the ROW Premises.

23. ENFORCEMENT/RULE OF LAW.

The Parties accept and agree that this Agreement shall be enforced under applicable legal rules, principles, and doctrines of the law of property and the law of contracts.

24. AGREEMENT TO ABIDE BY LAWS.

In all activities concerning the subject matter of this Agreement, the ROW, and/or the ROW Grant, that are conducted or caused to occur by Questar within the ROW Premises and/or within Navajo Indian Country, Questar shall abide by all applicable laws and regulations of the Navajo Nation and of the United States, now in force and effect or as may come into force and effect, including but not limited to the following:

- (a) 25 C.F.R. § 169 *et seq.*;
- (b) applicable antiquities laws and regulations, with the following additional condition: in the event of a discovery, all activities and operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be immediately notified. As used in this paragraph, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archeological deposits, human remains, or any location reportedly associated with Native American religious and/or traditional beliefs or practices;
- (c) the Navajo Preference in Employment Act, 15 N.N.C. §§ 601 *et seq.*, and the Navajo Nation Business Preference Law, 5 N.N.C. §§ 201 *et seq.*;
- (d) the Navajo Nation Water Code, 22 N.N.C. §§ 1101 *et seq.*;
- (e) the Navajo Business and Procurement Act, 12 N.N.C. §§ 1501 *et seq.*;
- (f) all Navajo Nation taxes, 24 N.N.C. §§ 101 *et seq.*, and accompanying regulations.

25. AUTHORITY OF NAVAJO NATION NOT IMPAIRED.

The Parties hereby expressly accept, agree, and acknowledge that the execution and approval of this Agreement by the Navajo Nation does not diminish to any extent or in any manner whatsoever, the Navajo Nation's jurisdiction over the ROW Premises; the power and authority of the Navajo Nation to tax the ROW Premises or any real or personal property, or tangible or intangible property, within or situated upon the ROW Premises, or any transaction or activity occurring on the ROW Premises, or the Navajo Nation's authority to apply and enforce laws and regulations of general and particular application within the ROW Premises and Navajo Indian Country, as if there were no ROW Grant, provided only that the retention and/or exercise of such powers and authority shall not prevent the use and occupation of the ROW Premises as provided in the ROW Grant.

Further, the Parties hereby expressly accept, agree, and acknowledge that Questar, by execution of this Agreement and acceptance of the ROW Grant, enters into an express consensual relationship with the Navajo Nation. In the event that either the Navajo Nation's Business Activity Tax or the Navajo Nation's Possessory Interest Tax is rendered partially or wholly unlawful by a federal court of competent jurisdiction or by any federal act, statute, ruling,

or Executive Order, Questar nevertheless hereby expressly agrees and consents to the assessment and payment of these taxes pursuant to the Navajo Uniform Tax Administration Statute and accompanying regulations, as well as to any subsequent adjustments or amendments to these taxes, as if they were lawful, so long as such adjustments or amendments are similar to adjustments or amendments that a state government would make to its comparable taxes and so long as such taxes or adjustments or amendments to such taxes are the same as those applicable to similarly situated pipelines located outside of Navajo Indian Country. However, if the Navajo Nation enacts any taxes other than the Business Activity Tax or the Possessory Interest Tax, Questar retains the right to challenge such taxes on the same grounds that Questar could raise against a substantially similar challenge against a state of the United States.

26. LAW GOVERNING AGREEMENT.

Laws and regulations governing this Agreement and the ROW Grant shall be Navajo Nation laws and regulations to the extent said laws and regulations are not inconsistent with applicable federal laws and regulations, as such inconsistency is determined by the appropriate judicial or administrative tribunals of the Navajo Nation.

27. FORUM SELECTION.

Questar shall have the right, in connection with or arising out of any of the provisions of this Agreement, to bring an action against the Navajo Nation, provided that the forum for such action shall be limited in the first instance to the administrative and/or judicial bodies of the Navajo Nation and, when the proceedings in such forums are exhausted, then, in the U.S. District Court and appropriate federal appellate courts. Questar shall have no right to bring an action against the Navajo Nation in any other forum.

28. LIMITED CHALLENGES.

By execution of this Agreement, Questar covenants and agrees, for the duration of this Agreement and the ROW Grant, not 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 Indian tribal government, 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 that would not be available to Questar in a similar challenge to the jurisdiction of any state government of the United States.

29. SOVEREIGN IMMUNITY.

Nothing contained in this Agreement shall be construed to affect or be deemed a waiver of the sovereign immunity from suit of the Navajo Nation except in actions brought by Questar

pursuant to paragraph 27 of this Agreement. The Navajo Nation's sovereign immunity from suit shall only be avoided via compliance with the provisions of the Navajo Sovereign Immunity Act, 1 N.N.C. §§ 551 et seq., or other express written action taken by duly adopted resolution of the Navajo Nation Council.

30. TERM OF THIS AGREEMENT.

This Agreement shall be in full force and effect as of its Effective Date for 20 years. This Agreement shall expire on its own terms as of the expiration date of the ROW Grant; i.e., the expiration date of this Agreement shall be coterminous with the expiration date of the ROW Grant. However, the date of termination of this Agreement, if any, resulting pursuant to paragraph 21B may or may not be identical to the expiration, cancellation, or termination date of the ROW Grant, and any continuation of the ROW Grant shall not affect the implementation, occurrence, or date of termination of this Agreement by the Navajo Nation pursuant to paragraph 21. Navajo Nation agrees not to remove Questar or initiate trespass action against Questar for the period of time from the effective date of this Agreement up to the date of the Secretary's issuance of the ROW Grant.

31. FEDERAL RESPONSIBILITIES.

Nothing contained in this Agreement shall be construed to negate or impair federal responsibilities with respect to the ROW Premises, any Navajo Nation Lands burdened thereby, or to the Navajo Nation itself.

32. AGENTS/SUCCESSORS.

The terms, conditions, and covenants contained in this Agreement shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of Questar, and the term "Questar" whenever used herein shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees, agents, contractors and subcontractors.

33. NOTICES AND DEMANDS.

Except as otherwise provided, any notices, demands, requests or other communications to or upon either Party or the Secretary as provided for in this Agreement, or given or made in connection with it, (referred to as "notices") shall be in writing and addressed as follows:

To or upon the Navajo Nation:

President
The Navajo Nation
Office of the President/Vice-President
P.O. Box 9000
Window Rock, Navajo Nation (Arizona) 86515
Fax: 1-928-871-4025

and

Attorney General
The Navajo Nation
Navajo Nation Department of Justice
P.O. Box 2010
Window Rock, Navajo Nation (Arizona) 86515
Fax: 1-928-871-6177

To or upon Questar:

Vice-President
Questar Southern Trails Pipeline Company
180 East, 100 South
P.O. Box 45360
Salt Lake City, Utah, 84145-00360

34. **FORCE MAJEURE.**

If as a result of force majeure, either Party is wholly or partially unable to satisfy or perform its obligations under this Agreement or the ROW Grant, the Party claiming force majeure shall notify the other as soon as reasonably possible following the force majeure event, giving reasonable detail regarding the circumstances of the event and the anticipated effect on the Party's ability to perform. As soon as reasonably possible thereafter, and to the extent reasonably possible, the Party claiming force majeure shall attempt to rectify or mitigate the conditions or causes of the force majeure event. If the Party claiming force majeure cannot, in good faith, substantially perform its obligations under this Agreement or the ROW Grant even after taking rectifying and/or mitigating measures, such Party shall notify the other of its inability to perform, and the Parties shall, as soon as reasonably possible, commence good faith negotiations for a modification of this Agreement and the ROW Grant in order to place the Parties in a substantially same or similar legal and/or economic position which existed prior to the force majeure occurrence.

The term "force majeure" as used herein means acts of God, strikes, walkouts or other industrial disturbances, acts of public enemy, wars, blockades, public riots, lightening, fires, storms, adverse weather, extended periods of cold weather, floods, explosions, breakage or accident to machinery, lines, pipes or materials, inability to obtain a right-of-way, inability to obtain materials, or other causes, whether enumerated or otherwise which are not reasonably within the control of the Party affected thereby. The term force majeure does not include the inability of Questar to acquire a right-of-way grant across the Hopi Indian reservation.

35. **SEVERABILITY.**

If any provision of this Agreement is determined by a final and unappealable judgment from a judicial or administrative tribunal of competent jurisdiction to be invalid, illegal, or incapable of being enforced under any rule of law, all other conditions and provisions of this Agreement shall remain in full force and effect so long as the economic or legal substance of the activities which are the subject of this Agreement are not affected in a materially adverse manner with respect to either of the Parties. If either Party is so materially and adversely affected, both

Parties shall, within sixty (60) days after the final judgment has been issued, commence good faith negotiations to amend this Agreement so as to place such affected Party in the same or substantially similar position prior to such determination of invalidity, illegality, or unenforceability

36. ENTIRE AGREEMENT/AMENDMENT.

This Agreement has been reached as a result of an arms' length negotiation between the Parties. It supersedes all prior oral negotiations, agreements, or representations between the Parties, is intended as a complete and exclusive statement of the negotiated agreement between the Parties with respect to the subject matter contained herein. Further, it shall not be amended or altered in any manner except by written agreement validly executed by both Parties.

37. WAIVER.

No term, condition, or covenant contained in this Agreement may be waived or released in any manner by either Party without the express intention to do so contained in a written document validly executed by the waiving Party.

38. HEADINGS.

The headings contained in this Agreement are for ease of reference only and shall not affect in any way the meaning, construction, or interpretation of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the most recent date indicated below.

THE NAVAJO NATION

By: Kelsey A. Begaye Date: 10-3-01
Kelsey A. Begaye, President

QUESTAR SOUTHERN TRAILS PIPELINE COMPANY

By: D.N. Rose Date: 10-3-01
D.N. Rose, President/CEO

Exhibit NN-1
Summary Sheet 1 of 2

This exhibit includes existing pipelines and appurtenant facilities which, as of the date of execution of this agreement are situated upon Navajo Nation lands.

Line 90: a 16-inch diameter pipeline occupying the center of a 50-foot wide pipeline right-of-way described in the following documents:

<i>Drawing Number</i>	<i>Navajo Trust feet</i>	<i>Allotment Land feet</i>	<i>Hopi Land feet</i>	<i>Private Land feet</i>	<i>Total feet</i>
B-4362 Sheet 109	38,479.00			4,021.00	42,500.00
B-4362 Sheet 110	42,609.00				42,609.00
B-4362 Sheet 111	41,308.00				41,308.00
B-4362 Sheet 112	41,534.00			1,241.00	42,775.00
B-4362 Sheet 113	24,226.60		18,273.40		42,500.00
B-4362 Sheet 114	3,670.00		38,830.00		42,500.00
B-4362 Sheet 115	42,500.00				42,500.00
B-4362 Sheet 116	12,719.60		29,780.40		42,500.00
B-4362 Sheet 117	42,500.00				42,500.00
B-4362 Sheet 118	42,500.00				42,500.00
B-4362 Sheet 119	42,500.00				42,500.00
B-4362 Sheet 120	42,500.00				42,500.00
B-4362 Sheet 121	42,555.00				42,555.00
B-4362 Sheet 122	42,842.00				42,842.00
B-4362 Sheet 123	41,500.00				41,500.00
B-4362 Sheet 124	45,000.00				45,000.00
B-4362 Sheet 125	43,170.00				43,170.00
B-4362 Sheet 126	39,497.50				39,497.50
B-4362 Sheet 127	42,000.00				42,000.00
B-4362 Sheet 128	43,829.00				43,829.00
B-4362 Sheet 129	42,136.40				42,136.40
Line 90 Total - feet	799,576.10	0.00	86,883.80	5,262.00	891,721.90

Line 92: a 12-inch or 22-inch diameter pipeline occupying the center of a 50-foot wide pipeline right-of-way described in the following documents.

<i>Drawing Number</i>	<i>Navajo Trust feet</i>	<i>Navajo Allotment feet</i>	<i>Abandon ROW feet</i>	<i>Private Land feet</i>	<i>Total feet</i>
B-4362 Sheet A	41,670.00				41,670.00
B-4362 Sheet B	43,000.00				43,000.00
B-4362 Sheet C	42,434.80				42,434.80
B-4362 Sheet D	43,750.00				43,750.00
B-4362 Sheet E	44,000.00				44,000.00
B-4362 Sheet F	44,000.00				44,000.00
B-4362 Sheet G	44,000.00				44,000.00
B-4362 Sheet H	22,380.00		19,620.00		42,000.00
B-4362 Sheet I	42,000.00				42,000.00
B-4362 Sheet J	40,839.00		1,161.00		42,000.00

Exhibit NN-1
Summary Sheet 2 of 2

Line 92: Continued

<i>Drawing Number</i>	<i>Navajo Trust feet</i>	<i>Navajo Allotment feet</i>	<i>Abandon ROW feet</i>	<i>Private Land feet</i>	<i>Total feet</i>
PP-A-541-1-4	6,860.00				6,860.00
PP-A-541-2-4	6,560.00				6,560.00
PP-A-541-3-4	1,424.33		1,890.29		3,314.62
<i>Line 92 Total - feet</i>	422,918.13	0.00	22,671.29	0.00	445,589.42

Facilities: The following documents describe the existing appurtenant facilities. All are situated upon Navajo Nation Trust Land. Total Facilities Acreage = 10.22 acres

- 1) Cameron Station - 4.4 acres as described on Drawing Number 14551
- 2) Tonalea Station - 1.99 acres as described on Drawing Number 14549
- 3) Red Mesa Microwave Site - 0.03 acres as described on Drawing Number 14550
- 4) Roof Butte Microwave/Radio Site - 0.52 acres as described on Drawing Number 14548
- 5) Pastora Peak Radio Site - 0.04 acres as described on Drawing Number 14552
- 6) Marsh Pass Microwave Site - 3.2 acres as described on FCPL Marsh Pass Microwave Tower Site Drawing
- 7) Cow Springs Microwave Site - 0.04 acres as described on Drawing Number 14554

Exhibit NN-2
Summary Sheet 1 of 1

This exhibit includes new federal rights-of-way and additional appurtenant facilities that will be situated upon Navajo Nation lands.

Blanco Extension: new 12-inch, 20-inch, and 22-inch diameter pipelines occupying the center of a 50-foot wide pipeline right-of-way described in the following documents:

<i>Drawing Number</i>	<i>Navajo Trust feet</i>	<i>Navajo Fee feet</i>	<i>Navajo Allotment feet</i>	<i>Private Land feet</i>	<i>Total feet</i>
14540 Sheet 1	29,947.28				29,947.28
43204 Sheet 2	40,192.10				40,192.10
43205 Sheet 3	29,879.22				29,879.22
43206 Sheet 4	12,692.81		19,467.56		32,160.37
43207 Sheet 5	25,947.48				25,947.48
43208 Sheet 6	4,872.42				4,872.42
43229 Sheet 1	2,677.21				2,677.21
<i>New ROW Total - feet</i>	146,208.52	0.00	19,467.56	0.00	165,676.08

Facilities: The following documents describe existing appurtenant facilities that will change in size. All are situated upon Navajo Nation Trust Land. Total Facilities Acreage = 11.41 acres

- 1) Red Mesa Station - 9.73 acres as described on Drawing Number 14547
- 2) Shiprock Station - 1.68 acres as described on Drawing Number 14553

RESOLUTION
OF THE MANAGEMENT BOARD
OF THE NAVAJO TRIBAL UTILITY AUTHORITY

Exhibit "B"



NTUA-48-17

Approving an Asset Purchase Agreement and a Transition Service Agreement
with Questar Southern Trails Pipeline Company and
Dominion Energy Parent Guarantee
with Limited Waiver of Sovereign Immunity

WHEREAS:

1. The Management Board of the Navajo Tribal Utility Authority ("NTUA" or "Authority") is delegated authority and responsibility for the management and operation of the Authority pursuant to 21 N.N.C. § 7(A)(1); and
2. The Management Board of NTUA has the power to contractually waive NTUA's sovereign immunity on a limited basis pursuant to 21 N.N.C. §7(b)(14); and
3. For a several years, NTUA has been negotiating with Questar Southern Trails Pipeline Company, a Utah corporation ("Questar") for the acquisition of a natural gas pipeline serving NTUA customers on the Northern portion of the Navajo Reservation known as Southern Trails Pipeline; and
4. NTUA and Questar have recently completed detailed negotiations and have prepared the "Asset Purchase Agreement" and "Transition Services Agreement" each is referred to herein as an "Agreement" and collectively as the "Agreements"; and
5. During the negotiations, Dominion Energy, Inc., a major east coast utility, acquired Questar Southern Trails Pipeline Co. and NTUA sought and received a guarantee from Dominion Energy of the obligations which Questar Southern Trails Pipeline Co. was responsible for in the Agreements; and
6. Also, during the negotiations of the Agreements, it is necessary for NTUA to waive its sovereign immunity on a limited basis in order to complete the transaction with Questar and NTUA management deems it in the best interest of NTUA that a limited waiver of sovereign immunity within the Agreements be approved by the Management Board; and
7. The Asset Purchase Agreement, the Transition Services Agreement and the Parent Guarantee have been fully explained in detail prior to consideration of this Resolution and copies of each proposed agreements are deposited with the minutes of this meeting.

NOW THEREFORE BE IT RESOLVED:

1. The Management Board of NTUA hereby approves the Asset Purchase Agreement, pursuant to which NTUA will acquire Southern Trails Pipeline system from the Blanco Hub interconnect facilities to the Grey Mountain block valve adjacent to the western border of the Navajo Nation, subject to non-substantive modifications to the draft as may be approved by the General Manager and legal counsel.

2. The Management Board of NTUA hereby approves the Transition Services Agreement pursuant to which Questar will provide assistance and support for NTUA assuming operational control of the Southern Trails Pipeline, subject to non-substantive modifications to the drafts may be approved by the General Manager and legal counsel.

3. The Management Board on NTUA hereby approves the separate Parent Guarantee Agreement with Dominion Energy, Inc., by which Dominion Energy will guarantee performance by Questar Southern Trails Pipeline Co. under the prior agreements.

4. The Management Board of NTUA hereby approves including a limited waiver of sovereign immunity within the Asset Purchase Agreement and Transition Service Agreement between NTUA and Questar.

5. The Management Board of NTUA hereby approves the General Manager of NTUA's notification to the Speaker of the Navajo Nation Council of the Management Board's intention to waive NTUA's sovereign immunity as it relates to the purposes contemplated under this Resolution.

6. The General Manager is hereby authorized and directed to execute and deliver the Asset Purchase Agreement, the Transition Services Agreement and the Parent Guarantee Agreement on behalf of NTUA.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Management Board of the Navajo Tribal Utility Authority at a duly called meeting in Fort Defiance, Arizona, at which a quorum was present and that the same was passed by a vote of 5 in favor, 0 opposed, and 0 abstaining this 20th day of October, 2017.


Arash N. Moalemi, Secretary

EXECUTIVE OFFICIAL REVIEWTitle of Document: ROW ASSIGNMENT OF QUESTAR TO NTUA Contact Name: ZAMAN, AKHTARProgram/Division: DIVISION OF NATURAL RESOURCESEmail: azaman@navajo-nsn.gov Phone Number: (928) 871-6588

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

		Sufficient		Insufficient	
<input type="checkbox"/>	Land Withdrawal or Relinquishment for Commercial Purposes				
1.	Division: _____ Date: _____	<input type="checkbox"/>		<input type="checkbox"/>	
2.	Office of the Attorney General: _____ Date: _____	<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>	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"/>	
<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"/>	
<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"/>	
<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"/>	
<input type="checkbox"/>	ROW (where there has been no delegation of authority to the Navajo Land Department to grant the Nation's consent to a ROW)				
1.	NLD _____ Date: _____	<input type="checkbox"/>		<input type="checkbox"/>	
2.	F&W _____ Date: _____	<input type="checkbox"/>		<input type="checkbox"/>	
3.	HPD _____ Date: _____	<input type="checkbox"/>		<input type="checkbox"/>	
4.	Minerals _____ Date: _____	<input type="checkbox"/>		<input type="checkbox"/>	
5.	NNEPA _____ Date: _____	<input type="checkbox"/>		<input type="checkbox"/>	
6.	DNR _____ Date: _____	<input type="checkbox"/>		<input type="checkbox"/>	
7.	DOJ _____ Date: _____	<input type="checkbox"/>		<input type="checkbox"/>	
8.	OPVP _____ Date: _____	<input type="checkbox"/>		<input type="checkbox"/>	
<input checked="" type="checkbox"/>	OTHER: ROW Assignment of Questar Southern Trails Pipeline Co. to NTUA				
1.	Minerals <u>See attached memo</u> Date: <u>9-24-18</u>	<input type="checkbox"/>		<input type="checkbox"/>	
2.	DNR <u>See attached memo</u> Date: <u>9-25-18</u>	<input type="checkbox"/>		<input type="checkbox"/>	
3.	DOJ <u>See attached memo</u> Date: <u>10/9/18</u>	<input type="checkbox"/>		<input type="checkbox"/>	
4.	OPVP <u>See attached memo</u> Date: <u>10/24/18</u>	<input type="checkbox"/>		<input type="checkbox"/>	
5.	DNR/Legislative _____ Date: _____	<input type="checkbox"/>		<input type="checkbox"/>	
6.	_____ Date: _____	<input type="checkbox"/>		<input type="checkbox"/>	



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



☐ RESUBMITTAL

DOJ	
9/26/18	448p
DATE / TIME	
<input type="checkbox"/> 7 Day Deadline	
DOC #:	011219
SAS #:	
UNIT:	NM

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

CLIENT TO COMPLETE

DATE OF REQUEST:	9/26/2018	DIVISION:	Natural Resources
CONTACT NAME:	Akhtar Zaman	DEPARTMENT:	Minerals Department
PHONE NUMBER:	928-871-6588	E-MAIL:	azaman@navajo-nsn.gov
TITLE OF DOCUMENT: ROW Assignment of Questar to NTUA, Doc No. 011219			

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT:	9/27/18 8:00 AM	REVIEWING ATTORNEY/ADVOCATE:	April Quinn 10/09/18
DATE TIME OUT OF UNIT:	10/9/18 9:20 AM		

DOJ ATTORNEY / ADVOCATE COMMENTS

legally sufficient. However, see enclosed DOJ memo.

REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
Quinn	10/8/18 2:08 PM	Blackhat	10/9/18 8:00 AM

DOJ Secretary Called: Charmaine Tom for Document Pick Up on 10/9/18 at 9:17 AM By: NM

PICKED UP BY: (Print) Charmayne Tom DATE / TIME: 10/24/18 @ 9:25 AM

NNDJ/DRRF-July 2013






NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

ETHEL B. BRANCH
ATTORNEY GENERAL

CHERIE ESPINOSA
ACTING DEPUTY ATTORNEY GENERAL

MEMORANDUM

TO: 164 Reviewers

FROM: 
April Quinn, Attorney
Natural Resources Unit, Department of Justice

DATE: October 8, 2018

SUBJECT: Document No. 011219 – Right-of-way (ROW) Assignment for Quester Pipeline to the Navajo Tribal Utility Authority (NTUA)

The Department of Justice (DOJ) has reviewed the above-referenced document and finds it to be legally sufficient. Please note that NTUA provided a copy of the asset purchase agreement between NTUA and Questar and requested that the Navajo Nation keep the agreement confidential. DOJ believes the agreement is a “protected record” under 2 N.N.C. § 85(A)(12). The agreement has not been included in the packet being sent through the review process, but a copy is being maintained by the Navajo Nation Minerals Department.

Although DOJ has deemed the assignment legally sufficient, we echo the concerns raised by Akhtar Zaman, Executive Director of the Minerals Department, in his September 24, 2018 memorandum regarding the draft resolution accompanying this assignment. DOJ deems the statement contained in Section Two, Subsection E of the resolution about NTUA’s renewal of the ROW in 2022 at “no extra cost” as merely a statement of NTUA’s intent to renew the ROW at some point in the future. This statement is found in the “Findings” section of the draft resolution, not the “Approval” section. Therefore, in DOJ’s opinion, the Resources and Development Committee (RDC) is not approving a renewal of this ROW at this time.

If NTUA is seeking to change the terms of this ROW in the future so that they will not be required to compensate the Nation for the ROW after 2021, they cannot simply do so by asking RDC to renew the ROW. Changing the terms will require a new ROW. Among other things, this is a requirement under BIA’s ROW regulations. *See* 25 C.F.R. § 169.202(c) (“If the proposed renewal involves any change to the original grant...the grantee must reapply for a new right-of-way, in accordance with § 169.101, and we will handle the application for renewal as an original application for a right-of-way.”). If NTUA wishes to change the compensation structure of this ROW, they must go through the proper process of negotiating new terms with the Navajo Nation and having the new ROW approved by RDC and BIA.

DOJ supports Mr. Zaman's recommendations contained in his memorandum. If his third recommendation, or something along those lines, is selected as the preferred approach, DOJ believes the new language will not be legally binding on RDC as a renewal of this ROW. Again, it is merely NTUA's stated intention to take further action in the future.




THE NAVAJO NATION

RUSSELL BEGAYE
JONATHAN NEZ

September 24, 2018

MEMORANDUM

TO : Section 164 Reviewers

FROM : 
Akhtar Zaman, Director
Minerals Department

SUBJECT : **ASSIGNMENT OF THE QUESTAR SOUTHERN TRAILS
PIPELINE COMPANY'S (QSTP) SOUTHERN TRAILS PIPELINE
SYSTEM TO NAVAJO TRIBAL UTILITY AUTHORITY (NTUA)**

We assisted NTUA is compiling the attached right-of-way (ROW) assignment package. While reviewing the documents, including the proposed resolution, we met with NTUA representatives few times and suggested changes to the propose assignment package.

NTUA agreed to our proposed changes to the draft resolution of the Resources and Development Committee (RDC) of the Navajo Nation Council, except Section E. of the resolution. We suggested deleting Provision E. and NTUA insisted on including it. As a result you see there are two versions of the draft RDC resolution; one with inclusion of Provision E. (NTUA Draft) and one without Provision E. (Minerals Department Draft). Basically, Provision E. under Section Two "Findings" is non-binding and not included in Section Three "Approval" in the resolution. Our position is it is not relevant to process an assignment. The QSTP pipeline is a commercial line; which will have potential in future to be converted to commercial operation. Currently, the Navajo Nation receives approximately \$2.4 million per year for the ROW payment, which is added to the General Fund revenues, and will no longer be available when the QSTP ROW expires in 2021. Regarding Provision E of NTUA's proposed resolution, we have the following recommendations:

1. Delete it and deal with this issue when the renewal occurs in 2021;
2. Terminate the ROW, and have QSTP make a lump sum payment for the residual annual payments to the Navajo Nation. NTUA can acquire a new ROW and can deal with the ROW payment issue now; or

3. We suggested the following alternative language to the Provision E of the NTUA resolution, which was not acceptable to NTUA leadership:

E. NTUA will request the renewal of the ROW effective January 1, 2022 pursuant to CFR Section 169.202 or any other applicable regulations in effect at that time, when the current ROW will expire in order to continue service to the Navajo families and will request the RDC to waive the ROW consideration, if the gas line solely services Navajo families at that time.

At the NTUA's insistence to submit the assignment application to RDC for consideration immediately, we are forwarding the package for review. Generally, the assignor (QSTP) applies for the assignment but in this case, the assignee (NTUA) is assisting the assignor to acquire the Navajo Nation approval of the ROW assignment. We have received a copy of the Confidential Asset Purchase Agreement between NTUA and QSTP, which is not attached to the package.

If you have any questions, please do not hesitate to contact me or Mr. Steven L. Prince Principal Petroleum Engineer at Extension 6588.

AZ/kjg
ATTACHMENT

RESOURCES AND DEVELOPMENT COMMITTEE
Regular Meeting

ROLL CALL
VOTE TALLY SHEET:

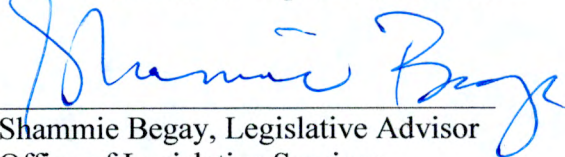
Legislation # 0382-18: An Action Relating to Resources and Development Committee, Approving the Assignment of the Questar Southern Trails Pipeline Company Right-of-Way to Navajo Tribal Utility Authority. *Sponsor: Honorable Alton Joe Shepherd*

MAIN MOTION: Davis Filfred S: Leonard Pete V: 4-0-1 (VCNV)
YEAS: Alton Joe Shepherd, Davis Filfred, Leonard Pete and Walter Phelps
NAYS:
EXCUSED: Jonathan Perry

DATE: December 5, 2018
Meeting Location: NNC Chambers, Window Rock, Arizona



Honorable Benjamin Bennett, Presiding Vice-Chairman
Resources and Development Committee



Shammie Begay, Legislative Advisor
Office of Legislative Services